

Public Trust, Judicial Independence and Social Media Engagement of Latin American High Courts

Cordula Tibi Weber*

Abstract

Most Latin American judiciaries experience low levels of public trust, and many high courts in the region suffer attacks from political actors. Such interference constitutes a serious contestation of judicial independence. The literature suggests that courts can defend against such attacks by building alliances with the broader public. Public trust is central to build such alliances. Courts may increase trust through an opening to the public. Latin American constitutional and supreme courts have been pioneering in engaging with the public through a variety of means. Comparing globally, they can be considered the most active ones in using social media for presenting and promoting their work. This article investigates how the behaviour of Latin American high courts in Twitter (nowadays 'X') is shaped by the different levels of trust and political attacks experienced by the courts. It distinguishes between an informational, an educational and a self-promotional purpose of a court's use of Twitter. It uses data from Latinobarómetro, V-Dem, as well as an original dataset of tweets by Latin American high courts to assess the respective behaviour on Twitter. The analysis of six cases (Colombia, Costa Rica, Guatemala, Mexico, Paraguay, Uruguay) shows that courts with lower levels of trust tend to be more active in social media than courts with higher levels of trust and that the former tend to produce more self-promotional or educational content than purely informational one. Regarding the level of political attacks, no clear effects on the court behaviour on Twitter were identified.

Keywords: high courts, Latin America, Twitter, trust, judicial independence.

1 Introduction

Most Latin American judiciaries experience low levels of trust, and many constitutional and supreme courts in the region suffer political attacks of both formal and informal nature. This interference constitutes a serious contestation of judicial independence. How can courts defend against such attacks? One suggestion by the literature is to build alliances with the broader public.¹ Public trust is central to build such alliances because it is needed to generate diffuse support which is important to build institutional legitimacy.² People who trust the court are more likely to defend a contested court than those who do not trust a court, and powerholders are less likely to attack a higher-trusted court than a less-trusted one.³

Courts may increase their level of trust through an opening to the public. Court openness enables the public to observe the courts' work more closely and learn about its function and work. Latin American high courts have been pioneering in engaging with the public through a variety of means. They enabled the active participation of societal actors through public hearings, *amicus curiae* briefs, or commissions that monitor the compliance with their decisions.⁴ Furthermore, comparing globally, they can be considered as pioneers in using social media for presenting and promoting their work or educating people about it.⁵ However, comparative re-

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* Cordula Tibi Weber, Research Fellow, German Institute for Global and Area Studies, Institute for Latin American Studies. I wish to thank the organizers and participants of the Workshop 'Trust in and between Courts in the Changing World of the 21st Century' at the Erasmus Law School, Erasmus University, Rotterdam, 16-17 November 2023, as well as the three anonymous reviewers for their highly valuable and helpful comments on earlier versions of this article.

- 1 J.K. Staton, *Judicial Power and Strategic Communication in Mexico* (2010); G. Vanberg, *The Politics of Constitutional Review in Germany* (2005).
- 2 P. Popelier, M. Glavina, F. Baldan & E. van Zimmeren, 'A Research Agenda for Trust and Distrust in a Multilevel Judicial System', 29(3) *Maastricht Journal of European and Comparative Law* 351, at 358 (2022).
- 3 B. Bricker, *Vision of Judicial Review. A Comparative Examination of Courts and Policy in Democracies* (2016).
- 4 See, among others, M. Benedetti and J. Sáenz, *Las audiencias públicas de la Corte Suprema: apertura y límites de la participación ciudadana en la justicia* (2016); S. Botero, 'Judges, Litigants, and the Politics of Rights Enforcement in Argentina', 50(2) *Comparative Politics* 169 (2018); S. Botero, *Courts That Matter: Activists, Judges, and the Politics of Rights Enforcement* (2024); T. Busch Venthur and A. Quezada Saldías, 'Cuando la Sociedad Civil Habla, ¿Los Jueces Escuchan?: Análisis de las Audiencias Públicas Ante el Tribunal Constitucional Chileno Y su Impacto en las Sentencias Constitucionales', 24(1) *Estudios Socio-Jurídicos* 1 (2022); C. Tibi Weber, 'Latin American Courts Going Public: A Comparative Assessment', 44(1) *Revista de Ciencia Política* 109 (2024a).
- 5 M. Llanos and C. Tibi Weber, 'Cortes superiores y redes sociales en América Latina', 29 *Revista Uruguaya de Ciencia Política* 1 (2020); D. Taras, 'Intro-

search on the use of social media by Latin American courts (and worldwide) remains scarce. The same applies to the study of trust in Latin American courts.

This explorative study helps to fill this gap by investigating the relationship between the level of trust in the judiciary, degree of political interference experienced by a court and court's behaviour in Twitter (nowadays 'X').⁶ When observing the behaviour of Latin American high courts with constitutional review powers in Twitter, I noticed the tendency to a different kind of behaviour of those courts with higher levels of trust and lower levels of attacks than of those with lower levels of trust and higher levels of attacks. I decided to investigate this behaviour more systematically. For doing so, I distinguish between three purposes for the use of social media: informational, educational and self-promotional. Following a diverse case study design, the article explores six cases: Colombia, Costa Rica, Guatemala, Mexico, Paraguay and Uruguay, using data from Latinobarómetro, V-Dem, as well as from an original dataset of the use of Twitter by Latin American high courts.⁷ The case studies show that courts with lower levels of trust tend to be slightly more active on Twitter than higher-trusted courts. Furthermore, the former tend to produce more self-promotional and educational content than one that is purely informational in nature. For the impact of the level of political attacks on the courts' behaviour on Twitter, the results are inconclusive and indicate the need for future research in the form of in-depth case studies.

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The article is structured as follows: Section 2, the next section, presents the theoretical considerations. Section 3 introduces the state of trust and openness of Latin American high courts. The research design and case selection are presented in Section 4, followed by Section 5 that explains the data collection methods used as well as the strategy adopted for its classification and assessment. Section 6 presents a comparative content analysis of tweets by the six selected courts. Section 7 discusses the results. The last section presents concluding remarks and directions for future research.

duction: Judges and Journalists and the Spaces in Between', in R. Davis and D. Taras (eds.), *Justices and Journalists: The Global Perspective* (2017) 1.

⁶ Throughout the article, I will refer to the platform as 'Twitter', because during the time under investigation (2019-2020), this was the official name.

⁷ The complete dataset is presented and discussed in C. Tibi Weber, 'How and Why Do Courts Tweet? An Explorative Study of Latin American High Courts', in P. Birle and A. Windus (eds.), *Conocimiento, poder y transformación digital en América Latina* (2024b) 43.

2 Theory

Trust as a 'precursor of legitimacy'⁸ is the central source of diffuse support,⁹ which is relevant for courts to build institutional legitimacy. As mostly unelected institutions, courts lack the legitimising power of elections;¹⁰ therefore, trust is even more important for courts than for other political institutions.¹¹ Courts need trust to generate diffuse support not only to be able to take bold and independent decisions. Apart from that, such support is necessary for courts for two reasons: first, as institutions without 'influence over either the sword or the purse'¹² they rely on it to ensure compliance with their decisions. Second, they need it to defend against attacks from the government or other political actors.¹³ Institutions in developing democracies especially face problems of low trust, which may result in a vicious circle: first, they often start after democratisation with a 'legitimacy shortfall' and the 'newly created courts must earn the respect and trust of their constituents.'¹⁴ Second, a lack of trust prevents citizens to use these institutions for their own advantage. As citizens do not turn to institutions, the latter have less interest in being responsive and transparent, and this again reduces the possibility of building trust.¹⁵

In this study, I rely on a relational definition of trust: A trusts B to do X.¹⁶ With regard to high courts, accordingly, the public trusts the court to fulfil its constitutionally prescribed tasks of horizontal control and protection of rights. Considering the trustor, I refer to the community level as 'the aggregate degree of trust shared by all members of a community',¹⁷ whereas the trustee I refer to is the court as an organisation or institution. However, I am aware that the trust vis-à-vis individual judges matters also for the trust in the court as an institution: if individual judges are perceived as highly respected public figures, this may contribute to the overall level of trust in the court as an institution.

⁸ Popelier et al., above n. 2, at 356.

⁹ D. Easton, 'A Re-assessment of the Concept of Political Support', 5(4) *British Journal of Political Science* 435 (1975).

¹⁰ M. Wells, "'Sociological Legitimacy" in Supreme Court Opinions', 64(3) *Washington and Lee Law Review* 1011 (2007).

¹¹ P. Meyer, 'Open Justice at Highest Courts: A New Avenue for Comparative Research', in R. Howard, K.A. Randazzo & R. Reid (eds.), *Research Handbook on Law and Political Systems* (2023) 234.

¹² A. Hamilton, 'No. LXXVIII', in A. Hamilton, J. Madison & J. Jay (eds.), *The Federalist* (1837) 362, at 363.

¹³ Bricker, above n. 3; A. Driscoll and M. Gandur, 'Public Support and Compliance with High Courts around the World', in R. Howard, K.A. Randazzo & R. Reid (eds.), *Research Handbook on Law and Political Systems* (2023) 212.

¹⁴ J.L. Gibson and G.A. Caldeira, 'Defenders of Democracy? Legitimacy, Popular Acceptance, and the South African Constitutional Court', 65(1) *The Journal of Politics* 1, at 24 (2003).

