

Public opinion and conflict in the separation of powers: Understanding the Honduran coup of 2009

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Abstract

Formal constitutional systems of separated powers often fail to sustain meaningful systems of checks and balances in presidential-style democracies. What conditions support balance in the separation of powers and what conditions provoke instability and conflict? We draw on Madisonian political theory and research addressing the separation of powers in the United States to develop a game theoretical model of inter-institutional stability and conflict within a separation of powers system. Two factors emerge as catalysts for institutional instability and conflict among the branches of government: high-stakes institutional rivalry combined with uncertainty about the public's relative support for various branches of government. We apply the model to the experience of Honduras in 2008–2009 that resulted in the coup ousting President Zelaya which illustrates the difficulty of developing credible checks and balances.

Keywords

Checks and balances; consolidation of democracy; Honduras; separation of powers

Introduction

While presidential democracies are synonymous with constitutional arrangements that create multiple branches of government that have formal powers to check each other, actual governance is often dominated by the executive with few effective checks and little actual balance. Empowering multiple governmental agents requires 'institutional

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emergence', that is, the development of governing practices and norms after formal institutions are elaborated in a written constitution (Knight and Epstein, 1996; Chavez et al., 2011). Although institutional emergence may be erratic, once an institutional practice is established it often prevails for many years. For example, the practice of judicial review in the United States is not supported by specific constitutional texts; rather, judicial review gradually emerged as a result of strategic choices made by Supreme Court justices, presidents, and members of Congress (see, e.g., Knight and Epstein, 1996; Kramer, 2004; Burns, 2009; Friedman, 2009).

Yet, the institutional emergence of stable separation of powers systems is not inevitable. Repeated experiences in Latin America and elsewhere demonstrate the difficulties of developing effective and sustainable checks and balances among branches of government, particularly checks on the power of the president (Hochstetler, 2006; Pérez-Liñán, 2007; Helmke, 2010; Castagnola and Pérez-Liñán, 2011). The histories of many presidential-style democracies are marked by either the intense concentration of power in the executive branch of government or open conflict between branches of government, sometimes escalating to violent confrontations. The contrast among the practice of stable and effective checks and balances, the development of imperial presidencies, and outright conflict between branches of government indicates a critical question for scholars of democratic development and the separation of powers: What conditions support the institutional emergence of balanced separation of powers systems?

The importance of this question continues to bear on contemporary political developments. On 28 June 2009, Honduras received the world's attention when President Manuel Zelaya was arrested by the military and removed to Costa Rica. The international community condemned Zelaya's ousting as a threat to democracy and a portent of a return to the military rule that marked Latin American politics before the Third Wave of democracy. However, closer examination indicates that the crisis was not an attempt by the military to take control of the government, but rather evolved from efforts to establish norms of inter-institutional checks and balances as part of the ongoing consolidation of democracy. Honduras in 2008–2009 actually has much in common with struggles to establish effective checks and balances in the early nineteenth-century United States where establishing a norm of other branches being able to check the president was risky and uncertain at the time. As such, Honduras is only the most recent example of the challenges of political development in separation of powers political systems, raising the question: Why did the Honduran separation of powers devolve into conflict between the branches of government and ultimately the ousting of the president rather than operating within the boundaries of constitutional checks and balances or acquiescing to expanded executive authority?¹

We argue that the answers to our general question about the dynamics of institutional emergence and our question about the course of events in Honduras in 2009 are intertwined. In this paper we seek to develop an explanation for why checks and balances will develop to rein in a presidential executive or why presidents are willing to risk escalating conflict with the court or congress. Drawing on Madisonian political theory and research addressing the separation of powers in the United States, we develop a simple game theoretical model of inter-institutional stability and conflict within a separation of powers system that emphasizes the role of the interplay between high-stakes institutional rivalry and public opinion in creating or undermining checks and balances. In particular, the premises 'that every man invested with power is apt to abuse it, and to carry his authority

as far as it will go' (de Montesquieu, 1748, p. 197) and, therefore, that 'power is of an encroaching nature, and that . . . a mere demarcation on parchment of the constitutional limits of the several departments, is not a sufficient guard against . . . the tyrannical concentration of all the powers of government . . .' (Madison, 1996a, pp. 343–347) suggest the permanent potential for conflict among the branches of government in separation of powers systems. Yet, our formal analysis indicates that conflict between branches of government is *unlikely* to emerge when public opinion clearly supports or opposes some established distribution of authority in a separation of powers. However, if politicians pursue their power-growth preferences when public sentiment is divided or cannot be authoritatively assessed, inter-branch conflicts can become inflamed.

These insights can be applied to the Honduran case to determine whether events in Honduras were consistent with an identified equilibrium in the formal model and, if so, to reinterpret the Honduran coup in light of these general separation of powers dynamics. To execute this approach, we first describe the Honduran constitution of 1982 and changes that increased incentives for judicial and legislative independence. We outline events in 2008–2009 that began as institutional emergence of checks and balances, but led to escalating conflict and culminated in the removal of President Zelaya. Our analysis indicates that the confluence of newly incentivized legislative and judicial independence and high-stakes policies permitted inter-branch conflict to develop, and unclear or divided opinion about government institutions allowed inter-branch conflict to grow into a crisis. A final section discusses the implications of our analysis for understanding the political dynamics that support stability in separation of powers systems.

The theory of the separation of powers

Although the idea of dividing the functions of national government into independent, coordinate branches has deep intellectual roots, a fully developed theory of the separation of powers was first advanced by de Montesquieu (1748) in his *The Spirit of Laws* (see also Vile, 1967). de Montesquieu (1748, p. 197) argues that 'constant experience shews [sic]. . . that every man invested with power is apt to abuse it, and to carry his authority as far as it will go'. To protect 'liberty' against these potential abuses the 'three sorts of power: the legislative, the executive. . . , [and] the judicial' must not be 'united in the same person, or in the same body of magistrates' (de Montesquieu, 1748, pp. 198–200). By separating the powers of 'enacting laws, . . . executing the public resolutions, and of trying the causes of individuals', de Montesquieu argued that 'tyrannical' government could be avoided since, for example, an independent executive might decline to enforce 'tyrannical laws' (de Montesquieu, 1748, pp. 198–199).

This theory of constitutional design inspired the structure of government in the US Constitution. Yet Madison offered an important refinement of de Montesquieu's theory centered on the role of public opinion (Sheehan, 2002). De Montesquieu viewed the structure of government as the principal means of preventing tyranny and ensuring stability. Madison argued that the 'equilibrium of . . . government. . . is maintained less by the distribution of its powers, than by the force of public opinion' (Madison, 1900b, p. 87). Discussing the alleged stability of the British system, Madison asserted, 'If the nation were in favour of absolute monarchy, the public liberty would soon be surrendered by their representatives. If a republican form of government were preferred, how could the

monarch resist the national will?' (Madison, 1900b, p. 87). The separation of powers system is only an 'auxiliary precaution' for preventing tyranny while a 'dependence on the people is, no doubt, the primary control on the government' (Madison, 1996c, p. 356) (see also Sheehan, 2002; Kramer, 2004, 2006; Martin, 2010).

