# Tell Me Who You Cite, And I Will Tell You Who You Are

## Supreme Court Citations under Regime Instability in Argentina

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> The inclination of the time was to ignore the "Peronist" Court [1947-1955]. It was as if between the last decision from the "Repetto" Court [1923-1946] and the first decision from the "Orgaz" Court [1955-1958] there had been a 10-year void… It was a spirit of reaction against the deposed system… The Court fell into the unreal situation of ignoring 25 consecutive official volumes of the Court's case law.
>
> –Julio Oyhanarte, former SCA Justice (1958-1962, 1990-1991)[2]

## I. Introduction

How much *continuity* and how much *rupture* can one observe at an apex court's decision making in periods of extreme institutional instability? A central trait of political life in twenty-century Argentina was the long wave of regime interruptions that started when, in 1930, a military coup deposed a democratic government, and ceded only in 1983, when elections restored a democratic president to office. The Supreme Court of Argentina (SCA), the country's apex court, was not immune to this and even took active part in the legitimation of new irregular regimes.

In the late 1940s, the first Perón administration packed the SCA after conducting impeachment proceedings against most of its previous members. After that, the SCA's personnel was renewed by fiat every time a military regime took office after a successful coup. This happened in 1955, in 1966, and in 1976. The succeeding democratic government responded in kind by forcing the resignation of justices appointed by the previous military government or a similar strategy. This occurred in 1958 (in part), in 1973, and in 1983. Only exceptionally did a government rule with a court not appointed during its tenure. This was the case up until 1947 and in a limited number of occasions thereafter. In 1990, right before a successful Court-packing strategy that did not follow a regime change—meddling with the SCA did not stop with the final return to democratic rule—a leading official of the incumbent administration all but justified this move by saying that "it is impossible to govern if the Supreme Court is against all the Executive's political initiatives…" (Helmke 2005, 85). Throughout decades, formal safeguards of judges' stability were practically meaningless. New government, new court.

This is very well-trodden territory—there is ample literature describing these historical processes. A question that lingers, however, is how much the SCA's decision making changed as a result of its turmoil. There are several possible ways to tackle this question. One is to investigate substantive changes operated in a selection of (however defined) relevant cases from one stage to the next, and another is to draw ideological profiles of the justices to see differences in their "ideal points" across periods. Both these things have been attempted before (Santiago et al. 2014, González Bertomeu et al. 2016). Predictably, changes in the ideological profile of justices will follow swift personnel turnover at the SCA, and this will make key substantive shifts more likely, particularly when this accompanies the turnover of the regime itself. Why else would a new regime take the trouble of forcing the exit of sitting justices? From the available literature, one can indeed see change operated both in the SCA's case law concerning certain subject matters—i.e. habeas corpus and freedom of the press—and its ideological profile over time. By looking at the SCA's official case law volumes, one can also observe concrete instances of repudiation of the previous regime and court. The SCA that succeeded the first "Peronist" court in 1955 took pains to distance itself from the latter by undertaking measures of strong symbolic value, as when it ordered all federal courts to put a stop to "any official tribute to the President and his wife [namely, Eva Perón]" (Tomo 233:10). One sees the same anti-Peronist reaction after the 1976 coup, when the SCA mandated the removal of a banner promoting social justice installed by the second "Peronist" court a couple of years before. In other cases, one sees more continuity than rupture.

Yet a key missing issue in these very valuable studies and readings is the *routinization* of the SCA's work. Unlike Congress, whose doors typically were forced shut following each coup, the SCA continued in operation sitting atop the country's judiciary, deciding cases week after week, year after year. The SCA has always remained part of the ordinary judiciary instead of being a constitutional court sitting outside it, the role of which would have turned more obsolete under authoritarian spells (Ferreres-Comella 2009). While the SCA is not a regular appeals court—it is only expected to review appeals regarding the interpretation of federal and constitutional law—it *is* an appeals court. A significant question thus emerges: can one see the effect of regime interruption in the cascade of SCA daily decisions concerning multiple subject matters? One way to go about finding an answer is to search for signs of change in bulks of cases *beyond* the actual substantive content of decisions, the strategy I employ in this article. A potentially very fruitful and, in studies of Latin American courts, still unexplored source of information for this is the SCA's citations of its own case law. How much does the "new" SCA after an episode of regime turnover cite the "old" court? Does the new court (partially) sidestep the old court? Does it make a difference whether the new court was appointed by a democracy or a dictatorship?