¹⁵ N. Letki, 'Trust in Newly Democratic Regimes', in E.M. Uslaner (ed.), *The Oxford Handbook of Social and Political Trust* (2017) 335.

¹⁶ P.C. Bauer and M. Freitag, 'Measuring Trust', in E.M. Uslaner (ed.), *The Oxford Handbook of Social and Political Trust* (2017) 15.

¹⁷ Popelier et al., above n. 2, at 358.

Strong and independent courts are needed to ensure the separation of powers and to defend minority rights,¹⁸ which are the two central functions of courts with constitutional review powers.¹⁹ However, judicial power and independence are frequently undermined through political interference with courts. Formal interference includes court packing through impeachments and filling vacant positions with loyal judges or curbing the power of courts through judicial reforms that curtail the scope of action of a court.²⁰ Informal interference embraces direct actions as verbal attacks or physical threats of violence against individual judges or entire courts as well as subtle interference as informal talks or bribes.²¹ The rise of populist governments in Latin America, which are even more inclined to interfere with disliked courts, increases the need for courts to find allies.²² Starting with verbal attacks against judicial legitimacy, presenting the judges as corrupt and disconnected from the population, finally, '[d]emocratic erosion crystalizes with the capture of the judiciary.'²³ Recent attacks by populists include the court packing in El Salvador by President Nayib Bukele's legislative supporters in 2021, as well as recurrent verbal attacks by former Brazilian president Jair Bolsonaro against the Supreme Federal Court.²⁴ However, courts are also able to stop executive intends to expand their power and halt or decelerate processes of democratic erosion.²⁵ Public support may be important when doing so, as shown by the example of the Colombian Constitutional Court: during the 1990s, the court started to include civil society organisations in decision-making processes in cases with high socio-political relevance. Furthermore, in many of such decisions, it favoured the interests of the middle classes. When the government of President Uribe (2002-2010) intended to curtail the autonomy and power of the court, the court was able to successfully defeat with the help of these groups.²⁶

There is a double relationship between the level of trust and the level of political attacks: on one hand, frequent contestations of judicial independence might undermine public trust. Verbal attacks against the court, depreciating its role as a democratic institution, may negatively affect trust.²⁷ Additionally, de facto judicial independence increases the level of trust,²⁸ hence, a court that is manipulated by political actors through attacks may enjoy a lower level of trust because it is perceived to be attentive to the powerholders' interest. On the other hand, as mentioned above, courts might defend against political attacks by building alliances with the broader public, and trust is central to build such alliances.²⁹ Courts can increase their level of trust through a greater engagement with the public.³⁰ It has been found that transparency has the potential to increase institutional legitimacy through its positive effect on trust.³¹ Therefore, many courts worldwide have pursued a strategy of open justice in recent decades, albeit to varying degrees: such a strategy includes the physical access to courts, the access to information, and institutional transparency enabling citizens to monitor the court's work.³² Among such strategies, using social media to open to the public is a relatively low-cost endeavour: it neither requires a high number of staff nor high financial resources. Therefore, courts may perceive it as an easy tool to combat low levels of trust. The use of social media enables courts to increase awareness about their work and helps them to confront challenges to their legitimacy by correcting misleading or false information.³³ This is especially relevant as '[t]rust in legal authorities is primarily cognitive.'³⁴ Hereby, the level of education of the trustor and their awareness of the work and function of judicial institutions are important factors. People's trust in their judicial systems is positively related with judicial independence and accountability and shaped by the awareness of the trustor.³⁵ In situations of low judicial independence, higher-educated people tend to have lower trust in courts than those who are less educated, whereas in contexts of high independence this relation-

- 18 On the separation of powers, see G. O'Donnell, 'Horizontal Accountability in New Democracies', 9(3) *Journal of Democracy* 112 (1998); on the defence of rights, Kapiszewski, G. Silverstein & R.A. Kagan, 'Introduction', in D. Kapiszewski, G. Silverstein & R.A. Kagan (eds.), *Consequential Courts: Judicial Roles in Global Perspective* (2013) 1.
- 19 G. Helmke and J. Ríos-Figueroa, 'Introduction: Courts in Latin America', in G. Helmke and J. Ríos-Figueroa (eds.), *Courts in Latin America* (2011) 1.
- 20 D. Kosaf and K. Šipulova, 'Comparative Court-Packing', 21(1) *International Journal of Constitutional Law* 80 (2023).
- 21 M. Llanos, C. Tibi Weber, C. Heyl & A. Stroh, 'Informal Interference in the Judiciary in New Democracies: A Comparison of six African and Latin American Cases', 23(7) *Democratization* 1236 (2016).
- 22 T. Ginsburg, 'Demographic Backsliding and the Rule of Law', 44 *Ohio Northern University Law Review* 351, at 368 (2018).
- 23 A. Aguiar Aguilar, 'Courts and the Judicial Erosion of Democracy in Latin America', 51(1) *Politics & Policy* 7, at 11 and 21 (2023).
- 24 M. Castelleros-Aragón, 'The Battle for Judicial Independence: Courts Functioning as Constitutional Beacons and Political Responses in El Salvador', in R. Howard, K.A. Randazzo & R. Reid (eds.), *Research Handbook on Law and Political Systems* (2023) 200; M. Llanos and C. Tibi Weber, 'Court-Executive Relations during the COVID-19 Pandemic: Business as Usual or Democratic Backsliding?' in M. Llanos and L. Marsteintredet (eds.), *Latin American Presidential Democracies in Turbulent Times* (2023) 128.
- 25 L. Gamboa, B. García-Holgado & E. González-Ocantos, 'Courts against Backsliding: Lessons from Latin America', 46(4) *Law & Policy* 358 (2024).
- 26 D. Landau, 'Beyond Judicial Independence: The Construction of Judicial Power in Colombia' (Doctoral Dissertation, Harvard University, 2015).

- 27 C. Kromphardt and M. Salamone, "'Unpresided!' or: What Happens When the President Attacks the Federal Judiciary on Twitter", 18(1) *Journal of Information Technology & Politics* 84 (2021).
- 28 M. Bühlmann and R. Kunz, 'Confidence in the Judiciary: Comparing the Independence and Legitimacy of Judicial Systems', 34(2) *West European Politics* 317 (2011).
- 29 Landau, above n. 26; Staton, above n. 1; Vanberg, above n. 1.
- 30 A.M. Ruibal, 'The Sociological Concept of Judicial Legitimacy: Notes of Latin American Constitutional Courts', III *Mexican Law Review* 579 (2010).
- 31 J. de Fine Licht, D. Naurin, P. Esaiasson & M. Gilljam, 'When Does Transparency Generate Legitimacy? Experimenting on a Context-Bound Relationship', 27 *Governance* 111 (2014).
- 32 Meyer, above n. 11.
- 33 P. Barberá, Z. Godzimirska & J.A. Mayoral, 'Courting the Public? The Strategic Use of Social Media by International Courts', UC3M Jean Monnet Working Paper Series, No. 2 (2023), <https://e-archivo.uc3m.es/collections/42fa1632-1fc5-4fed-b7aa-e78e87c34a1e>.
- 34 B. Bradford, J. Jackson & M. Hough, 'Trust in Justice', in E.M. Uslaner (ed.), *The Oxford Handbook of Social and Political Trust* (2017) 633, at 642.
- 35 N. Garoupa and P.C. Magalhães, 'Public Trust in the European Legal Systems: Independence, Accountability and Awareness', 44(3) *West European Politics* 690 (2021).

ship is reversed.³⁶ For the present study, these findings mean that the lower the degree of independence a court experiences, the higher could be its motivation to try to increase trust among higher-educated people through measures of transparency or self-promotion, because the ‘better-educated [...] are most trusting of legally transparent and accessible judiciaries.’³⁷ This further increases the incentive for courts in such democracies to be active on Twitter, as Twitter users on average tend to have a higher level of education. Courts may selectively present specific cases and promote their work,³⁸ or, the simple fact that they are transparent implies the possibility to improve the perception of the institution by observers.³⁹ A further relevant finding is that ‘people anthropomorphize institutions.’⁴⁰ Hence, the presentation of individual judges in social media in a positive light might have positive effects on the trust of the court as an institution.

Three purposes of the use of social media by courts have been identified by the literature: informational, educational and self-promotional.⁴¹ An informational purpose means that courts use Twitter to disseminate information about the work of the court with the aim of providing institutional transparency. An educational purpose links to the aim of increasing knowledge of the public about the court as an institution or to educate the public about how to claim for rights. This is usually done by using easy-to-understand language aimed at a broader, non-academic audience. Finally, a self-promotional purpose exists when courts aim at promoting a positive image of themselves with their presence in social media. Whereas the last purpose indicates a clear interest in improving the level of trust, an educational purpose might also hint to such a promotional element, especially when courts present themselves as defenders of rights. In the context of developing democracies, it is important to consider that courts face ‘a tension between the goals of building transparency and legitimacy’ and may strategically decide to promote specific decisions.⁴² This selective transparency might be also observable in the use of Twitter.