Madison's critique of a mechanically balancing separation of powers implies a powerful alternative theory of the separation of powers rooted in popular sovereignty. Since '[p]ublic opinion sets bounds to every government, and is the real sovereign in every free one' (Madison, 1900a, p. 70), the People might be conceptualized as a 'large sovereign entity doling out bits and pieces of power to various popular agents' (Wood, 1981, p. 17). The separation of powers, therefore, set up a system of competing agencies in which the people would have multiple representatives, variously empowered or discouraged over time in relation to their varying fitness and faithfulness to the people (Ura and Wohlfarth, 2010). Thus, Madison argues the boundaries between and around the authority of the various branches of government will ultimately be settled by the people:

The several departments being perfectly coordinate by the terms of their common commission, none of them. . . can pretend an exclusive or superior right of settling the boundaries between their respective powers; and how are the encroachments of the stronger to be prevented, or the wrongs of the weaker to be redressed, without an appeal to the people themselves. . . ?
(Madison, 1996b, p. 348)

(See also Hamilton, 1996; Knight and Epstein, 1996; Kramer, 2004, especially pp. 39–92; Fritz, 2008; Friedman, 2009.)

This Madisonian theory of an equilibrium in the separation of powers maintained by public opinion is a useful foundation for understanding conflict among coordinate branches of government. When the People are satisfied with the *status quo*, public opinion will defend it by applying pressure to politicians who wish to upset established institutional arrangements. When the People are dissatisfied they can provide support to preferred governmental agents who seek to enhance their authority. The People can adjudicate between branches of government when a politician tries to enhance their power at the expense of another, and a rational politician who expects he would be sanctioned by the People for making a move to enhance his power should not make such an attempt. Inter-institutional conflict can become a crisis when politicians in the competing institutions both think they have popular support and the preferences of the public are unclear or unknown.

An institutional emergence game

To investigate how inter-branch conflict arises and can become a crisis, we specify a simple model of strategic interaction between a president (*P*), a coordinate branch of government, which we will call a court (*C*), and the People (*M*). However, the 'court' in the game may represent a legislature or a court. We designate it as a court to facilitate comparisons between the formal model and the Honduran case, in which the Supreme Court ultimately ordered the arrest of the president. We model a pivotal actor representing the People that has the preference that on balance is expressed by the public (i.e. tipping support for the president or the court). The People, however, can include diverse groups with different political resources and capacities to express their political preferences. Groups within 'the People' may express contradictory preferences that make it difficult

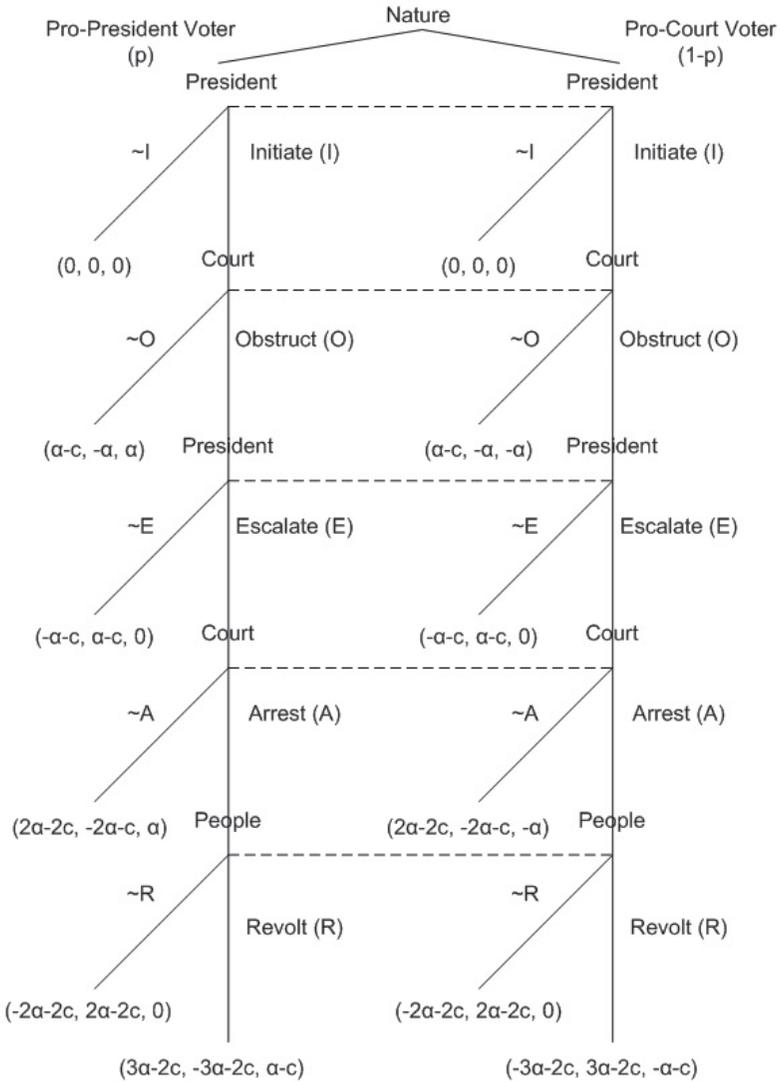


Figure 1. The separation of powers game.

for the institutional actors to determine whether they are likely to obtain their preferred outcome from an institutional emergence game.² The game is illustrated in Figure 1.

The game is played against the background of a *status quo* arrangement in which political power is shared between the president and the court. Both the president and the court prefer to expand their authority through formal changes to the constitution or by establishing informal precedents that enhance their power.³ We presume that institutional actors value changes in their institutional authority whether they result from formal or

informal mechanisms. When an institution successfully expands its powers, it receives a payoff of α , while coordinate institutions suffer a loss of $-\alpha$ (we assume $\alpha > 0$).

The People find one institutional actor to be more fit or faithful as a governmental agent than the other. Thus, the People desire that the authority of the preferred institution be enhanced relative to the *status quo*. The People receive a payoff of α when their preferred institution's power is enhanced and a loss of $-\alpha$ when its power is diminished.

Play begins with politicians having their own assessments of the lay of the political landscape—what they assess to be the preference of the People. For simplicity, we assume the People may be one of two types: a pro-president type (Z), selected with probability p , and a pro-court type ($\sim Z$), selected with probability $1 - p$, from a uniform distribution. The People are predisposed to resist changes in the balance in the separation of powers that are contrary to their preferred state of the world. The People are aware of their own type, but the president and court know only the probability distribution utilized to make the selection.

Once M 's type is selected, the president may initiate (I) action that would enhance executive power at a cost (c), or choose to accept the *status quo* ($\sim I$).⁴ Since initiating is costly, we assume that P will not initiate an enhancement of presidential power if current political conditions strongly indicate that the People oppose the president. If the president selects $\sim I$, play ends, the *status quo* prevails, and all players receive a payoff of zero, having neither gained nor lost relative to conditions prevailing before the game commenced. If the president plays I , however, the court may respond by obstructing (O) the extension of executive power at a cost (c) or acquiescing $\sim O$. Since obstructing is costly, we assume that C will not obstruct an enhancement of presidential power if current political conditions strongly indicate that the People will support the president. If the court plays $\sim O$, then the president has established an expanded set of institutional powers with the implicit endorsement of the court, play ends, and payoffs accrue. If the court chooses O , play continues for another round.