The SCA is a heavily bureaucratic institution, with hundreds of career clerks and staff and specialized thematic units that prepare first drafts before the justices intervene. The court has a long-standing practice of citing its own decisions in matters both procedural and substantive by invoking the previous case reference in a formulaic way. The fact that this practice has endured for decades is not unusual. Despite constant rotation of its personnel, many of the SCA's formal routines have proved long-lasting, from the structure and style of decisions to the way they are compiled in official volumes. The questions I will ask about change in citation profiles have therefore to be answered against the singular backdrop of both personnel change *and* bureaucratic stability at the SCA.

One may conceive of divergences in citation profiles in the old and new courts in different ways, although all largely take such divergences to reflect a level of distancing from, or even repudiation of, the old court and what it stands for ideologically, legally or politically, while the absence of divergence would point to continuity. Indeed, one might see the new court as distancing from the previous court while approaching through its citations a court sitting before that in some sense was closer to home, as one sharing the regime type under which its members were appointed and served, dictatorship or democracy.

First, citations may have *symbolic* value. A court appointed under democratic rule may seek to distance itself from a court appointed by a dictatorship (and, possibly, the other way around), and citations may be one avenue to do so. This may be so irrespective of the connection between citations and the SCA's actual policies selected in a case or case outcomes. Second, a divergence in the new and old courts' citation profiles may be a sign of change in the actual *decisions* the court announces, a shift in its legal criteria. This is at least so to the extent one assumes that a court disproportionately cites to support its extant opinion (instead of to abandon a previous precedent). Third, and connected to the first, citations may be part of a *legitimation strategy*. A new democratic court may seek to construct its support by disproportionately citing another democratic court, thus partially sidestepping the court serving under dictatorship. In contrast, a court acting under an authoritarian government might perhaps want to show through its citations a degree of legal continuity with the previous democratic court as a display of normalcy, but this will not be the case when the level of ideological or political discrepancy with the previous government and court is sufficiently strong, as the cases of the coups against Peronism seem to illustrate. Here, the new court under a dictatorship may want to take distance from the old court, much as the new court operating under democracy is expected to do. All in all, the three explanations largely see changing citation patterns as a sign of *rupture*, and the opposite as a sign of continuity.

Employing a fresh large-N data set of more than 26,000 hand-picked citations in over 5,500 cases, in this article I explore empirically whether there was change or continuity at the SCA after its personnel was changed as a result of regime turnover, from military to democratic rule and vice versa. I center on the five episodes of such turnover that ended in the total or near total renovation of the SCA—in 1955, 1966, 1973, 1976, and 1983. The study partly revolves around the strong sympathies and antipathies surrounding the two Perón administrations, and this will be an important part of the discussion, but it goes beyond them.

Now, to answer the previous questions concerning SCA citations under regime change one needs to operate with a baseline understanding of citations. First, there are several possible ways to explain a court's references to its own case law in normal times, and it is important to have some grasp of them before exploring citations during abnormal times. Second, it is hard to know whether a court's citing profile has changed compared with a previous court absent a positive theory of citations. For example, it may seem that a new court cites less frequently the previous court to distance itself from it, but it may also be that the previous court cited itself too frequently. Developing a "citations function," as it were, is key, and I will do so by induction, after observing the data.