3 Latin American High Courts: Trust and Openness

The autonomy and power of high courts in Latin America had increased significantly during the third wave of democratisation.⁴³ Today, Latin American high courts decide on salient issues such as the re-election of presidents (as in El Salvador in 2021),⁴⁴ highly conflictive environmental cases as the *Riachuelo* case in Argentina,⁴⁵ or central rights questions such as the right to abortion or the right to same-sex marriage.⁴⁶

Since decades, most Latin American judiciaries have been experiencing low levels of trust. Except for Costa Rica and Uruguay, the judiciaries in the region faced an average of less than 25% of trust between 1995 and 2020.⁴⁷ Unfortunately, comparative data on the level of trust in both constitutional and supreme courts in the region are not available.⁴⁸ However, AmericasBarometer collects data on diffuse support for supreme courts which indicate that such support has shrunk dramatically over the last decade: the survey has a question asking respondents if they agree that when a country is facing difficult times it would be justifiable that the presidents dissolves the supreme court and governs without it. The answer is given on a scale from 1 to 100, with 100 expressing complete affirmation. In the responses, the average for Latin America rose from 12.9 points in 2010 to 31.9 in 2023.⁴⁹ Tellingly, the highest score in 2023 (47.3) is shown by El Salvador, where recently the judges from the Constitutional Chamber of the Supreme Court have been removed and replaced with loyal judges. As this example illustrates, in addition to the low levels of trust and shrinking diffuse support, many high courts in the region have been suffering political attacks of both formal and informal nature. Such interference includes recurrent reshuffles of high court compositions, forced resignations of judges, as well as verbal or physical attacks.⁵⁰

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36 A. Aydın and E. Şekerçioğlu, ‘Public Confidence in the Judiciary: The Interaction between Political Awareness and Level of Democracy’, 23(4) *Democratization* 634 (2016); Garoupa and Magalhães, above n. 35; R. Salzman and A. Ramsey, ‘Judging the Judiciary: Understanding Public Confidence in Latin American Courts’, 55(1) *Latin American Politics and Society* 73 (2013).
 37 D. de Micheli and W.K. Taylor, ‘Public Trust in Latin America’s Courts: Do Institutions Matter?’, 59(1) *Government and Opposition* 1 (2022).
 38 Staton, above n. 1.
 39 De Fine Licht et al., above n. 31.
 40 Bradford et al., above n. 34, at 635.
 41 Llanos and Tibi Weber (2020), above n. 5; Taras, above n. 5; Tibi Weber (2024b), above n. 7.
 42 Staton, above n. 1, at 7.

43 D. Brinks and A. Blass, ‘Rethinking Judicial Empowerment: The New Foundations of Constitutional Justice’, 15(2) *I-CON* 296 (2017).
 44 E. Martínez-Barahona, ‘Las Cortes Supremas como mecanismo de distribución de poder: el caso de la reelección presidencial en Costa Rica y Nicaragua’, 30(3) *Revista de Ciencia Política* 723 (2010); Castilleros-Aragón, above n. 24.
 45 *Mendoza, Beatriz Silvia y otros c/ Estado Nacional y otros s/ daños y perjuicios*, see, for example, Botero (2018, 2024), above n. 4.
 46 A.M. Ruibal, ‘Using Constitutional Courts to Advance Abortion Rights in Latin America’, 23(4) *International Feminist Journal of Politics* 579 (2021); B. Wilson and C. Gianella-Malca, ‘Overcoming the Limits of Legal Opportunity Structures: LGBT Rights’ Divergent Paths in Costa Rica and Colombia’, 61(2) *Latin American Politics and Society* 138 (2019).
 47 Latinobarómetro Corporation, *Informe 2021: Adios a Macondo* (2021).
 48 See LAPOP Lab, ‘The AmericasBarometer’, www.vanderbilt.edu/lapop (2023), includes a question on the level of trust in supreme courts, but the data are not gathered on such a regular basis as that of Latinobarómetro.
 49 LAPOP Lab, above n. 48.
 50 Llanos et al., above note 21; A. Pérez-Liñán and A. Castagnola, ‘Judicial Instability and Endogenous Constitutional Change: Lessons from Latin America’, 46(2) *British Journal of Political Science* 395 (2016).

Table 1 Possible variations of combinations of the two potential influencing factors

		Political attacks High - low	
Trust High - low	Low level of trust High level of political attacks	Low level of trust Low level of political attacks	
	High level of trust High level of political attacks	High level of trust Low level of political attacks	

Since the early 2000s, Latin American high courts have been pioneering in opening themselves to the public through a variety of means. They enabled the active participation of societal actors through public hearings, *amicus curiae* briefs, or public commissions that monitor the compliance with their decisions.⁵¹ Additionally, they can be considered the most active courts worldwide in using social media for presenting and promoting their work.⁵² Notwithstanding their high degree of engagement in social media, the characterisation of such behaviour as ‘hypertransparency’⁵³ does not apply to all of them. Instead, Latin American high courts make a differentiated use of social media, putting emphasis on those platforms that allow them to communicate more successfully with their audiences than others.⁵⁴ It has been found that courts in the region with lower levels of trust tend to be slightly more active in social media than higher-trusted ones.⁵⁵ However, given the fact that research on the role of social media in court communication in Latin America is in its infancy, further research is needed to learn more about the circumstances that motivate courts to use this form of communication and about the consequences for the courts’ relation with the public.

4 Research Design and Case Selection

The review of the literature on trust has shown that courts may be motivated to be open to the public with the aim to enhance trust and to protect themselves against political interference by increasing the public’s awareness about their work as well as the promotion of their institutions or specific court decisions. From a theoretical perspective, courts that experience lower levels of trust and higher levels of contestation of their institutional independence face higher incentives to engage with the public and to promote the court than those with higher levels of trust and undergoing lower levels of attacks. The former face such higher incentives because they potentially gain more from investing in their

relation with the public. A court that already enjoys a high level of trust and does not experience political attacks might prefer to use its time and resources for other tasks.

Based on these considerations, I develop the following research question:

How is the behaviour of courts in Twitter shaped by the level of trust and the level of political attacks they experience?

The courts’ behaviour on Twitter is assessed using an original dataset with 1,500 tweets by 15 Latin American high courts from a one-year period between March 2019 and February 2020. Whereas the whole dataset is discussed elsewhere,⁵⁶ in this research I concentrate on selected case studies. The dataset consists of two elements: (a) the *intensity of use*, which is measured by the average number of tweets per day, and (b) the *mode of use* – which includes the type of content produced and the form of its presentation. The mode of use is assessed with a classification of content based on a qualitative coding of the tweets. With this qualitative content analysis, I identify the three purposes – informational, educational and self-promotional – in the courts’ communication strategies.

To assess the effects of different levels of trust and governmental attacks on the courts’ behaviour on Twitter, I follow a diverse case study design which is well-suited for exploratory research.⁵⁷ Accordingly, I select cases with variation in these two potential influencing factors and search for ‘cases that represent all possible intersections’⁵⁸ of these factors, which are presented in Table 1.

I assume that the court behaviour on Twitter is shaped by a short- to medium-term experience regarding their level of public trust and level of attacks by political actors. Courts evaluate the reactions of the general public on their decisions, their presentation in the press, as well as their recent and current relation with the other branches of government.

51 Benedetti and Sáenz, above n. 4; Botero (2018, 2024), above n. 4; Author (blind).

52 Taras, above n. 5.

53 *Ibid.*, at 11.

54 Llanos and Tibi Weber (2020), above n. 5.

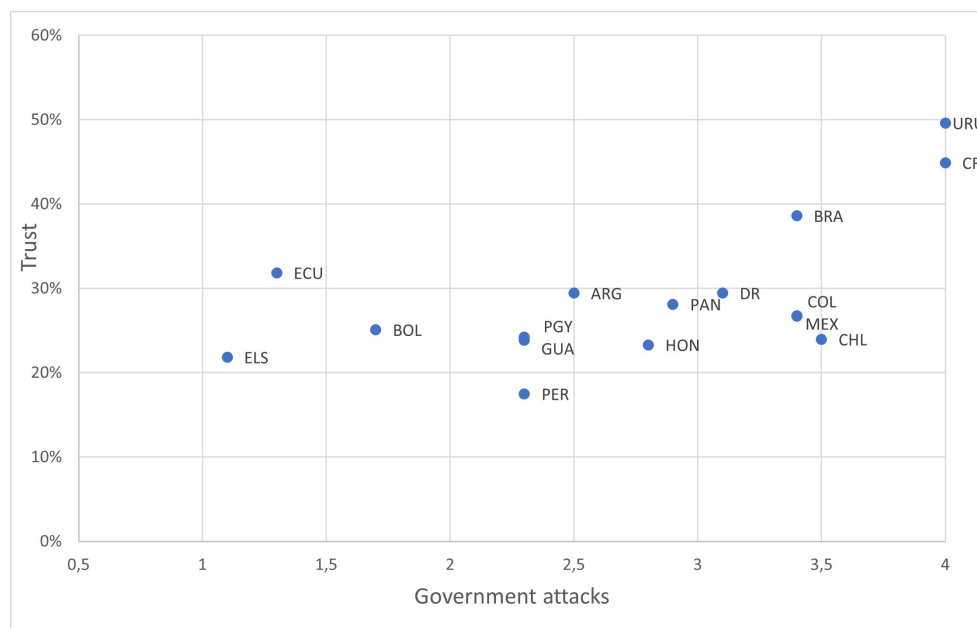
55 *Ibid.*

56 Tibi Weber (2024b), above n. 7. For this dataset, I considered the high courts with constitutional review powers of the countries that are defined as at least ‘partially free’ in the Freedom House Index; see Freedom House, *Freedom in the World 2024*, <https://freedomhouse.org/report/freedom-world>. The Bolivian Plurinational Constitutional Tribunal has an active account but only few tweets and has been excluded.