The president may now either escalate (E) the confrontation with the court at a cost (c), insisting on implementing the proposed expansion of executive power despite the court's objections, or accept the court's action $\sim E$ and cease attempts to enhance presidential authority. If the president plays $\sim E$, the formal *status quo* prevails, but the game's path of play would establish the precedent that judicial action is sufficient to undermine assertions of new executive authority: checks and balances are established or strengthened and inter-branch conflict did not result in crisis. Thus, the president's payoff choosing $\sim E$ is $-\alpha - c$ in any history of the game.

If the president plays E , the court may either order the arrest (A) of the president at a cost (c), effectively removing her from office, or retreat $\sim A$ from the escalated conflict. If the court chooses $\sim A$, the president's institutional changes are enacted and the interaction constitutes a precedential case in which the court's initial objections may be ignored by the president, play ends, and payoffs accrue: the principle of checks and balances is weakened by the experience of inter-branch conflict, but a crisis does not ensue. If the court selects A , play now involves the People, who face the strategic choice to revolt (R) against the court's arrest order at a cost (c) or accept $\sim R$. The People's reaction is dispositive. If the People revolt against the court's action, the president is restored to office with enhanced powers and a precedent demonstrating public opposition to judicial obstruction of executive authority is established; checks and balances are reduced. If

the People play $\sim R$, the president's removal continues and judicial power (checks and balances) is informally enhanced. In either case, play ends and payoffs accrue.

The model's setup is similar to other separation of powers games used to identify linkages between the public standing of coordinate branches of government and their ability to establish and preserve institutional independence and political authority (Vanberg, 2005; Helmke, 2010; Staton, 2010; Helmke and Staton, 2011). The model's most obvious parallel is Helmke's (2010) inter-branch crisis game, which also includes the stakes of inter-institutional conflict and uncertainty about the outcome of a 'crisis' as key parameters, although these concepts are formalized somewhat differently here. Aside from these small mechanical differences, the present model includes opportunities for the institutional players (P and C) to make multiple decisions in our multi-stage game. Rather than committing inexorably to seek expanded presidential powers (or not) or to resisting inter-branch aggression (or not), each player is permitted (in order) to abandon inter-branch conflict once it has begun prior to dispositive action by the People (or, as is typically the case in similar models, the imposition of some cost representative of a public action).

This game represents a tension between the aggrandizing tendencies of institutional actors that is inherent in all separation of powers systems. It also has an element that is crucial for understanding the 2009 crisis in Honduras. Specifically, public opinion only appears in the game as a move by the People at the last node of the game. Politicians choose to take action, to enhance their power and to obstruct the attempt at power enhancement, and then the People respond. Inter-elite conflict is started by political elites, and then the People have the opportunity to tip the scales in favor of one elite actor or another. In Honduras inter-election conflict between the branches could only be adjudicated by the public through politicians' informal estimation of public sentiment because the Constitution no longer had a provision for impeachment (the provision was removed in 2003).

We restrict analysis of our model to conditions where the utility of gaining preferred institutional arrangements outweighs the cost of acting to obtain them, i.e. where $\alpha \geq c$.⁵ Under this condition, four pure strategy subgame perfect Nash equilibria prevail.⁶

If $p < \frac{2c+2}{\alpha}$ and $p < \frac{3-2c}{5}$, the president does not initiate an expansion of executive powers. Payoffs for all actors are zero (0). This equilibrium is associated with an upper-bound condition on p (the probability that the People are of a pro-president type). When p is less than the identified upper bound, the probability that the People support a president's attempt to extend her power is sufficiently low as to dissuade the executive from doing so. The *status quo* is protected and serious inter-branch conflict is prevented by the knowledge that the public is unsupportive of constitutional change. Yet no progress is made at establishing or strengthening a norm of checks and balances.

Second, when $p < \frac{2c+2}{\alpha}$ and $p > \frac{3-2c}{5}$, the president does not initiate an expansion of executive powers. Payoffs for all actors are zero (0). This equilibrium is associated with relatively low values of α (the benefit gained by winning a preferred institutional arrangement). When the potential gains for securing preferred outcomes are sufficiently low, neither institutional actor will absorb the costs of action without especially strong beliefs that the People will ultimately support their choices. This equilibrium is, therefore, principally associated with low-stakes opportunities to extend institutional power.

Third, if $p > \frac{2c}{\alpha} + 2$ and $p > \frac{3-2c}{5}$, the president initiates an expansion of executive powers and the court acquiesces. Payoffs are $[\alpha - c, -\alpha, (\alpha | Z, -\alpha | \sim Z)]$. This equilibrium hinges on a lower-bound condition on p . When p exceeds the defined lower bound, the president extends her authority with the ascent of the court. The relatively high probability that the People would ultimately resist judicial action to prevent the expansion of executive authority is a sufficiently strong threat against the court to prevent its obstructing the president. The president's powers are enhanced, and there is no open, extended conflict between the court and the president, but even though no crisis results checks and balances are weakened.

Fourth, when $\frac{2c}{\alpha} + 2 \leq p \leq \frac{3-2c}{5}$, the president initiates an expansion of executive powers, the court obstructs the expansion of executive authority, the president escalates the conflict, the court orders the president's arrest, a pro-president-type People revolt, and a pro-court-type People do not revolt. Payoffs are $[(3\alpha - 2c | Z, -2\alpha - 2c | \sim Z), (-3\alpha - 2c | Z, 2\alpha - 2c | \sim Z), (\alpha - c | Z, 0 | \sim Z)]$. This equilibrium is associated with relatively middling values of p . Values of p are large enough to induce the president to attempt to enhance her power but also low enough to catalyze judicial efforts to undermine the expansion of executive authority. This condition might reflect various political conditions, such as where real-time information about public opinion is difficult to obtain or when subgroups within the mass public exhibit divided loyalties to institutional actors. Equilibrium in this condition is characterized by inter-branch conflict that is ultimately resolved by either the People's revolt against the court's order to arrest the president or the People's acceptance of the president's removal from office. Either outcome can be viewed as a crisis.⁷

Comparative statics

The identified equilibria of the game correspond to three observable states of the world: maintenance of the *status quo*, expansion of executive authority and a weakening of checks and balances with the acceptance (or acquiescence) of the court, or inter-institution conflict that can escalate into a crisis. These states are related to two parameters of the theoretical model: (1) the stakes of the potential conflict between branches relative to the costs of action and (2) the institutional players' beliefs about the People (essentially the probability that the People would ultimately back the president over the court). When there is little at stake, institutional actors have little incentive to absorb the costs of initiating or continuing a conflict. No inter-institutional crisis would be expected to emerge. When the probability that the People prefer expanded executive authority is sufficiently low, the president will not initiate an attempt to expand executive powers. The equilibria associated with states of the world in which the *status quo* is maintained are indicated in the lower portion of Figure 2.

Alternatively, when the probability that the People would support enhanced executive authority is sufficiently high, the president may act to expand her authority without opposition from the court. In other words, the likelihood of popular action in support of expanded presidential authority entices the president to act and inhibits the court from opposing. In such a case the public may be happy with the outcome, but checks and balances are reduced. The equilibrium is indicated in the top portion of Figure 2.