With this function in hand, and after offering tentative expectations regarding what results are likely to be observed in each period, I then turn to the SCA during regime transitions. I

resort to both descriptive statistics and regression analysis to measure whether the citation profile of the new court departs from that function—and from the previous court. Since I am interested in exploring rupture or continuity after a transition, changes in citations by the old and new courts to the pre-transition court (i.e. the old court) are central. I will study citations in the six months before and after the new court takes office, and then in the six months one year and a half later. The results show that, indeed, the SCA in the post-transition stages cited the old court with much less frequency than the old court cited itself, and, more important, with much less frequency than the new court would have cited the old court if tracking the citations function. While this was true of *all* five periods, there was variation across them, with the period involving the first "Perón" SCA showing the starkest results. By delving into these issues, I hope to illuminate the operation of courts under authoritarianism and democracy as well as the functioning of judicial bureaucracies.

The remaining of the article is structured as follows. Part II introduces the reader to the SCA and its turbulent history; part III focuses on the study of citations; Part IV describes the main questions and empirical strategy; and Part V presents the main results and discussion. A short section concludes.

## II. The SCA in the 20th century

Much has been written about the proverbial instability of the SCA. A handful of studies have systematized some of the SCA's periods (Helmke 2004; Barro 2008; Kapiszewski 2013; Bill Chavez 2004; Scribner 2013; Santiago et al. 2014; Bertomeu 2014). Very few, however, have centered on studying continuity and rupture during transitions at the SCA, none in the way I will attempt in this article. In what follows I provide snippets of the SCA's history, mainly in reference to the periods of this study.

The SCA sits atop the federal judiciary. It reviews a limited set of appeals on matters concerning the constitution and federal laws—although often the appeals it rules on indirectly deal with them—and decides a restricted set of cases in original jurisdiction. Since it began operating in 1863 and for decades, the SCA enjoyed a degree of autonomy, though it most often acted, paraphrasing Brinks, as a "faithful servant of the regime" (Brinks 2011; Helmke 2004). From the beginning of the 20th century until 1929, right before the first of many military coups to come, the SCA was under the influence of its then President, Justice A. Bermejo (Tanzi 2008).[3] The Bermejo court showed a strong stance in favor of individual property rights. A future justice would say that it was a "Spencerian" era at the SCA, overlapping with the Lochner period at the Supreme Court of the United States (SCOTUS; Tanzi 2008; Oyhanarte 1972).

Also like the SCOTUS, this stance changed over the years, as the severe crisis of 1930 demanded a stronger state presence in the economy (Tanzi 2008; Pellet Lastra 2001). A prominent SCA member during this period was Justice R. Repetto, appointed in 1923. The period showed a court with very timid liberal leanings concerning civil liberties and conservative leanings in political matters. The SCA upheld new state regulations of the economy as well as other state measures (Pellet Lastra 2001, Tanzi 2005a). In 1930, in a sua sponte decision, the SCA validated the first military coup, and, in 1943, it did the same regarding the following one (Pellet Lastra 2001). In 1947, one year into Perón's first administration, these decisions were used as the official reason to impeach four of the five sitting justices. These four justices had

upheld the 1943 coup, and two of them, Repetto and Sagarna, had also upheld the 1930 coup, which Perón himself had supported (Pellet Lastra 2001). Justice Repetto resigned pending the proceedings, which ended with the Senate agreeing to remove the three justices (Pellet Lastra 2001, Tanzi 2005a).

The four new justices appointed in 1947 who joined the surviving justice (T. Casares, of clear Peronist sympathies) were supporters of the administration, one much more socially-oriented than previous administrations and under which executive powers were strengthened (Pellet Lastra 2001). In 1949, a constitutional convention—whose members included four of the current justices—wrote these trends into the constitution (Tanzi 2005b). The constitution included a temporary clause establishing that sitting federal judges needed to receive a new Senate confirmation (Negretto 2013). The so-called "Perón" court upheld the government's agenda but innovated "in social issues that did not challenge executive power," including on labor matters (Pellet Lastra 2001, 143).