57 J. Gerring and L. Cojocar, ‘Selecting Cases for Intensive Analysis: A Diversity of Goals and Methods’, 45(3) *Sociological Methods & Research* 392 (2016).

58 *Ibid.*, at 400.

Figure 1 Level of governmental attacks against courts and trust in Latin American judiciaries



Source: Author's compilation, based on Latinobarómetro (2024) and Coppedge et al. (2022).

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As my Twitter dataset covers the period from March 2019 to February 2020, I assess these variables with average data for the years 2010 to 2019, to include a medium-term perspective on these influencing factors. Due to the fact that comparative data on the level of trust for constitutional courts are not existent for Latin America, I use data from Latinobarómetro on trust in the judiciary for the average of the years 2010-2018.⁵⁹ Data on trust in the whole judiciary are frequently used to overcome the lack of comparative data on trust in high courts.⁶⁰ To evaluate the level of political attacks, I use the V-Dem variable 'government attacks on judiciary', building the average for 2010-2019.⁶¹ The visualisation in Figure 1 helps to identify well-suited candidates for the case studies.

The x-axis shows the data on government attacks against the judiciary, whereas the y-axis indicates the level of trust the judiciary enjoys in each country. In accordance with the diverse case study design, I aim at selecting for each cell of the matrix in Table 1 two cases that are most similar in both indicators. This allows me to detect potential variation existing at a similar level of trust and attacks. The figure indicates several countries

with low levels of trust and a considerable level of attacks: on the extreme, it shows El Salvador with the highest assessment of attacks and a very low level of trust, closely followed by Ecuador (although with a higher level of trust), Bolivia, Peru, Guatemala, Peru and Argentina. Countries with low trust in courts but lower levels of attacks are Honduras, Panama, Dominican Republic, Colombia, Mexico and Chile. There are only three countries with higher levels of trust and low levels of attacks: Brazil, Costa Rica and Uruguay. Out of this sample, I select three pairs with the following variance:

- Low level of trust/high level of attacks: Guatemala, Paraguay
- High level of trust/low level of attacks: Costa Rica, Uruguay
- Low level of trust/low level of attacks: Colombia, Mexico

The last pair of cases allows for assessing the effects of low levels of trust in situations almost free of governmental attacks. The combination of a high level of trust in the judiciary and a high level of attacks against courts (lower left cell in Table 1) does not exist. Within the selected cases, in four countries, a supreme court or a specialised chamber within it is responsible for constitutional review (Costa Rica, Mexico, Paraguay, Uruguay), whereas two have a constitutional court (Colombia and Guatemala).

Guatemala's Constitutional Court experienced both a high degree of politicisation and conflicts with the other branches of government during the decade before my observation of Twitter activities started. The politicisation was most visible in some controversial decisions regarding former president Otto Pérez Molina's (2012-2015) immunity in 2015.⁶² However, since 2016, a new

59 Latinobarómetro Corporation, <https://www.latinobarometro.org/latOnline.jsp> (2024). The survey conducted by the Latinobarómetro Corporation distinguishes between four options: a lot of trust; some trust; low trust; no trust at all. For my assessment, I summarised the numbers for 'a lot' and 'some trust'. Data are not available for all years; therefore, the average contains the years 2010, 2011, 2013, 2015, 2016, 2017, 2018.

60 See, for example, Meyer, above n. 11.

61 M. Coppedge et al., V-Dem [Country-Year/Country-Date] Dataset v11.1. *Varieties of Democracy Project*, <https://doi.org/10.23696/vdemds21> (2022). The variable (v2)jupoatck_ord has the following question: 'How often did the government attack the judiciary's integrity in public?' Range 0-4, with 0 being the worst option and 4 being the best option. The answer options are the following: '0: Attacks were carried out on a daily or weekly basis; 1: Attacks were common and carried out in nearly every month of the year; 2: Attacks occurred more than once; 3: There were attacks, but they were rare; 4: There were no attacks on the judiciary's integrity.'

62 'Moves against Pérez Molina', *LatinNews Regional Report Caribbean & Central America* (July 2015).

court composition issued several strong rulings limiting the power of then president Jimmy Morales (2016-2020): especially, the court ruled against presidential decisions to hinder the work of the International Commission against Impunity in Guatemala (CICIG) and against the declaration of Guatemala as a ‘Third Safe Country’ for asylum-seekers, a decision of Morales following pressures by the United States.⁶³ These rulings led to fierce conflict between the court and the president and his allies, reflecting the general increase of political interference with judicial institutions in the country, which resulted in deteriorating judicial independence.⁶⁴ Although the first Paraguayan Supreme Court after transition enjoyed considerable reputation and a number of decisions indicated its independence from political actors, from 1999 onwards, strong instances of political interference produced a court mostly described as subordinated to political interests.⁶⁵ Political actors have been using central formal institutions of appointment, tenure and removal to ensure judicial co-optation, with court packing in 2003 being the strongest interference.⁶⁶ Since a couple of years, the court strongly engages in transparency measures, being very active on its website and social media. Among others, following an initiative from civil society organisations, the court transmits its plenary sessions live on YouTube and additionally provides translations of these sessions into the indigenous language Guaraní.⁶⁷

Contrary to most other courts in the region, the Costa Rican and the Uruguayan courts did not experience instances of political interferences and are leading international indicators of judicial independence.⁶⁸ After a 1989 constitutional reform, the Supreme Court of Costa Rica has transformed from a deferential court to a strong and independent one, exercising horizontal accountability and extensively defending and expanding individual rights. The Sala IV, which is the Constitutional Chamber of the Supreme Court, ‘enjoys some of the most wide-ranging powers of any Latin American superior court’ and makes large efforts to educate the public about how to claim for the protection of rights before the court.⁶⁹

The Uruguayan Supreme Court is equipped with low judicial power: formally, it is not responsible for the protection of fundamental rights, and access to the court is

very limited.⁷⁰ However, it enjoys high de facto autonomy: since decades it did not experience any political interference with tenure or court size.⁷¹ Although its judges, who traditionally are selected among the longest-serving career judges, tend to have a self-conception of a restricted role of the court within the political system, in recent years, the court became more active and increasingly engaged in controlling government policies, especially of the two leftist *Frente Amplio* governments between 2010 and 2020.⁷²

Due to a number of salient rights decisions in *tutela* cases, ‘the Colombian Constitutional Court has earned a reputation among scholars and practitioners as a highly independent, activist tribunal.’⁷³ However, the court also has been able to stop executives exceeding their powers, for instance, when it rejected former president Álvaro Uribe’s (2002-2010) project for a constitutional reform that would have allowed a third presidential term.⁷⁴ As a reaction, the president aimed to curtail the power of the court via reforms that would have restricted the court’s jurisdiction. Nevertheless, the Constitutional Court was able to defeat with the support of middle-class groups and civil society organisations that went to the streets to protest against the planned reforms.⁷⁵ Starting in the 1990s, the Colombian court was the first court in Latin America that opened to the broader public via public hearings that enabled the active participation of thirds in the deliberation.⁷⁶

The power of Mexico’s Supreme Court increased notably through the constitutional reform in 1994, which especially expanded its jurisdiction in constitutional matters.⁷⁷ Since then, the court became a strong arbiter of political conflict.⁷⁸ Initially, it was more hesitant in the defence of rights, but over the last decade, the court intensified its protection of rights.⁷⁹ The court started to amplify its public communication already in the early 2000s with the initiative of former court president Genaro Góngora.⁸⁰

63 ‘Institutional Crisis Looms as Morales Flouts Ruling’, *LatinNews Weekly Report* (20 September 2018).

64 R.A. Schwartz, ‘Guatemala 2021: Reconsolidating Impunity and Reversing Democracy’, 42(2) *Revista de Ciencia Política (Santiago)* 309 (2022).

65 S. Basabe-Serrano, ‘Informal Institutions and Judicial Independence in Paraguay, 1954–2011’, 37 *Law & Policy* 350 (2015); C. Tibi Weber, ‘Under the Sword of Damocles: The Supreme Court and Judicial Politics in Paraguay, 1992–2020’, SSRN, <https://ssrn.com/abstract=3738566> (2020).

66 Tibi Weber, above n. 65.

67 ‘La Corte ante el desafío de actuar con total transparencia’, *ABC Color* (22 October 2018); Tibi Weber (2024a), above n. 4.

68 For example, Bertelsmann Transformation Index, where both countries score highest over decades.

69 B.M. Wilson, ‘Enforcing Rights and Exercising an Accountability Function: Costa Rica’s Constitutional Chamber of the Supreme Court’, in G. Helmke and J. Rios-Figueroa (eds.), *Courts in Latin America* (2011) 55, at 59f.

70 F. Antía and D. Vairo, ‘Política y Justicia en Uruguay: el poder de la Suprema Corte de Justicia (1990-2018)’, 28(2) *Revista Uruguaya de Ciencia Política* 61 (2019).

71 F. Antía and D. Vairo, ‘La Suprema Corte de Justicia en Uruguay: entre instituciones formales e informales (1985-2018)’, 24 *Opera* 27 (2019).

72 Antía and Vairo (2019), above n. 70; D. Buquet, N. Schmidt & J.A. Moraes, ‘La Política de la Independencia Judicial: Explorando las Decisiones de la Suprema Corte en Uruguay (1989-2018)’, 29(1) *Revista Uruguaya de Ciencia Política* 135 (2020).