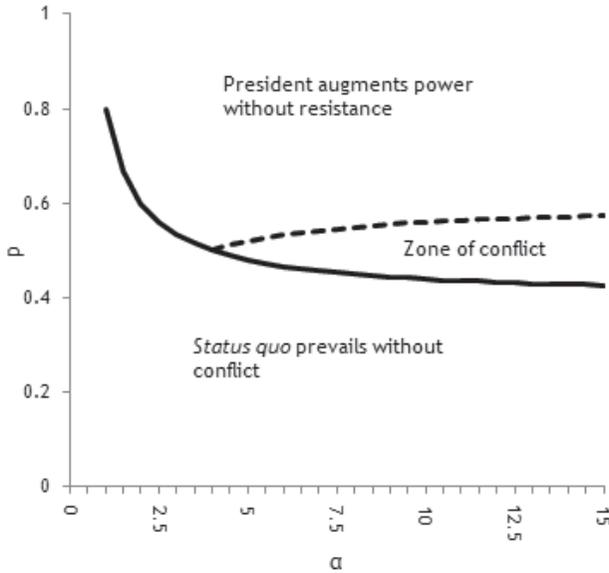


Figure 2. Equilibrium results for the institutional conflict game.

The model predicts conflict when institutional actors do not have strong information that the People will back one side or another in an inter-institutional conflict. The president has a rational basis for seeking augmented power and the court has a rational motive to obstruct. This combustible combination is illustrated in the middle portion of Figure 2. Between the curves (which intersect at $p = 0.50$ when $\alpha = 4$, holding $c = 1$, and with p asymptotically approaching 0.60 and 0.40, respectively), the stakes of institutional conflict are sufficiently large and the ultimate outcome is sufficiently in doubt to prompt the president's attempt to seek new powers and the court's efforts to obstruct those efforts. The outcome may be enhanced institutional powers to check the president, as happened in the US in the early 1800s, but it may be crisis, as happened in Honduras in 2009.

An application to Honduras

We now apply the theoretical model to Honduras in 2009, and investigate the extent to which the political context of Honduras leading up to the coup and the observed outcome of events, inter-branch conflict culminating in the president's ousting, are consistent with the identified equilibria. By determining the extent to which conditions in the historical record are associated with outcomes predicted by equilibrium behavior in our formal model, we can assess the merits of our theoretical claims (Knight and Epstein, 1996) and better understand what happened in Honduras. First we provide background about the Honduran democratic system. We then show that the two critical factors predicted by our formal analysis: high-stakes institutional rivalry and uncertainty about public allegiances existed in 2009 and can account for the hostile interactions between President Zelaya and the Supreme Court and Congress.

Background

After a decade of military rule, Honduras installed an elected civilian government in January 1982. Yet it was questionable whether the new regime met more than a minimal procedural definition of democracy. The constitution set up a unitary political system reestablishing the old institutions of the presidency, unicameral congress, and court with all elected offices filled simultaneously every 4 years. However, the constitution did not place the military under the control of the president, the military violated human rights of leftist group members, and the checks and balances provided for in the constitution did not operate in practice (Taylor-Robinson, 2010, Chapters 4 and 5).

When Central America's civil wars ended in the early 1990s, the military no longer could claim it needed independence to perform its defense role, and Hondurans were tired of the military's abuses and corruption. In 1993, presidential candidate Carlos Reina of the Liberal Party (PLH) campaigned to change the constitution to bring the military under civilian control. Reina won the election, and although the military tried to prevent the change, the constitution was amended (Bowman, 2002). Since then, the military has followed civilian leadership (Ruhl, 2010), and Honduras's democratic regime earned scores of 'free' from Freedom House and 'fully democratic' from scholars systematically evaluating regimes (Mainwaring et al., 2001; Bowman et al., 2005).

Yet, Honduras's democracy still faced challenges, including a lack of effective checks and balances despite a formal separation of powers system. Congress and the Supreme Court did not exercise their constitutional powers to check executive power.⁸ Moreover, the president was the strongest political actor because of his ability to grant political favors and influence other politicians' career chances, which created practical political obstacles to deputies or justices checking the president.⁹ The resulting 'asymmetries of bargaining power ... in political competition' were a primary factor in creating and maintaining presidential supremacy (Knight and Epstein, 1996, p. 91).

Constitutional reform in 2001 changed how justices are selected, and election law reforms changed nomination and election procedures for congress deputies starting in 2005. These changes limited the president's ability to influence other politicians' careers,¹⁰ creating the potential for real Congress and Court independence so that when a high-stakes policy conflict arose one branch of government might assert itself to obstruct another branch.

Such inter-branch policy conflicts were first seen in 2008, most notably when Congress did not rubber-stamp President Zelaya's foreign policy initiatives of joining PetroCaribe and ALBA.¹¹ President Zelaya questioned the right of Congress and the Court to tell him no. This obstruction must have been surprising to Zelaya given Honduras's long history of presidential autonomy (Stokes, 1950; Argueta, 1989), and because many Latin American presidents made policy without interference from coordinate branches of government. These new attempts to check the executive began the inter-branch conflict that grew into a crisis in 2009 (see the time line in Table 1).

High stakes for policy and institutional development

When President Zelaya began a foreign policy of alliance with Venezuela's Hugo Chavez he encountered sharp opposition. Zelaya's left turn in policy created opposition from

Table 1. Time line of key events in Honduras**2008**

January - President Zelaya proposed joining PetroCaribe; Congress objected

July - Zelaya announced that Honduras would join ALBA; Congress and others objected

2009

January - Congress had to select the new Supreme Court by 25 January. Zelaya tried to influence the selection; Congress objected and did not appoint Zelaya's preferred candidates

March 13 - Zelaya made a speech mentioning his desire to stay in power

March 23 - Cabinet issued an executive decree to hold a referendum asking voters whether they

wanted to have a *cuarto urna* at the 29 November elections about convening a constituent assembly

May 8 - Chief Prosecutor filed a suit requesting that the Court of Administrative Litigation declare the executive decree illegal (see Gutiérrez (2009) for details about the Court's actions)

May 26 - Cabinet issued another executive decree, rescinding the previous decree and ordering a national poll on the *cuarto urna*

May 27 - Court of Administrative Litigation ordered the president to suspend the public consultation

May 29 - Zelaya ordered the military to help the National Institute of Statistics to carry out the poll

June 3 - Court of Administrative Litigation asked the president to abide by the Court's ruling

June 19 - Court of Administrative Litigation again asked the president to call off the *cuarto urna* poll

June 23 - Congress passed a resolution condemning the Organization of American States for planning to send observers to the 28 June election

June 24 - Zelaya ordered the military to carry out the election, and fired the military commander for refusing. Supreme Court reinstated the military commander

June 25 - Zelaya's supporters retook election materials impounded at a military base

June 26 - Chief Prosecutor asked the Supreme Court to arrest Zelaya, accusing him of multiple crimes. The Court appointed one of its justices to hear the process in its preparatory and intermediate phases; that justice issued an arrest warrant

June 28 - Zelaya arrested and transported to Costa Rica by the military

Honduras's economic elites, and his subsequent efforts to enhance presidential power and to obstruct the right of other branches to check his actions created a high-stakes inter-branch conflict: conflict both over policy and over the power of other branches of government to check the president.