With the 1955 coup, all traces of Peronism in the judiciary were removed and the 1949 constitution was cancelled, although an irregular amendment in 1957 reintroduced a small handful of its clauses (González-Bertomeu 2020). Symbolic moves like the one mentioned in the Introduction were ubiquitous. As Pellet Lastra says, if, under Perón, officials were expected to display grief for Eva Perón's death, now it was a crime to do so (2001, 185). The military government removed all federal judges, who would need to be re-confirmed, only that not by the Senate, closed as it was. It was the first time the appointing procedure was not followed (Tanzi 2006). Unsurprisingly, the previous justices were not confirmed. In both this and the democratic breakdowns that ensued, the military government that took power turned the constitution into a document subservient to the new regime (González Bertomeu 2020). It pledged to respect it but only insofar as it did not run counter to the regime's objectives.

Led by Justice A. Orgaz, the new SCA's composition was characterized by its declared anti-Peronist spirit (Pellet Lastra 2001; Tanzi 2006).[4] Populated by career judges, the court during this period was markedly less socially inspired than the previous court, but still announced a few pioneering decisions, such as one recognizing the writ of *amparo* (Pellet Lastra 2001). These justices served until, in 1958, the democratic administration of A. Frondizi (elected with the Peronist Party banned) ratified only two, including A. Orgaz, who would serve until 1960. In 1960, the government expanded the SCA's personnel, transforming the SCA into a seven-member court. The new justices—among which stood Justice E. Imaz—were likewise predominantly career justices (Pellet Lastra 2001). For the first time in two decades and the only time in the following two, the incoming democratic government (of President A. Illia) did not meddle with it, and the justices did not respond to a single appointing President (Pellet Lastra 2001). This period showed a hesitantly liberal court that also announced several decisions involving economic and political emergencies, many in favor of the administration. In 1962, the SCA agreed to sworn in a new President after a military coup (Pellet Lastra 2001).

In 1966, another military coup put in power the self-proclaimed Argentinian Revolution—yet another conservative dictatorship. As before, all justices were ceased. Irregularly appointed, their successors were mostly career judges as well, perhaps more conservative than their predecessors (Pellet Lastra 2001, Tanzi 2007). With normal replacements, including the appointment, for the first time, of a woman (M. Argúas), this period went until 1973, when the

new Peronist administration took power (Pellet Lastra 2001). Predicting a decision to dismiss them, the old justices resigned right before the end of the previous military government (Pellet Lastra 2001). The new justices were supported by, and were supporters of, Perón, who at the time of the appointments still was not President (Pellet Lastra 2001). Like the previous "Perón" SCA, there was no clear leadership within the court. And, unlike previous compositions, these justices were not predominantly career justices (Pellet Lastra 2001).

This period was as short-lived as the government that appointed it—both ended three years later. Like the first Perón regime, the SCA at this juncture was characterized by a social justice bent. Yet after Perón's death in 1974, the government was the target of all forms of pressure, including from the extremely active armed forces, and the SCA was not immune, which turned it into a fragile institution (Pellet Lastra 2001). The SCA was pressured by the military to limit the constitution-based option to leave the country afforded those arrested during a state of siege, although the SCA did not cave in (Pellet Lastra 2001). Right before the coup, the U.S. ambassador paid a visit to the court and asked how long the justices expected to last. Upon hearing the reply—"Sir, we serve for life"—the ambassador laughed (Pellet Lastra 2001).

Immediately following the coup (in March 1976), all justices were removed. The newly-appointed ones were, once again, anti-Peronist careerists who largely upheld the regime (Pellet Lastra 2001; González Bertomeu 2014). One extremely relevant issue they had to deal with concerned the fate of hundreds of disappeared individuals. Infamously, the SCA dismissed dozens of writs of habeas corpus and limited the above option to leave the country, although over time it liberalized somewhat, as the fight against "terrorism" was mostly over and/or the end of the dictatorship was in sight (Helmke 2006; Pellet Lastra 2001).