73 R.J.C. Rodríguez-Raga, ‘Strategic Deference in the Colombian Constitutional Court, 1992-2006’, in G. Helmke and J. Rios-Figueroa (eds.), *Courts in Latin America* (2011) 81, at 83.

74 Gamboa et al., above n. 25.

75 Landau, above n. 26.

76 Tibi Weber (2024a), above n. 4.

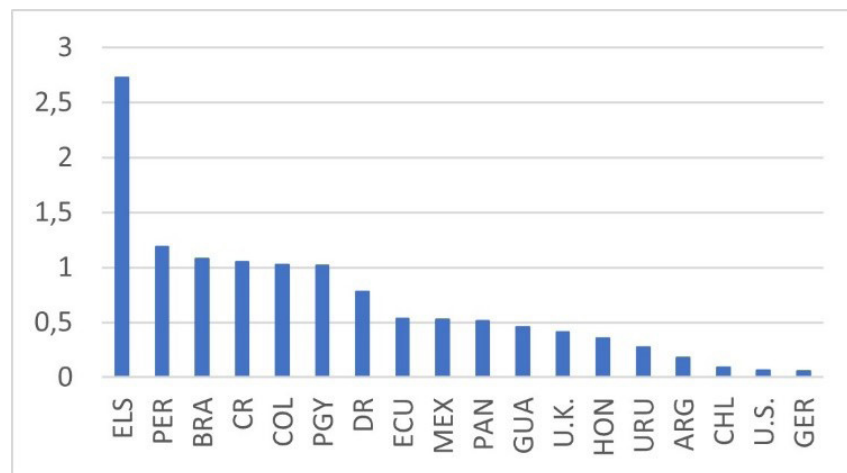
77 F.P. Giménez, ‘Changing the Channel: Broadcasting Deliberations in the Mexican Supreme Court’, in R. Davis and D. Taras (eds.), *Justices and Journalists: The Global Perspective* (2017) 209.

78 K. Anolabehere, ‘More Power, More Rights? The Supreme Court and Society in Mexico’, in J. Couso, A. Huneus & R. Sieder (eds.), *Cultures of Legality* (2010) 78.

79 M. Castillejos-Aragón, ‘The Transformation of the Mexican Supreme Court into an Arena for Political Contestation’, in D. Kapiszewski, G. Silverstein & R.A. Kagan (eds.), *Consequential Courts: Judicial Roles in Global Perspective* (2013) 138; Giménez, above n. 77.

80 Staton, above n. 1.

Figure 2 High courts' Twitter followers as percentage of population, 2019



Source: Number of followers: own compilation, as of December 2019; population data: World Bank 2019.

It began broadcasting its deliberations in 2005 and, at the same time, with providing detailed information about selected cases on its website.⁸¹ Whereas the level of political interference was traditionally low in Mexico, under the populist government of Andrés Manuel López Obrador (AMLO) (2018-2024), interference by the president and his supporters included, among others, public harassment of judges, forced resignations and politicised appointments of judges.⁸²

8

5 High Courts and Twitter: Data Classification and Assessment

Twitter is the most relevant social media network for socio-political discussions and for elite discourses. Among social media, it is the most important source of information for journalists. It has been found that 82% of Latin American journalists use it as a source of information for their work, who in turn have a large influence on public opinion about the court.⁸³ Thereby, Twitter is highly relevant for its multiplying characteristic. It is a central platform for courts to present themselves to the public and to shape the information the public receives about their work.

Most Latin American courts already have been using Twitter for a considerable time span of more than a decade and started using it much earlier than most courts from other regions.⁸⁴ Compared to other courts worldwide and taking into account the respective size of each country's population, many Latin American courts reach

considerable audiences in the platform (see Figure 2). Some of the courts that receive the most attention worldwide, such as the United States Supreme Court and the German Federal Constitutional Court, have far fewer followers relative to their countries' populations than the Latin American courts. This indicates that many Latin American courts are quite successful with their social media strategies.

For the assessment of the courts' behaviour on Twitter, I undertook a comparative content analysis of tweets by Latin American constitutional and supreme courts, which serves for assessing the behaviour in Twitter by the six courts selected for case studies. The two constitutional courts (Colombia and Guatemala) as well as the Mexican Supreme Court have their own Twitter accounts, whereas the other supreme courts (Costa Rica, Paraguay, Uruguay) are represented through accounts of the whole judiciary that are directed by the supreme courts. I accessed Twitter through its Application Programming Interfaces (API), using R software and the *rtweet* package to collect data on the current number of followers as well as the allowed number of tweets from each account.⁸⁵

My initial plan was to conduct a quantitative content analysis. However, as the topics differ considerably among the courts and using one-catches-all terms for analysis would not enable me to display the differences in court behaviour, I decided to analyse one hundred randomly selected tweets of each court. This also allowed me to consider additional information as those provided through links that were included in the tweets. Other authors studying the use of Twitter by courts followed the same strategy and also coded the tweets by hand, for instance, in an investigation of Canadian courts' presence on Twitter.⁸⁶

81 Giménez, above n. 77; Staton, above n. 1.

82 Aguiar Aguilar, above n. 23; J. Ríos-Figueroa, 'El Poder Judicial Ante El Populismo y La Erosion Democrática. El Caso de México, 2018-2021', 198 *Revista de Estudios Políticos* 187 (2022).

83 M. Saldana, V. Higgins Joyce & A. Schmitz Weiss, 'Sharing the Stage: Analysis of Social Media Adoption by Latin American Journalists', 11(4) *Journalism Practice* 396 (2017).

84 Tibi Weber (2024b), above n. 7.

85 M.W. Kearney, *rtweet: Collecting Twitter Data. R package version 0.6.9*, <https://cran.r-project.org/package=rtweet> (2019). At the time of data collection, in June 2020, Twitter allowed the free download of the most recent 3,200 tweets of an account.

86 A. Mattan, K. Puddister & T. Small, 'Tweet Justice: The Canadian Court's Use of Social Media', 50(2) *American Review of Canadian Studies* 229 (2020).

Table 2 Categories for analysis

	Subject of communication	Form of communication
Options	rights	link to decision
	specific case/decision	link to court website
	court procedures	video on Twitter/link to video streaming
	general court issues	photo on Twitter
	law in general	pdf/infographic
	inter-institutional relations	link to YouTube or Facebook
	events	

In order to keep the contextual conditions relatively constant, I drew the samples from the tweets between 1 March 2019 and 28 February 2020, as the situation under COVID-19 was an exceptional situation for all state institutions and the content of the tweets changed significantly.⁸⁷ Before creating the samples, I excluded the retweets and replies and maintained only the original tweets, because these directly indicate the communication strategy of each court. When coding the tweets, I distinguished between the subject and the form of communication. Table 2 displays the respective classifications used in the two categories. As a tweet can meet several characteristics in one category, the classifications are not exclusive.

The category *subject of communication* is the most important for the analysis, as it indicates the topics the court wants to communicate to its audience. If the court's Twitter account tweets a lot about its genuine work (informing about important cases, court proceedings and decisions), this can be regarded as having a high interest in transparency about its work, following an informational purpose. If there are many tweets about rights in general or those explaining the court's function and work in an easy language, an educational purpose can be assumed: the court may aim at generating knowledge about the court and awareness on existing rights and how to claim them before the court. However, this can also indicate a self-promotional purpose because it presents the court as a potential defender of rights. When comparing the tweets, I found that two types of tweets hinting to a self-promotional purpose can be identified: first, there are those creating a positive image by presenting the court in a positive light, for instance, by promoting specific decisions (most important, decisions in salient rights cases) or by presenting the court or its members when participating in social events. Second, there are tweets without a high informational value that just produce more content to increase the presence of a court in Twitter. This is the case when many tweets report about events (as conferences, or formal meetings with other institutions) and not much about cases or decisions, which could be interpreted as a

strategy of deflection from the actual performance regarding the court's genuine tasks.

When interpreting the *form of communication*, I focused, among others, on the following aspects: if the court account includes links to court decisions, to the streaming of court sessions, or to the court website, providing detailed information about other aspects of the court's work, this may indicate an informational purpose. If it frequently includes additional sources of information in an easy language, for instance, through flyers, videos or infographics that explain specific rights or the tasks of the court, this can indicate an educational purpose. In the case of the inclusion of photos in the tweets, the interpretation depends on how the photos relate to the subject of the tweet. Furthermore, the level of effort visible in the form of communication varies among the court accounts: a higher effort in tweeting may hint to a higher interest of the court in self-promotion.