In 2008, President Zelaya led Honduras into PetroCaribe, the subsidized petroleum program sponsored by Hugo Chavez's government. He then initiated Honduras's entry into ALBA (*Alianza Bolivariana para los Pueblos de Nuestra América*), also organized by Chavez. Joining ALBA was particularly controversial. Many countries joined PetroCaribe to reduce their oil import bill, but membership in ALBA is limited. Conservative parties and business groups viewed ALBA as contrary to Honduras's international trade interests and long-time alliance with the U.S. On both initiatives, the Congress initially obstructed President Zelaya. Conflict over PetroCaribe was resolved when Congress imposed an oversight mechanism for the funds. ALBA was resolved in an old-fashioned way, with Zelaya cutting a deal with Congress President Micheletti to support Micheletti in the PLH primary. National Party (PNH) deputies abstained in the ALBA vote, and the

PLH voted to join (Moreno, 2008; Ruhl, 2010). By mid-2008 there was clearly tension between the Congress and the traditional parties and President Zelaya (inter-branch conflict), but the new attempts by the Congress and Court to check the president appeared to be a sign that these historically weak branches of government were finally beginning to play their constitutional role in checks and balances.¹²

Zelaya's foreign policy initiatives were surprising because he was not a party outsider. He had been a Congress deputy and served in the cabinet. His 2005 campaign platform was not leftist (Taylor-Robinson, 2006, 2007; Ruhl, 2010). The first 2 years of his presidency did not deviate from the conservative norm of Honduran politics (Ajenjo Fresno, 2007; Ruhl, 2010). He had implemented campaign promises to adopt a Transparency Law, and to create new opportunities for citizen participation through referendums and initiatives. His *Red Solidaria* social protection program was a pro-poor policy, but it only expanded the state's conditional cash transfer programs to encompass a few new groups. This was 'politics as usual' because the new benefits could be targeted to governing party clients (Moore, 2008).

Yet, Zelaya's moves to align Honduras with Venezuela represented the start of a critical political break between the president and other institutions and important actors. The alliance signaled that Zelaya had moved away from the ideological preference of the median members of the Congress and the Court.¹³ Zelaya had also diverged from the two traditional, conservative political parties and from the Honduran business community.¹⁴

The Congress and Court later took steps to check him on other policies, and President Zelaya grew more frustrated. The stakes got bigger on 13 March 2009 when President Zelaya spoke at a military promotion ceremony and expressed interest in serving another term as president (La Prensa, 2009). Rumors quickly started that Zelaya wanted to amend the constitution so that he could be reelected. These rumors influenced actors' perceptions about other actors' preferences and what actions they might take in a political game. The confrontation over inter-branch rights to check each others' power began in earnest in March when President Zelaya's cabinet issued a decree to hold a referendum asking the Honduran people whether they wanted to have a *cuarto urna* ('fourth ballot') at the regularly scheduled 29 November elections. The referendum would ask whether people wanted to convene a constituent assembly to reform the constitution. Elections were already scheduled for November, as called for in the constitution. Both major parties had primaries in late 2008 to select their presidential candidates and departmental slates for Congress. The *cuarto urna* proposal could have been of value to the president even if it was not a tactic to enable him to continue in power past January 2010. Since the Court and Congress had shown that they were now willing to play their role in checks and balances, President Zelaya needed to augment his power if he wanted to be able to implement controversial left-leaning policy. Military support would be another way to strengthen his hand, and 'Zelaya had cultivated excellent relations with the armed forces from the beginning of his term and had more than doubled their budget'. Yet gaining military support was risky as the senior officers were steeped in Cold War ideology and did not support allying with Venezuela's Chavez (Ruhl, 2010, p. 101). The *cuarto urna* proposal was interpreted by Zelaya's opponents as a first step toward his continuing in power, which would be a violation of the constitution.¹⁵

The stakes were now very high for the president and the coordinate branches of government and for traditional parties and the business community. Zelaya's opponents, in

government and in the People, already did not like the direction of his policy, and now it appeared that he wanted to stay in power past January 2010. Given that the Congress and Court had only just begun to assert their power to check the president, their capitulation to the wishes of the executive would leave them weaker than they had been prior to 2008. The executive, in contrast, wanted to remain autonomous from checks by other branches of government, to regain the independence presidents previously enjoyed in Honduras.

Uncertainty about public allegiances

Despite the high political stakes, hard evidence of the public's orientations in the emerging crisis was very limited. Elections occur only every 4 years, and reliable survey research is rare in Honduras. Street protests are a common mode of expression in Honduras, but both preceding the peak crisis period of June and July 2009 and after Zelaya's ousting, public protests were limited and divided. The absence of large-scale, one-sided protests suggests that neither President Zelaya nor his opponents enjoyed strong majority support in the Honduran public, although the business community had clearly articulated its opposition to many of the president's policies. This inference is supported by the data that are available.

Zelaya won the 2005 elections by the slimmest of margins, and his opponent, Porfirio Lobo, had won the 2008 PNH presidential primary in a landslide with 73% of the vote. AmericasBarometer surveys (AmericasBarometer, 2010) found that the percentage of respondents that approved of President Zelaya's performance had dropped from 52.1% in early 2006 to 47.5% in January 2008 (Coleman and Argueta, 2008, p. 186). Latinobarometer surveys showed decreasing approval of the job Zelaya's government was doing, from 55.6% approval in 2006, to 55.3% in 2007, to 35.6% in 2008 (Latinobarómetro, 2009). A CID-Gallup survey in February 2009 indicated that Zelaya's approval rating was 30% (LAWR, 2009). However, there is no evidence to suggest that President Zelaya's limited approval signaled mass support for Congress or the Supreme Court.¹⁶

Moreover, it is unclear whether President Zelaya's policy shifts had won him popular backing. Latinobarometer questions about economic policies indicate erratic and divided evidence of Hondurans' support of market-based policies. In 2005, 66% of Hondurans agreed that 'a market economy is the best for the country'; this figure declined to 49% in 2007, then rebounded to 66% in 2009. Asked whether 'a market economy is the only system that can develop the country', 65% agreed in 2005, 42% in 2007, and 57% agreed in 2009 (Latinobarómetro, 2009, pp. 91, 93).

Close election results, the absence of extensive protest activity, and surveys indicating divided loyalties in the mass public suggest that Honduran political leaders lacked a clear picture of public opinion. They could not know if the people would back President Zelaya or the Court and Congress as they tried to check the executive. It could be argued that the people (other than the business community) were largely uninterested in the inter-branch conflict until it became the very high-stakes stalemate right before the coup, and that divided loyalties in the mass public actually emerged from the stalemate before, and even more so, after the coup. As explained above, whether the military would back President Zelaya or the Court was also unknown.

The constitutional crisis

The combination of high-stakes disagreements between branches of government and uncertainty about public support is associated in our formal model with an equilibrium prediction of inter-branch conflict. This conflict takes the form of an escalating crisis in which neither side in a dyadic conflict has incentives to abandon a confrontation once it is initiated. Institutional actors will continue to pursue their preferred set of formal and informal constitutional arrangements (even facing obstruction by other actors) until the public has some opportunity to adjudicate the conflict.