The new democratic government of R. Alfonsín that took office at the end of 1983 appointed a plural array of justices (Helmke 2004; Pellet Lastra 2001) from different sources. Some of its interpretations, particularly those involving constitutional rights, would depart from the old court's. But the SCA's membership would be expanded in 1990, when President Menem packed it with his cronies. In 2003, a series of political developments would end with a new renovation of the SCA, once that led to a gain in legitimacy.

From this summary one can conjecture that most of these transitions at the SCA likely entailed changes in key legal issues. This is almost a truism—the forced changes at the court seems to have been premised upon the perceived need to obtain outputs that were not guaranteed under its previous composition. A cursory reading of a local case-law book would support this conjecture to some extent. Also, from a normative standpoint—one that largely I do not touch upon in this article, devoted to an empirical exploration—some of these changes were called for, including a distancing from previous case law due to both substantive and symbolic reasons. Why should a democratic court feel itself bound by what a court illegitimately appointed by dictators decided, particularly in those cases related to a constitution that the latter swiftly ignored?

Yet the question is how transitions affected the daily operation of the SCA in its decision making in the countless cases it decided involving multiple subject matters. Can we see here change as well or did the lethargy of routine as well as other factors override any political, ideological, or legal change there may have been? Citations provide a rich and, in studies of Latin

American courts, still completely unexplored source to identify this. Significant variations in citation patterns from one transition stage to the next may be a powerful sign of such change.

## III. Studying Citations

*Citations at the SCA*

The SCA started to more systematically cite its decisions in the early 20th century. This is not unlike what happened in other courts such as the SCOTUS, after which the SCA was modeled. Much as the SCA, the SCOTUS did not use to cite its own case law in its early decades of operation (Fowler et al. 2007, Cross et al. 2010). Also like the SCOTUS (Cross et al. 2010), the rate of citation at the SCA seems to have increased over time. Considering the periods of this study, it went from roughly 3.2 citations per decision in the mid-1950s, to 5 in the mid-1960s, and to 6.2 in the mid-1970s, somewhat decreasing again to 5.2 in the mid-1980s. Following Cross et al., who write about the U.S., the increase "may reflect… a greater professionalization or institutionalization of the Court in society" or the availability of databases, and it may be a function of "the increased number of… clerks, who may supply those citations for the Justices" (Cross et al. 2010, 532-533).

A potential difference between the SCOTUS and the SCA is that, most of the time, the SCA's citation is limited to enunciating the previous case's reference (its placement in the official volumes) following, and in support of, a proposition concerning either procedure or substance. Very rarely are the relevant facts of the previous case or the connection between the present and previous case discussed or made explicit. The citation is virtually always formulaic, stripped of any reference to case specifics, much as it is common in other civil law courts that share a practice of citing. Unlike this, the SCOTUS is more used to discussing previous cases, although the difference cannot be overstressed. A more important divergence between the courts is that, in Argentina, as it is also common in other civil law jurisdictions, the practice of precedent has an insecure footing. An open discussion among legal scholars in the country concerns whether the SCA's precedents are binding upon lower courts (vertical stare decisis) and, to a lower degree, upon the SCA itself (horizontal stare decisis). Only under the fleeting 1949 "Peronist" Constitution was it clear that the SCA's interpretations on the constitution were binding on lower courts.

*Literature*

Citations can have multiple sources besides a court case, although most citations are to cases, and these have captured most of the attention of scholars (Cross et al. 2010, 490). These citations can be either inter-court or intra-court, the former including citations between domestic courts in the same jurisdiction, domestic courts in different jurisdictions, or domestic courts that cite international courts or vice versa. A study that exemplifies the latter in Latin America is González-Ocantos' work (2018). I am concerned with practices and studies of case-to-case citations by a court to its own previous decisions (Sadl 2017).