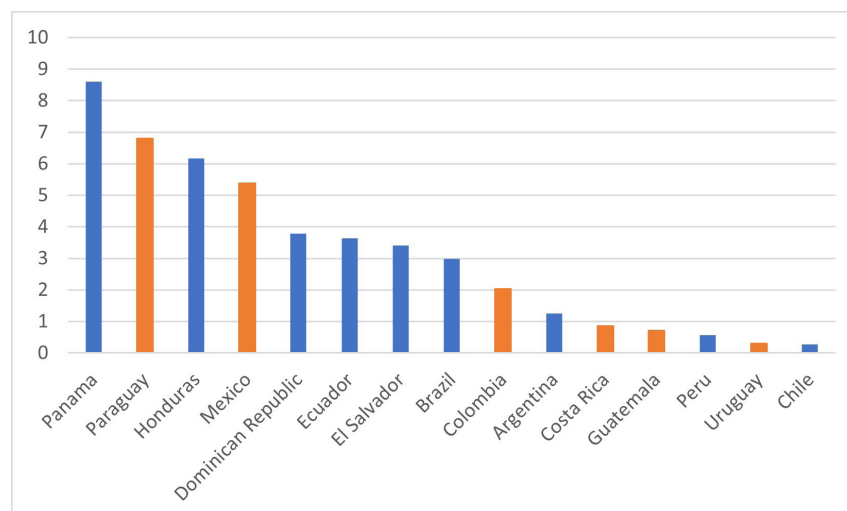
6 Comparative Content Analysis

The comparison of the intensity of Twitter use by Latin American high courts shows a large variation. To see the six cases under study in a regional comparison, Figure 3 includes information on all fifteen courts included in the complete dataset on Twitter use by Latin American courts. It indicates that, among the six cases under study, the Paraguayan Supreme Court has the highest intensity of use with an average of almost seven tweets per day. The Mexican Supreme Court follows closely behind with more than five tweets per day, whereas the other courts are far less active. The Colombian Constitutional Court tweets on average twice a day, and the Costa Rican and the Uruguayan supreme courts as well as the Guatemalan Constitutional Court have less than one tweet per day.

For the following content analysis, I present data for the six case studies only. Figure 4 reveals large variation regarding the subject of communication in the percentage of tweets between the studied courts.

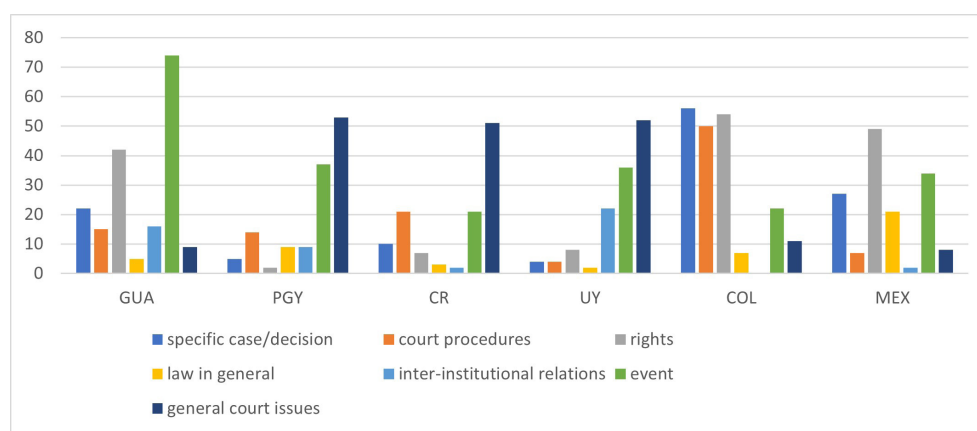
87 As some courts tweet more than others, the number of tweets from which the sample of one hundred tweets is taken varies among the courts. For the year under review, the number of tweets per court varies between 3,130 tweets by the account of the Panamanian *Órgano Judicial* and 104 tweets by the Chilean Constitutional Tribunal.

Figure 3 Average number of tweets per day by Latin American high courts' accounts



Source: Author's calculation, period under review: 1 March 2019 to 28 February 2020. Selected cases are marked in orange.

Figure 4 Subject of communication, in percentage of tweets



Source: Own elaboration.

Note: Classifications are not exclusive.

With more than 20% of tweets reporting on specific cases or court decisions and around 15% on court procedures, the Guatemalan Constitutional Court has a considerable number of tweets on its genuine work, indicating an informational purpose. Thereby, it also informs on salient rulings. Within the random sample of tweets, this includes the announcement of the court decision that blocked the president's decision to declare the country as a safe third country for asylum-seekers: 'Constitutional Court grants provisional amparo ruling that the President of the Republic of Guatemala must comply with the provisions of Article 171 (I) of the Political Constitution of the Republic in order to constitute the territory as a "Third Safe Country".'⁸⁸ It also frequently uses Twitter for press releases, among these one in which the court rejected the criminal prosecution against three of its five magistrates, initiated by a group of legislators just five days after the ruling on Guatemala as a 'Third Safe Country'. The act was a direct retaliation

to the court's ruling and was described as 'institutional harassment' by international human rights groups.⁸⁹ Hence, in a hostile environment with frequent political interference with the judiciary, courts under pressure also use the platform for self-defence. The high percentage of tweets with rights content and more than 70% of tweets referring to events (on conferences or public events, for example, an event for children to learn about the court)⁹⁰ also hint to a self-promotional interest, shown by presenting the court in a positive and progressive light.

The Paraguayan Supreme Court has comparatively fewer tweets on the genuine work of the court or about rights; in the sample, there was no tweet highlighting a specific court decision. Instead, it tweets a lot about events and general court issues. Of course, it must be

88 Translation by the author. Corte de Constitucionalidad Guatemala [@CC_Guatemala]. *Corte de Constitucionalidad otorga amparo provisional que dictamina que el Presidente de República de Guatemala debe cumplir con lo establecido* [photos attached]. [Tweet] <https://t.co/oEtH33rP61> (15 July 2019).

89 Corte de Constitucionalidad Guatemala [@CC_Guatemala]. ***COMUNICADO DE PRENSA*** [document attached]. [Tweet] <https://t.co/HMjGsi7rh9> (2 August 2019). LatinNews. 'GUATEMALA: Morales defies top court as crisis looms again', *Weekly Report* 30 (2019).

90 Corte de Constitucionalidad Guatemala [@CC_Guatemala]. El miércoles 27 día inicio el programa 'Niño Magistrado por un día', el cual busca concientizar a niños y niñas [photos attached]. [Tweet] <https://t.co/zQy3NgtHXq> (3 September 2019).

kept in mind that this court, as well as the ones of Costa Rica and Uruguay, has a Twitter account representing the whole judiciary. This explains the high percentage of tweets on general court issues, as this category also includes information on lower courts. The court seems to follow a broad transparency initiative: in its tweets, it not only provides many links to its own website where detailed information can be found but also advertises a weekly newsletter that is sent via email.⁹¹ This transparency initiative is similarly observed in the use of YouTube for informational purposes, for instance, the transmission of plenary sessions. Regarding the content, it hints to an informational purpose, but the large percentage of tweets on events (as lectures at the court or institutional visits) instead of providing more information on specific cases or decisions indicates a low effort in providing transparency on its genuine work (or a lack of strategy thereof). Last but not least, the court also uses Twitter for clarification or self-defence: in one tweet, it provides a link to a declaration on its website reacting to a newspaper article. The article states that the Supreme Court did not respond to Congress on a request for a report on notaries – in the declaration, a court representative explains that the court president indeed replied to the request.⁹²

The Costa Rican Supreme Court shows a similar pattern as the Paraguayan court, although with a higher level of tweets on court procedures and fewer tweets on events. The court seems to be very concerned about being transparent, using – among others – videos to inform the people about its work: some tweets advertise a judicial news programme on YouTube in the court's channel *Canal Judicial Costa Rica*, where, for instance, statistics are presented on resolved cases.⁹³ The sample also includes some tweets with a self-promotional content, as showing approval rates of the court: 'Judiciary ranks second in national opinion poll conducted by Borges & Asociados.'⁹⁴ Furthermore, it highlights court decisions on salient rights cases, thereby stressing its role as a defender of rights. One of such tweets features the case of a woman depending on oxygen who was in arrears of paying the electricity bill. The national electricity company would suspend the service for late payment, even though the oxygen machine she depends on for survival is powered by electricity. The Supreme Court decided that the Institute for Social Aid should coordinate with the na-

tional electricity company to assume the costs.⁹⁵ Referring to this decision, the court account tweeted: '#30Aniversario Doña Laura's case was life or death, thanks to the #ConstitutionalChamber #GrantOfRightsand Freedoms she can tell her story.'⁹⁶ The tweet includes a video where the concerned woman tells her story. Among the numerous decisions with which the court has extended economic, social and cultural rights, health rights are of particular political relevance, as these often impose high financial obligations on the state.⁹⁷ Similar to the Guatemalan and the Paraguayan courts, the Costa Rican Supreme Court also uses Twitter for self-defence or correction of false information: in one tweet, it provides a link to its Facebook site with a detailed correction on a newspaper article on judges' salaries.⁹⁸

The Uruguayan Supreme Court shows a similar pattern in the subject of communication as the two previously discussed courts, however, with purely informational content. It informs, among others, about Minister Bernadette Minvielle assuming the presidency of the Supreme Court,⁹⁹ about the monitoring of the duration of processes,¹⁰⁰ or that court offices in the town of Maldonado are not working due to a flooding.¹⁰¹ It also provides information on the result of inter-institutional cooperation, when tweeting about an agreement between the Supreme Court and the Ministry of the Interior on the control of an interception system.¹⁰² This pattern of communication resembles the traditional self-conception of the Uruguayan judiciary of a restrained political role. Furthermore, because the judiciary enjoys a high level of trust and has not been experiencing political interference, probably there is no need for the court to engage in defence or to promote itself to increase its public support.

Among the six studied courts, the Colombian Constitutional Court has the highest number of tweets on the genuine work of the court, which suggests an informa-

91 This newsletter was advertised three times within the sample, for example, Corte Suprema Paraguay [@PoderJudicialPY] *Reciba en su correo electrónico cada viernes una nueva edición del #BoletínElectrónico con las noticias más destacadas de la semana* [flyer attached]. [Tweet] <https://t.co/erLCtUsp9G> (15 November 2019).