The inter-branch conflict over policy and checks and balances that began in 2008 expanded into a constitutional crisis on March 23, 2009 when President Zelaya's cabinet issued a decree to hold a referendum on June 28 about adding the *cuarto urna* to the November elections to ask people whether they wanted to convene a constituent assembly. The Court of Administrative Litigation responded in May by declaring the referendum illegal. When the cabinet issued another decree substituting a national poll for the referendum, it was also declared illegal. (See Table 1 for additional moves by Zelaya, the Court and Congress.)

Zelaya persisted in his plan to hold the election. He ordered the military to help with its implementation, and fired the head of the military when he refused. The Court reinstated the military chief, asserting that his removal was not within the scope of presidential authority. The Court impounded the ballots at a military base, and President Zelaya led supporters to retake the election materials and begin their distribution.¹⁷ It is plausible that much of the Honduran public was not following the inter-branch conflict and attempts by the Congress and Court to build checks and balances until this point when President Zelaya actively rallied supporters to his cause. However, Hondurans working in the US had voiced opposition in 2008 to Zelaya's pro-Chavez foreign policy, fearing that it could jeopardize their work opportunity in the US. Thus, while it could be argued that the stalemate that had developed between the elite actors (president, Congress/Court, traditional parties, business interests) is the reason why divided loyalties in the mass public finally emerged, it is still true that when President Zelaya made the *cuarto urna* proposal that could result in an expansion of executive power and the Court took several steps to block that proposal, neither actor had a clear picture of how the people or the military, who in our game comprise part of the 'People', would react to their actions.

On 26 June, Honduras's Chief Prosecutor asked the Supreme Court to order the arrest of Zelaya, accusing him of acting against the established form of government, treason, abuse of authority, and usurpation of functions. The Court issued the warrant, and President Zelaya was arrested by the military, but rather than turning Zelaya over to stand trial the military violated the constitution by taking him to Costa Rica.

These events correspond strongly with the equilibrium predictions of our formal model given the high stakes of inter-institutional conflict and uncertainty about whether either institutional actor enjoyed the backing of the People. First, we observe the president's decision to initiate a conflict in an uncertain political climate amidst important policy debates with Congress and the Court.¹⁸ This reflects the equilibrium prediction that P will play I when $p \geq \frac{2c+2}{5}$. Similarly, we observe both the Court and Congress moving to obstruct the *cuarto urna*, which is consistent with the prediction that C will

play O when $p \leq \frac{3-2c}{5}$. Subsequent choices by President Zelaya to escalate the conflict and by the Court and Congress to continue their obstruction and ultimately order President Zelaya's arrest are also consistent with equilibrium predictions of the game. In particular, the model shows that relative values of p , c , and α which are associated with an initial 'round' of conflict between P and C are also within the set of values for these variables that will sustain the conflict into the future.

Discussion

The Honduran constitutional crisis of 2009 represents an inherent tension in all separation of powers systems. By dividing state power among branches of government, the system is designed to protect individual liberties by entrusting each branch to police the others. Since each branch will be jealous of its prerogatives and powers, the system allows '[a]mbition . . . to counteract ambition', enforcing limits on government power (Madison, 1996b, p. 356). Ultimately, conflict over the 'boundaries between [the branches]' respective powers' must be settled by 'an appeal to the people themselves. . .' (Madison, 1996c, p. 348). Public opinion, therefore, is the principal referee of the separation of powers; settling disputes between the branches of government and preventing the emergence of disputes by providing signals about its preferred institutional arrangements (see Vanberg, 2001; Clark, 2009; Ura and Wohlfarth, 2010).

However, when public signals are mixed, murky, or absent the separation of powers becomes a game without a referee and the aggrandizing tendency of political ambition is left without its principal limitation. Inter-branch conflict is likely to emerge under this condition when there is something worth fighting about (see also Helmke, 2010). This intuition is formalized in our theoretical model and supported by the case of Honduras.

These types of inter-branch conflicts are especially likely to emerge in the early stages of a political system's development when constitutional systems' formal boundaries on institutional power lack the support of prior interpretation and experience (Knight and Epstein, 1996), inviting conflict as institutional actors explore the extent of their authority through trial and error before arriving at a workable equilibrium. Moreover, lack of experience with particular institutional forms may lead to uncertainty or ambivalence in the public mind on questions relating to the appropriate balance to strike in the separation of powers.

Honduras's constitution is less than 30 years old. Reforms to enhance representation in Congress and create judicial independence are less than a decade old. It is natural to expect a president to want to retain or enhance executive authority, so presidents are often willing to take the risk of challenging the Congress or Court. It is also natural to expect that the public will be unsure about the utility of new institutional arrangements. It is precisely this combination of ambition and uncertainty that makes inter-branch conflict rational for power-seeking politicians.¹⁹

Yet, the Honduran case represents only one possible equilibrium result in our theoretical model – open conflict between branches of government that becomes a crisis. Another equilibrium result is that presidents will seek to expand executive power and will obtain it with the support (or acquiescence) of other branches of government when public support for enhanced presidential power is sufficiently high. This suggests that President

Zelaya might have obtained a reformed constitution – without serious obstruction from the Court or Congress — had the public expressed clear support for the president early on after Zelaya's cabinet issued the *cuarto urna* proposal.

These dynamics are evident in other cases. In Argentina in the early 1990s President Menem was able to expand presidential decree powers at a time when Argentines were desperate for government to fix the country's economic problems. Menem regularly used Need and Urgency Decrees (NUDs) to legislate by decree on diverse policy topics although the constitution prior to the 1994 reform did not grant the executive such a power. The Congress and Court did not object vociferously or consistently, for various reasons, including because the public was demanding 'quick and effective policy making' (Ferreira Rubio and Goretti, 1998, p. 58). By signaling its leanings early the public emboldened President Menem and affected the decisions of other institutional actors about how to respond. Though this extension of presidential power did not produce a regime crisis, checks and balances were weakened (Jones, 1997; Ferreira Rubio and Goretti, 1998). Had the preferences of the public been less clear the Congress or Court might have worked to check the president, leading to an escalating conflict.

Indeed, the narrative of crisis creating public demands for stronger centralized executive authority is often a theme of expanded executive authority obtained without institutional obstruction in the company of public support. In the early United States, ineffective national response to Shays's Rebellion in 1786 and 1787 ultimately led to support for efforts to supplant the Articles of Confederation with the Constitution outside of the formal amendment procedures established by the Articles of Confederation (Fritz, 2008).

The final equilibrium state predicted by our model is that when either the stakes of inter-institutional conflict are low or public support for the *status quo* is relatively strong, a preexisting balance of powers will be sustained. Savvy unpopular presidents do not attempt to expand executive power. However, this outcome presumes that the president knows he is unpopular.

This last theoretical result bears additional discussion. The *status quo* may be maintained, even when public support for change is sufficiently high as to dissuade obstruction from other branches of government, if the potential gain from such action is relatively low. This suggests that policy agreement among the branches of government, perhaps associated with unified party control, represents an important 'loophole' in the Madisonian theory of competing public agency. In this case the people are placed in a dangerous position by the absence of a viable alternative agent. Should divergence emerge between the public and all of its governmental agents, public disaffection with specific policies or sets of policies will have no outlet, creating a serious crisis of representation.