The scholarship on these citations has mostly revolved around the U.S. While these works' methodologies have varied and now include the construction of social networks and authority scores to weight cases' relevance, they have prominently used citation counts or rates (either total or positive, namely, supporting the cited opinion) as dependent variables to answer their

questions (Sadl 2017). The different questions they ask provide alternative interpretations of what information citations carry. Citations have been studied as a way to "operationaliz[e] the practice of stare decisis" (Cross et al. 2010, 493; Black and Spriggs 2013); to track developments in law (Hansford and Spriggs 2006); or to measure the influence or ideology of individual judges (Landes et al. 1998; Pryor 2017; Kosma 1998; Choi and Gulati 2007, 2008) and the "ideological location" of cases (Cross 2012; Clark and Lauderdale 2010; Black and Spriggs 2013), among other issues.[5] Interestingly, other projects have focused on the rate of "depreciation" of discrete precedents over time (Black and Spriggs 2013; Landes and Posner 1976, Landes et al. 1998).

These studies are valuable in general and some are of much import to this article. The focus of these works, however, has been citations from courts acting within a minimally stable political environment. No study that I am aware of has compared citation patterns of a given court *from two discrete stages*, particularly if the court's judges at these stages, as in the case of Argentina, both were entirely different (or almost so) and were appointed by, and sat during, administrations of a different regime type. This is what I undertake to do in this article, which can be colloquially regarded as a study of *both* intra- and inter-court citations. In fact, I will often refer to the SCA under different configurations (old and new) as if they were different institutions. Studying citations in such a context can illuminate relevant questions concerning courts' construction of legitimacy, the role of judiciaries under authoritarianism, and/or the continuity or discontinuity of judicial philosophies and legal criteria following episodes of regime turnover.

## IV. Questions and Empirical Strategy

Why do courts cite their own decisions? According to Cross et al. (2010, 493-4), citations can be seen (1) as providing, together with other materials, the basis for the court's decision, (2) as a mask for the "true determinants of the decision"—the claim of the most extreme American Legal Realists—and (3) as key to a court's "institutional legitimacy."

In some cases, determining what meaning to assign citations might be deemed as central in order to build a model that employs them and to interpret its results. In this article, I will remain moderately agnostic regarding what theory best explains citation patterns at the SCA. First, precisely adjudicating between the theories can be complex without resorting to a type of qualitative analysis that largely is not available given the time frame I am studying. Second, and important, observed changes in citation patterns can be revealing regardless of the theory explaining either citations in general or the concrete changes. Save for exceptional instances to be spelled out, varying citation patterns at each end of a transitional stage triggered by regime change may reveal different legal philosophies, different ideologies, different attempts at legitimation, and even a combination of these at play at the SCA. Thus, such variation can provide evidence of discontinuity at some level, while absence of variation can point to continuity, also at some level.

Now, the study of citations during transitions heavily relies on the availability of a "normal" SCA citation function to be used as a baseline. How would such a function look like? Multiple factors may be at play, including the questions above regarding the reasons explaining citations in the first place. If citations are a way for the court to gain legitimacy, it is not clear what shape that function would take, since much will depend on the context. Which periods will

provide good sources of legitimacy in the sitting justices' view? On the other hand, a body of research in the U.S. that John Merryman pioneered has shown that precedents depreciate over time (Merryman 1954, Black and Spriggs 2013, Landes and Posner 1976). Various courts including the SCOTUS disproportionately cite younger cases, and Landes and Posner have argued that this is because the information cases provide loses value over time as society and legal questions change (Landes and Posner 1976; Black and Spriggs 2013).

Other scholars have pointed to other possible mechanisms to explain such depreciation, including the ideological proximity of precedents from the sitting judges' position (Cross et al. 2007; Black and Spriggs 2013). If this is correct, when a court has a stable composition and a plurality coalescing around many case policies, ideological proximity will equal temporal proximity, and, thus, one will observe older cases depreciate more quickly. Yet, when the manifested legal philosophy or ideology at the SCA shifts from one case to the next or, as in the case of Argentina, from one stage to the next, the ideological proximity between sitting justices and cited cases may not equal temporal proximity, although it still may be that by aggregating cases from multiple periods, the citations function shows cases to depreciate in this way.