92 Corte Suprema Paraguay [@PoderJudicialPY] *La CSJ sí respondió al Congreso sobre el pedido de informes respecto de escribanos* [link included and photo attached]. [Tweet] <https://t.co/HM8nwk6sww> (21 November 2019).

93 Poder Judicial Costa Rica [@PoderJudicialCR]. *Compartimos con ustedes nuestro Informativo Judicial de esta semana* [link included]. [Tweet] <https://t.co/CpvscLAd4q> (14 February 2020).

94 Translation by the author. Poder Judicial Costa Rica [@PoderJudicialCR]. Poder Judicial se ubica en segundo lugar en la encuesta nacional de opinión aplicada por Borges & Asociados [screenshots attached]. [Tweet] <https://t.co/Z5pBnWWk0Q> (24 September 2019).

95 Corte Suprema de Costa Rica, Sala Constitucional, Resolución N° 04048 – 2019, 8 March 2019.

96 Translation by the author. Poder Judicial Costa Rica [@PoderJudicialCR]. #30Aniversario El caso de doña Laura era de vida o muerte, gracias a la #SalaConstitucional #GaranteDeDerechosyLibertades ella puede contar su [video attached]. [Tweet] <https://t.co/Y4kEFysO2i> (2 September 2019). The hashtag #30Aniversario refers to the jubilee of the Supreme Court.

97 B.M. Wilson and O.A. Rodríguez, 'Costa Rica: Understanding Variations in Compliance', in M. Langford, C. Rodríguez-Garavito & J. Rossi (eds.), *Social Rights Judgements and the Politics of Compliance: Making it Stick* (2017) 111, at 131.

98 Poder Judicial CR [@PoderJudicialCR]. Derecho de respuesta para el medio CRHoy: [including link to Facebook]. [Tweet] <https://x.com/PoderJudicialCR/status/1173708618690174977?s=20> (16 September 2019).

99 Poder Judicial Uruguay [@PJudicialUY]. *Ministra Bernadette Minvielle asumió presidencia de la Suprema Corte de Justicia* [link included and photo attached]. [Tweet] <https://t.co/pU9nPPSjVU> (3 February 2020).

100 Poder Judicial Uruguay [@PJudicialUY]. *Informe anual elevado a la Suprema Corte de Justicia (SCJ) analizó ocho casos de restitución internacional de menores* [link included and photo attached]. [Tweet] <https://t.co/OtLFbM8uMd> (18 November 2019).

101 Poder Judicial Uruguay [@PJudicialUY]. *No funcionan oficinas judiciales del edificio San Lázaro en Maldonado: comenzaron reparaciones* [link included and photo attached]. [Tweet] <https://t.co/z1iy9ibudG> (23 July 2019).

102 Poder Judicial Uruguay [@PJudicialUY]. *SCJ y Ministerio del Interior acuerdan sobre controles al sistema de interceptaciones 'El Guardián'* [link included and photo attached]. [Tweet] <http://https://t.co/CkbKsTkRbm> (15 July 2019).

tional purpose. Many tweets present statements of participants of public hearings in salient cases, thereby communicating that the court is open to diverse perspectives, which hints also to a self-promotional purpose. Examples of such tweets include a statement of then president Iván Duque during the hearing on the use of glyphosate for the eradication of illegal crops,¹⁰³ a statement by a representative from the Ombudsman's Office during the hearing on the law for the management of the *Páramo* landscape,¹⁰⁴ or by a representative of a nongovernmental organisation in a case about animal rights.¹⁰⁵ The court also highlights prominent judicial rulings in rights cases, which again hints to some self-promotional interest. In one tweet, it refers to the case of the indigenous community Wayúu, where the Constitutional Court ordered the mining company Cerrejón to adopt measures to protect the community.¹⁰⁶ The court further promotes public participation in its tweets, as its first public hearing on court accountability.¹⁰⁷ This pattern of communication reflects the court's long history of public hearings that enable the active participation of thirds in the judicial decision-making as well as in monitoring compliance.¹⁰⁸ Given the experience of political interference under the Uribe government, the court might have some motivation to stress its relation with supportive groups from society through its focus on rights and participation in its tweets. The Mexican Supreme Court has a lot of content not only on rights but also on specific cases and events. The focus on rights may indicate a self-promotional purpose, as it presents the courts as an active defender of rights, although at the same time this court provides a lot of information on its genuine work. The court frequently informs about right decisions, for instance, on its ruling that the first certified copy of the birth certificate must be free of charge to guarantee the right to identity,¹⁰⁹ or its decision that the law prohibiting divorce in the first year of marriage is unconstitutional

because it impedes the right to free development of personality.¹¹⁰ Furthermore, the Mexican Supreme Court seems to follow a strong educational interest in its use of Twitter. In various tweets, it explains expressions used before the court: among others, it has a tweet series with the hashtag '#DeLaRaízAlDerecho' ('#From-RootToRight', translation by the author), where it explains the origin and meaning of law terms, as of the rights protection remedy *amparo*.¹¹¹ In another tweet series with the hashtag '#YaLoDijoLaCorte' ('#The-CourtHasAlreadySaid', translation by the author), it explains the main points of court decisions concerning rights.¹¹² A last interesting observation regarding the content of the tweets of this court is that it frequently highlights activities of then court president Arturo Zaldivar (2019-2022): out of the sample of one hundred tweets, nine cited him or draw attention to his activities. This can be interpreted as a personalisation of justice and relates to the argument that, as people tend to 'anthropomorphize' courts (Bradford et al. 2017),¹¹³ the prominent presentation of individual judges in social media may have positive effects on the public evaluation on the whole court. In this context, it also has to be taken into account that Zaldivar has been close to President López Obrador and very open to the president's critiques vis-à-vis the court.¹¹⁴

In the next step, I assess the variation in the form of communication of the six courts, which is displayed in Figure 5.

The Guatemalan Constitutional Court appears to tweet with relatively low effort. The tweets do not show a high variation regarding the form of communication. Mostly, it has photos attached to its tweets, which is a relatively easy way of adding additional content. The Paraguayan court shows more variation and high effort in its form of communication. Especially, it includes links to its own website in many tweets, where it provides more information, indicating an informational purpose. Furthermore, it attaches short videos to a number of tweets, for instance, providing '*Noticias judiciales al instante*' ('Court news in real time', translation by the author).¹¹⁵

12

103 Corte Constitucional Colombia [@CConstitucional]. 'En Colombia hay problemas de salud pública porque ya no se trata de un país productor sino consumidor (...) #AudienciaGlifosato' [photo attached]. [Tweet] #AudienciaGlifosato <https://t.co/FFmSP55wtv> (7 March 2019).

104 Corte Constitucional Colombia [@CConstitucional]. *Delegada de la Defensoría del Pueblo, Paula Robledo Silva: 'Para los campesinos, la relación con el territorio significa (...)' #AudienciaLeyDePáramos* [photo attached]. [Tweet] <https://t.co/PkzAU3kElp> (6 November 2019).

105 Corte Constitucional Colombia [@CConstitucional]. *Orlando Feliciano. Coordinador del Santuario del Oso Andino. 'El caso de Chucho no se puede repetir. No se puede (...)' #AudienciaOsoChucho* [photo attached]. [Tweet] <https://t.co/wKrcnU1Fqr> (8 August 2019).

106 Corte Constitucional Colombia [@CConstitucional]. *Corte Constitucional ordenó a Cerrejón adoptar medidas para proteger a comunidad Wayúu. T-614 de 2019. Más información en* [link included and flyer attached]. [Tweet] <https://t.co/TcAxStzgVd> (19 December 2019).

107 Corte Constitucional Colombia [@CConstitucional]. *¿Qué quieres saber sobre la Corte Constitucional? Participa en la primera audiencia pública de rendición de cuentas de la Corte* [link included and flyer attached]. [Tweet] <https://t.co/VfmWX9dbXP> (12 December 2019).

108 Botero (2024), above n. 4; Landau, above n. 26; Tibi Weber (2024a), above n. 4.

109 Suprema Corte México [@SCJN]. *La #SCJN determinó que la expedición de la primera copia certificada del acta de nacimiento debe ser gratuita para garantizar* [link included and flyer attached]. [Tweet] <https://t.co/KDRXhw1v0R> (15 April 2019).

110 Suprema Corte México [@SCJN]. *La ley que prohíbe divorciarse antes de un año de matrimonio es inconstitucional. Se protege el derecho al libre desarrollo* [link included and flyer attached]. [Tweet] <https://t.co/Ry2FHoz6KX> (30 July 2019).

111 Suprema Corte México [@SCJN]. *Hoy en #DeLaRaízAlDerecho conoce el origen y significado de la palabra: amparo* [infographic attached]. [Tweet] <https://t.co/kC5iQ7EEOs> (22 February 2020).