Finally, our model shows that once inter-institutional conflict has emerged within the separation of powers, it is likely to continue inexorably until it is resolved by authoritative public action. An institution that rationally seeks to expand its authority in a separation of powers system will also have incentives to continue and, indeed, escalate the conflict rather than abandon its effort to aggrandize its authority in the face of opposition. Likewise, an attacked institution that rationally combats an attempted expansion of another institution's authority will not fold if the aggressor subsequently raises the stakes. In the case of Honduras, this dynamic is visible in the mutual escalation of the conflict between President Zelaya and the nation's Congress and Supreme Court. More generally, this result indicates dim prospects for hopes that inter-branch conflicts may be resolved by

processes that are entirely endogenous to the institutions in question. Rather, intervention by the public or some other exogenous force may be critical to resolving a conflict once it has emerged.²⁰

Conclusions and implications

The Honduran constitutional crisis of 2009 poses a variety of critical questions. How did the crisis come about? What does the crisis tell us about efforts to establish and maintain checks and balances as part of democratic consolidation? How does the crisis inform our understanding of the development of separation of powers systems in other contexts?

We have argued that our theoretical understanding of the separation of powers can provide insight into events in Honduras and that the Honduran crisis provides a useful basis for applying and refining these theories. We show how a Madisonian theory of the separation of powers anticipated a system of competing public agency among branches of government. As institutional actors vary in their fitness or faithfulness as agents of the people, the public might variously empower those institutions that best represent their preferences. This implies that the People serve as a balancing force in the separation of powers, endorsing or constraining the natural tendency of each branch to expand its authority at the expense of others. In repeated interactions of inter-institutional conflict the public (or various subsets of the public) could interject their preferences several times, but possibly not sufficiently definitively to change the decision calculus of the institutional actors and end the escalating crisis.

To explore the mechanics of the system, we developed a model of institutional rivalry within a separation of powers. The model illustrates how public sentiment can referee interactions among branches of government by clearly signaling a preference. However, when public signals are ambiguous or divided, an important constraint on institutional rivalry is removed, making possible inter-institutional conflict that can escalate into crisis.

The circumstances surrounding the Honduran crisis of 2009 match conditions in the model corresponding to equilibrium predictions of conflict. President Zelaya created a high-stakes conflict. The absence of strong public signals endorsing or opposing Zelaya's efforts to force the *cuarto urna* election (or demonstrating support for his policies prior to 2009) led the president to undertake a conflict with the other branches of government while also catalyzing the Court and Congress to take increasingly strong measures to oppose him. The Court and Congress had the backing of the leaderships of both traditional parties, the small Christian Democratic Party, and the business community. President Zelaya appears to have thought that he would win the *cuarto urna* referendum. The lack of large popular uprisings after his ousting indicates that there was not overwhelming popular support for Zelaya's left turn in policy.²¹ However, the preferences of the public were not unified or clear as the inter-branch conflict came to a head from March to July 2009.

This analysis shows that the growing set of studies which point to the critical role of public opinion in the development, maintenance, and evolution of institutional forms in the US separation of powers system may have connections to the study of similar systems in other contexts (Vanberg, 2001; Whittington, 2007; Fritz, 2008; Clark, 2009; Friedman, 2009; Ura and Wohlfarth, 2010; Rogers and Ura, 2011). The Madisonian theory of competing public agency suggests that public opinion may influence *which* institutions make

decisions as well as *what* decisions those institutions make. This study also indicates the importance of understanding how citizens develop comparative judgments about institutions within the separation of powers as well as linkages between the public's attitudes and behavior by officeholders.

Appendix: Proof of identified equilibria

Subgame perfect Nash equilibria are identified by backwards induction.

We have assumed that $\alpha > c$. Thus, V strictly prefers to play R if she is type Z (since $\alpha - c > 0$) and to play $\sim R$ if she is type $\sim Z$ (since $0 > -\alpha - c$) at the final node of the game. Knowing this, C will choose A at her second move if $p(-3\alpha - 2c) + (1 - p)(2\alpha - 2c) \geq -2\alpha - c$, which reduces to the condition that $p \leq \frac{4-\frac{c}{\alpha}}{5}$, and play $\sim A$ otherwise. This creates two relevant cases for analyzing P 's second move.

In the first case, $p \leq \frac{4-\frac{c}{\alpha}}{5}$, and C will play A in response to E . Therefore, P will choose E if $p(3\alpha - 2c) + (1 - p)(-2\alpha - 2c) \geq -\alpha - c$, which is equivalent to $p \geq \frac{\frac{c}{\alpha}+1}{5}$, and $\sim E$ otherwise. If, on the other hand, $p \leq \frac{4-\frac{c}{\alpha}}{5}$, P strictly prefers to play E since $2\alpha - 2c \geq -\alpha - c$ by assumption. This creates three cases for analyzing C 's first move.

If $p \in (\frac{\frac{c}{\alpha}+1}{5}, \frac{4-\frac{c}{\alpha}}{5})$, which implies the subsequent history $[E, A, (R | Z, \sim R | \sim Z)]$, then C will choose O if $p(-3\alpha - 2c) + (1 - p)(2\alpha - 2c) \geq -\alpha$, which reduces to $p \leq \frac{3-\frac{2c}{\alpha}}{5}$, and $\sim O$ otherwise. However, if $p > \frac{4-\frac{c}{\alpha}}{5}$, which leads C to anticipate the subsequent history $[E, \sim A, (R | Z, \sim R | \sim Z)]$, then she strictly prefers to play $\sim O$ since $-2\alpha - c < -\alpha$. Finally, if $p < \frac{\frac{c}{\alpha}+1}{5}$, which is associated with subsequent history $[\sim E, A, (R | Z, \sim R | \sim Z)]$, then C strictly prefers to play O since $\alpha - c \geq -\alpha$. This yields three cases for analyzing P 's first move.

If $p \in (\frac{\frac{c}{\alpha}+1}{5}, \frac{3-\frac{2c}{\alpha}}{5})$, which is associated with the subsequent history $[O, E, A, (R | Z, \sim R | \sim Z)]$, P will play I if $p(3\alpha - 2c) + (1 - p)(-2\alpha - 2c) \geq 0$, which is equivalent to the condition that $p \geq \frac{\frac{2c}{\alpha}+2}{5}$, and $\sim I$ otherwise. Alternatively, if $p > \frac{3-\frac{2c}{\alpha}}{5}$, and P anticipates the subsequent history $[\sim O, E, \sim A, (R | Z, \sim R | \sim Z)]$, she strictly prefers to play I since $\alpha - c \geq 0$. Finally, if $p < \frac{\frac{c}{\alpha}+1}{5}$, which implies the subsequent history $[O, \sim E, A, (R | Z, \sim R | \sim Z)]$, P strictly prefers to play $\sim I$ since $-\alpha - c < 0$.