One simple explanation of a hypothetical trend in that direction is that recent cases more likely express the legal state of the art. Now, in many situations, it may be that the young case the court cites is undistinguishable from older cases, and, in at least some of these situations, the older cases will be contained in that citation. Suppose that a court cites recent decision D3 instead of similar decisions D1-D2 that were prior to D3, and imagine that decisions D1-D2 had been cited in support of D3. While this seems as depreciation of D1-D2, and perhaps it is so in some sense, D1-D2 are still structuring the current decisions as well.

Another potential factor of depreciation is the relevance of the case for a legal subject matter (Fowler et al. 2007; Hansford and Spriggs 2006, Black and Spriggs 2013). The more relevant the case, the more it will be cited and the slower it will depreciate (Black and Spriggs 2013). Following Black and Spriggs, who speak about a common law jurisdiction, the legal rule in a subject matter is partly "a function of the language contained in a series of cases, as well as the way those cases have been cited in and legally treated by other opinions" (2013, 333). Previous cases structure judges' reasoning, and there may be a certain endogeneity to them. When judges select a "history or path" that includes a citation to a certain case they may be at the same reflecting the relevance of the case and promoting its chances at future survival and influence (Black and Spriggs 2013, 233-234; Gerhardt 2008, 192, cited in Black and Spriggs 2013; Hansford and Spriggs 2006). Of course, this factor at best explains depreciation of *single* cases and cannot account for the fact that, following U.S. studies, a court disproportionately cites younger cases, if this is what it does.

The previous factors are very informative, and yet they do not provide an entirely clear view of trends in citations. Thus, I considered it best to first observe the data, and only then to go back and reflect on possible explanations that fit it.

*Questions*

After developing a citations function, the main question I will ask is whether the SCA's citation patterns in its decisions concerning multiple subject matters varied as a product of the

extreme makeover of the court after a regime change. As the main test of continuity or rupture, I will look at the rate of *citations to the pre-transition court* by both the pre- and post-transition courts, or the "old" and "new" courts, respectively. Assuming that a discrepancy is observed, the next task is to determine its source. It can be that the old court cited its own decisions too frequently, that the new court cited the old court's decisions too infrequently, or a combination of both. The citations function will allow to discriminate between these.

As noted above, a new court sitting under *democracy* may want to distance itself from the old court appointed by a dictatorship, and this may be the case either because of legitimacy and/or symbolic reasons—i.e. reasons that are independent from the substance of decisions—or because of a type of legal or ideological change that is reflected on those decisions. No matter what theory of citations is involved, varying citation patters would point to rupture instead of continuity. When, instead, the post-transition court is one appointed by a *dictatorship*, the situation might be different. This new court might want to construct legitimacy by creating an image of continuity with the previous regime. So, even if the new court is ideologically distant from the old court, it might still cite the latter. If, in contrast, the new court serving under dictatorship disregards legitimacy, its citations may simply reflect a political or ideological difference with the previous court—rupture instead of continuity. But these conflicting explanations of citations by a court appointed by a dictatorship can be reconciled in most cases. Creating an image of continuity may be inimical to the regime's or the new court's own mission and purpose, and this will be so in episodes of swift political or ideological change.

I will explore potential changes in citation patterns in five episodes of regime turnover, from military to democratic rule or the opposite, which ended in the total renovation (or almost total renovation) of the SCA—in 1955, 1966, 1973, 1976, and 1983. Three of these episodes—1955, 1966, and 1976—involved a change to military rule, and the remaining two—1973 and 1983—entailed the return to democratic rule. Irregular turnover also took place in 1958 but targeted three of the five justices; while, in 1960, the SCA was expanded, this period was somewhat removed from the pre-1958 period. I will refer to the five complete periods I study as the "periods," and to each stage within the period—before and after the regime change—as the transition "phase" or "stage."