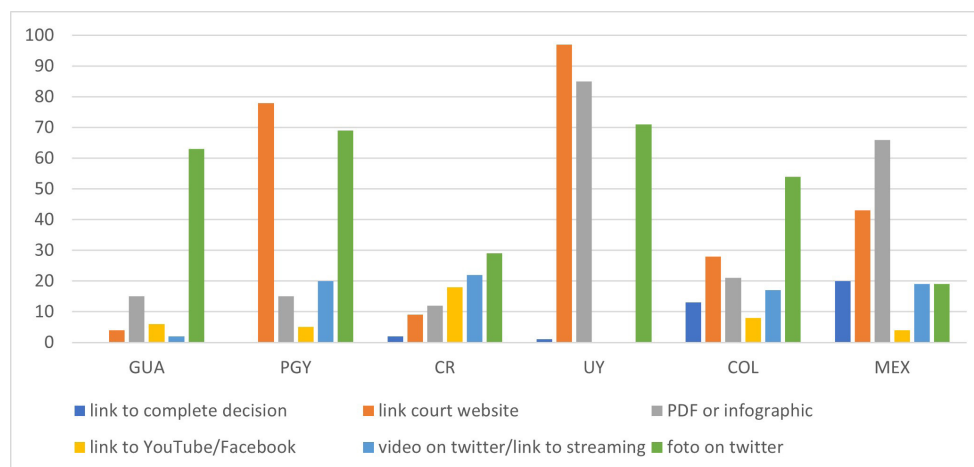
112 Suprema Corte México [@SCJN]. *El libre desarrollo de la personalidad protege la autodeterminación del individuo, por eso el cónyuge que quiere divorciarse tiene derecho* [link included and video attached]. [Tweet] <https://t.co/KfS8GTa28T> (20 August 2019).

113 Bradford et al., above n. 34, at 635.

114 Ríos-Figueroa, above n. 82.

115 Corte Suprema Paraguay [@PoderJudicialPY]. *[NOTICIAS JUDICIALES AL INSTANTE]: Feria de libros en la plazoleta del Palacio de Justicia de Asunción, Convocatoria para evaluación psicotécnica* [video attached]. [Tweet] <https://t.co/KaQV524VoL> (27 September 2019).

Figure 5 Form of communication, in percentage of tweets



Source: Own elaboration.
Note: Classifications are not exclusive.

Table 3 Summary of analysis results

	Case	Intensity of use	Subject of communication	Form of communication	Overall Assessment
Low trust / high level of attacks	Guatemala	Low	Informational, self-promotional	Low effort	Informational, self-promotional
	Paraguay	High	Informational	High effort	Informational, self-promotional
High trust / low level of attacks	Costa Rica	Low	Informational, self-promotional	Medium effort	Informational, self-promotional
	Uruguay	Low	Informational	Medium effort	Informational
Low trust / low level of attacks	Colombia	Medium	Informational, self-promotional	Medium effort	Informational, self-promotional
	Mexico	High	Informational, educational, self-promotional	High effort	Informational, educational, self-promotional

The Costa Rican Supreme Court shows a high variation in the form of communication at a lower level of use, indicating a medium effort in its Twitter use, whereas the Uruguayan Supreme Court mostly attaches photos, PDF or infographics – indicating also a medium level of effort. The Colombian Constitutional Court and the Mexican Supreme Court show variation in all categories; however, the Colombian court uses much more photos than the Mexican court. Sometimes, it includes short videos from the courtroom with excerpts from the judges’ reasoning for their judgements.¹¹⁶ The Mexican Supreme Court appears to use Twitter with high effort. Especially, it uses many infographics for educational purposes that explain the work of the court or certain rights to the audience in an easy language as in the tweets already mentioned above. It also includes professionally produced videos, for instance, one which shows

an extract from a speech of former court president Arturo Zaldivar on the combat against corruption in the judiciary.¹¹⁷ Of course, the courts have different financial and personal resources for their public relations, a fact that may be reflected in the form of communication in their tweets.

7 Discussion of Results

In this section, I assess my findings regarding the hypotheses formulated in Section 3. Table 3 summarises the observations from the analysis of the courts’ Twitter use in the different evaluated aspects. Concerning the effect of the level of trust on court behaviour on Twitter, the table shows that three out of

116 For example, Corte Constitucional Colombia [@CConstitucional]. *Por maltrato contra la mujer, jueces podrán ordenar reparaciones económicas en divorcios* [video attached]. [Tweet] <https://t.co/r0a7r1I3MB> (25 February 2020).

117 Suprema Corte México [@SCJN]. *1er Informe Anual de Labores del Ministro Presidente @ArturoZaldivarL Combate a la corrupción y nepotismo en el #PJF #InformeZaldivar* [video attached]. [Tweet] <https://t.co/eQCm9rq57Z> (12 December 2019).

four courts with low levels of trust are more active in using Twitter than the two courts with high(er) levels of trust.¹¹⁸ Hence, all four courts with low levels of trust show some self-promotional (and – for the Mexican Supreme Court – educational) behaviour, but one of the two courts with a high level of trust (the Costa Rican Supreme Court) also does. The Uruguayan and Paraguayan Supreme Courts indicate a purely informational purpose in the category *subject of communication*; however, in the case of the Paraguayan court, the high intensity of use and the effort involved hint to some self-promotional interest. Interestingly, I found that courts of both low and high levels of trust use Twitter for self-defence or correction of misleading information, an aspect that I did not include in my analysis categories.

With regard to the effect of the level of political attacks against courts, my analysis indicates that courts experiencing a high level of attacks (Guatemala and Paraguay) show some self-promoting behaviour, but courts with a low level of attacks also do (Colombia and Mexico). However, the above presented tweet of the Guatemalan Constitutional Court which rejects the prosecution of three of its judges indicates that Twitter can be used by courts to defend themselves in situations of extreme confrontation with the other branches of government. This also applies to the Brazilian Supreme Federal Court. When facing a high level of confrontation with former president Jair Bolsonaro (2019-2022), the strategy of the court to directly publish summaries on important decisions via Twitter (with links to its website) might have helped to counteract the strategy of discreditation and attacks against the court followed by Bolsonaro. In various rulings, the Supreme Federal Court corrected government policies neglecting the dangers of the COVID-19 pandemic and immediately tweeted the decision, for instance, when judge Alexandre de Moraes ordered the Health Ministry to publish daily data on COVID-19 infections and deaths.¹¹⁹ Furthermore, in view of the frequent attacks by Bolsonaro and his supporters, including violent protests before the court building and claims to abolish the institution,¹²⁰ the court used Twitter to show its support from broad sections of civil society.¹²¹ In combination with notable support from relevant political actors or groups, such a Twitter use might be part of a successful strategy of defence for attacked courts.

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8 Conclusion

High courts may have incentives to open to the public because they regard it as a possibility to increase trust through greater awareness. A higher level of trust then could help to increase institutional legitimacy, which is needed to enhance compliance with court rulings and to defend against political attacks. Latin American high courts' concerns with low levels of trust and frequent experiences of contestations of their institutional independence provide high incentives to use social media. My analysis of the behaviour of six Latin American high courts in Twitter could identify informational, educational and self-promotional purposes. Courts with lower levels of trust seem to be using Twitter more actively and tend to produce more self-promotional or educational content than courts in environments with higher levels of trust. It is not evident from the analysis that the courts also tend to be more active in Twitter when they face higher levels of political attacks. However, a timely presentation of the court's reasoning behind a decision or a defence against political interference via Twitter might help to counteract government's attacks through false information or harassments against the court. Future investigation could further disentangle the motivations of courts' engagement with the public through in-depth case studies, including interviews with high court judges and court staff. This could also shed more light on internal processes of decision-making regarding communication strategies in social media.

A central question remains for future research: are the courts successful with their engagement in social media? Does it really help to increase both trust and the ability to defend against political attacks? Of course, given the mutual factors influencing the level of trust, it is quite difficult to disentangle the specific impact of the courts' openness. One possibility to study the effect of the courts' use of social media on trust and their ability to defend themselves would be via survey experiments or focus group discussions.¹²² When doing so, it has to be taken in mind that assuming 'a straightforward positive correlation between transparency and legitimacy is rather naïve. The effect is highly *dependent on the context* and may indeed be negative as well as positive.'¹²³ Regarding the effects of court openness on trust, the current distribution of political power, the strength of civil society and the respective legal culture should be considered within the analysis. Altogether, comparative research on both trust in courts in Latin America and on their use of social media is still in its infancy and provides an extensive field for diverse future research projects.

118 This result confirms the finding by Llanos and Tibi Weber (2020), above n. 5.

119 Supremo Tribunal Federal [@STF_oficial]. *Decisão liminar do ministro Alexandre de Moraes determina ao Ministério da Saúde apresentação diária dos dados sobre Covid-19, como vinham* [link included]. [Tweet] https://x.com/STF_oficial/status/1270205199714521089?s=20 (9 June 2020).

120 Llanos and Tibi Weber (2023), above n. 24.

121 Supremo Tribunal Federal [@STF_oficial]. *STF recebe em sessão solene manifesto da sociedade civil em apoio à Corte. Saiba mais:* [link included]. [Tweet] <https://t.co/wdDaAdrAER> (3 April 2019).

122 Similarly, for the Colombian Constitutional Court, Forero-Alba and Rodríguez-Raga use experiments to study the effect of different wording and framing of the justification of juridical decisions on the court's public support; see S. Forero-Alba and J.C. Rodríguez-Raga. 'Courting Judicial Legitimacy: An Experimental Study of the Colombian Constitutional Court', in S. Botero, D. Brinks & E. González-Ocantos (eds.), *The Limits of Judicialization: From Progress to Backlash in Latin America* (2022) 164.

123 De Fine Licht et al., above n. 31, at 112 (emphasis added).