These indicate four pure strategy subgame perfect Nash equilibria:

1. $[\sim I, O, \sim E, A, (R | Z, \sim R | \sim Z)]$ if $p < \frac{\frac{2c}{\alpha}+2}{5}$ and $p < \frac{3-\frac{2c}{\alpha}}{5}$
2. $[\sim I, \sim O, \sim E, \sim A, (R | Z, \sim R | \sim Z)]$ if $p < \frac{\frac{2c}{\alpha}+2}{5}$ and $p > \frac{3-\frac{2c}{\alpha}}{5}$
3. $[I, \sim O, E, \sim A, (R | Z, \sim R | \sim Z)]$ if $p > \frac{\frac{2c}{\alpha}+2}{5}$ and $p > \frac{3-\frac{2c}{\alpha}}{5}$
4. $[I, O, E, A, (R | Z, \sim R | \sim Z)]$ if $\frac{\frac{2c}{\alpha}+2}{5} \leq p \leq \frac{3-\frac{2c}{\alpha}}{5}$

Notes

1. Helmke (2010, p. 738) examines cases ‘in which one national branch of government (executive, legislature, or judiciary) threatens the survival of another’. We look at institutional emergence that Knight and Epstein (1996) view as a crucial part of developing effective

- checks and balances. Institutional emergence can create circumstances where one branch attempts to threaten another branch's survival, but that is not always the outcome.
2. In the Honduran case not only did various groups in the public express opinions (e.g. Zelaya supporters, business organizations), but the military also had a preference about which institutional actor should win the conflict, and the preference of the military was not revealed until the very end of the game. Since the military was not one of the institutional players in the institutional emergence game it is part of the 'People' actor in the game.
 3. The inverse is also true. Institutional actors prefer to maintain authority rather than surrender it. The logic we describe here holds whether the issue is expansion or retraction of executive power.
 4. We assume $c > 0$.
 5. It is evident that where $\alpha < c$ the status quo prevails since no actor is willing to initiate or contest an early action to enhance their authority given the costs of doing so.
 6. The Madisonian theory of the separation of powers presumes that all institutional actors are a power-seeking type and the resulting inter-institutional rivalries are refereed by public sentiment. Our substantive claim is that this theory hinges on clear public signals to maintain a peaceful equilibrium in the separation of powers, and our formal model explores the implications that follow from the absence of strong information about public opinion. Since this theoretical issue does not hinge on the institutional actors' presentation and discovery of one another's 'types' (both are power-seeking), alternative solution concepts such as perfect Bayesian equilibrium add little value to the formal analysis above and beyond more simple subgame perfection.
 7. A proof of the equilibria presented in the text is provided in the Appendix.
 8. Other challenges include immense poverty which makes it difficult for citizens to hold officials accountable (Taylor-Robinson, 2010), an overloaded judicial system, and high crime levels.
 9. Interestingly, multiple actors working together had checked President Suazo (PLH 1982–1985) in 1985 when he tried to determine the presidential candidates of both traditional parties. Both parties objected and the crisis was resolved by the military surrounding the Congress to defend democracy and use of a double simultaneous vote in 1985 so that multiple party factions competed in the general election (Schulz and Schulz, 1994). This precedent may have contributed to the decision by the Congress and Court to send the military to arrest President Zelaya in 2009, because they knew that in the past those actors had worked together to rein in a president.
 10. Supreme Court justice terms were extended from 4 years, coterminous with the president and Congress, to 7 years. A *Junta Nominadora* with delegates from the Human Rights Commission, Supreme Court, College of Lawyers, Private Business Council, law faculty of the University of Honduras, civil society, and the Confederation of Workers, submits a list of 45 nominees from which Congress selects 15 new justices by a two-thirds vote. In January 2009 the second Court appointed under these rules took office. See Taylor-Robinson (2006, 2007) for a discussion of the move from closed- to open-PR lists for nominating and electing members of Congress.
 11. Before 2008 presidents' policy proposals did not precipitate high-stakes institutional rivalry, and presidents did not appear to be too ideologically distant from the median member of the Congress (Alcántara Sáez, 2009).
 12. Zelaya's foreign policy initiatives may have created a safe opportunity for the Congress to begin to check the president because the business community and leaders of the traditional parties clearly opposed the initiatives.
 13. In surveys of deputies conducted by the University of Salamanca in 2006, the average self-placement on a 10-point left–right scale for deputies from the PLH was 5.35 and 6.79 for

PNH deputies. The only leftist party is Unificación Democrática (PUD), for whom the average self-placement of deputies on the same scale was 1.00 and it has won only 5 of the 128 seats in the Congress (PELA, 2008; Alcántara Sáez, 2009).

14. The traditional parties are not ideologically based. Both defend elite interests and use clientelism as the basis for electoral competition (Rosenberg, 1987; Taylor, 1996; Ajenjo Fresno, 2001; Ruhl, 2010). Nonetheless, in free and fair elections they still won 91% of seats in Congress in 2005 and have won every presidential election. Three non-traditional parties win a few seats in the Congress, but are not serious contenders for the presidency. *Latinobarometer* data shows that Hondurans are generally conservative, with an average ideological self-placement to the right of the regional average (*Latinobarómetro*, 2009).
15. Zelaya denied that he wanted to seek reelection, and the *cuarto urna* ballot was worded so that it did not make this preference clear.
16. Booth and Seligson (2009) showed that many Hondurans were dissatisfied with their democratic regime even by 2004. They present a measure of people who are 'triple dissatisfied' (negative evaluations of support for democracy, support for national institutions, and evaluation of the government's economic performance). Honduras had the highest ratio of 'triple dissatisfied' to 'triple satisfied' survey respondents compared with seven other Latin American countries. In 2008 Honduras still topped the list for triple negative evaluations. This does not indicate whether the public would support Zelaya or the Court/Congress, but it indicates that extra-constitutional actions might be accepted.
17. It was unrealistic that he could actually distribute the election materials across the country with so little time, given that it takes the Elections Tribunal several weeks to get materials in place for a regular election. We thank Jorge Vargas Cullel for pointing this out.
18. Based on the partisan makeup of the Court and Congress, and the conservative views of both traditional parties, it is likely that the Congress and Court had the same preferences. The Court in 2009 had 8 PLH and 7 PNH justices. In the Congress the PLH and PNH held 91% of the seats, although some PLH deputies supported Zelaya.
19. These natural tendencies for politicians may have been exacerbated in Honduras in 2009 by conflicts within the PLH about who should lead the party. Congress President Micheletti competed against Vice-President Elvin Santos for the party's nomination to be the presidential candidate, and President Zelaya had pledged to support Micheletti in the deal to end the conflict over ALBA. But with a competitive primary in November 2008 the voters spoke and selected Santos over Micheletti. By March 2009, when Zelaya was thought to be seeking to extend his stay in office, there had been a clear break between the president and his vice-president over ALBA.
20. The addition of a second stage of conflict between the two branches of government in our model of inter-institutional conflict may be considered a step toward Helmke's (2010) call to consider inter-institutional conflict as a repeated interaction between coordinate branches of government in order to better account for empirical evidence consistent with cases of countries descending into 'coup traps' (Londregan and Poole, 1990), that is, extended periods of inter-institutional conflict and constitutional instability. Our result indicating the persistence of conflict once it begins is consistent with Helmke's intuition. More complicated models relaxing the assumption of some finite number of iterations of conflict among coordinate branches of government may yield additional insights into this dynamic.
21. The victory by conservative presidential candidate Porfirio Lobo of the PNH in the November 2009 election, paired with the leftist PUD not gaining seats in Congress or a dramatic increase in votes may indicate lack of support for Zelaya's pro-Chavez policies. The *AmericasBarometer* (2010) poll conducted in March 2010 showed that a majority of Hondurans opposed Zelaya's ousting, although they also objected to his attempt to change the constitution, and 75% opposed the *cuarto urna* election.

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