From Part 2, I offer the informed conjecture that political, ideological, or legal change in each transition was significant, though perhaps to different degrees. Therefore, this should be reflected in changes in citation patterns. Now, these changes are expectedly not extremely large. In some matters, it will be hard to ignore the previous court's criteria because it reflects the current case law, although, mitigating this, one can also entertain the possibility that justices stick to the previous legal criteria while avoiding an explicit citation to the cases in which they were announced. Furthermore, assuming that justices are prone to distance themselves from the old court, it is also likely that some clerks and staff from the old court remain at the court, and this may have an effect. The latter represent the justices' backbone in that they have expert knowledge of relevant cases, so it is not surprising if they continue to reference decisions from the old court in their drafts—decisions that perhaps they themselves helped to draft.

Be that as it may be, change in citation patterns is expected. And, at least in the case of the courts under dictatorship that replaced the two "Peronist" courts, all accounts (i.e. symbolism, legal and political difference, and legitimation) would point towards rupture. The same seems

true of the change to democratic rule in 1973 and 1983. The 1966 transition—the remaining change to dictatorship—seems a bit more nuanced, since it did not seem to involve such a swift reaction against the status quo as in the other cases.

All in all, then, for the purposes of this article, it seems mainly unnecessary to determine exactly in what way the SCA changed and what its citation profile (as well as possible variations of it) precisely meant. The article's questions are chiefly aimed at the identification of a potential empirical trend that can be associated with either continuity or rupture, while being moderately agnostic as to the trend's exact theoretical grounding. Still, after observing the data, in Part 5 I will briefly discuss possible interpretations of the outcomes regarding some of the transitions.

*Empirical strategy*

To answer the previous questions, I will employ an original data set comprising around 26,000 citations in over 5,500 cases. Over two-thirds of these citations pertain to the study of transitions—decisions before and after the court changes. To these I added 8,000 citations by the SCA in decisions during "normal" periods of its operation, roughly coinciding with the years of the study. Since I will estimate the citations function using my own data, this addition minimizes the endogeneity it would ensue when I later studied transitions.

I will resort to both descriptive statistics and regression analysis to measure whether the citation profile of the new court departs from that function—and from the previous court. I will compare citations to the pre-transition (or old) court in the 6 months before and after the new court took office, and then in the 6 months counted eighteen months from the moment it took office, since cases announced right after a personnel change may have been already in the SCA's pipeline from before the turnover, which may reflect the power and inertia of bureaucracies at the SCA. The SCA's official case volumes are digitized but the available pdfs display scanned images of mostly poor quality. With assistance, I hand-picked all citations from all published cases from the relevant periods except from jurisdictional conflicts solved by the SCA because they did not seem informative. Cases can have multiple citations, and so observations are not completely independent from each other. To minimize this issue, I dropped from the tests all citations in decisions with 20 or more citations. If anything, this decreased somewhat the reported effects. If the SCA explicitly identified previous decisions and added "and others," I ignored the latter. When the SCA dealt with a case exclusively on procedural terms, which was very frequent, the subject matter was coded as "procedure," since in many of these cases the subject matter was not available. One variable coded whether the citation was negative—to abandon the previous decision, which happened in very few occasions. Citations to distinguish the present case from an old case were coded as positive. An appendix tackles other methodological issues.

Table 1 describes the data set on transitions—i.e. excluding the 8,000 citations added to estimate the citations function. All the statistics and tests in the article are based on an estimation of the number of months elapsed between citing and cited decision. To group decisions by month, I coded the beginning and end of each month since the beginning of official Volume 100—February 1904—to the end of Volume 311—1988. Virtually all citations in the dataset (over 99 percent of them) were contained within those dates. January was never considered since the SCA is in recess.

**Table 1.** Descriptive statistics, transition data set

| | TRANSITION | | | | | |
|---|---|---|---|---|---|---|
| | **1955** | **1966** | **1973** | **1976** | **1983** | **TOTAL** |
| **PRE-TRANSITION** | | | | | | |
| *-6 TO 0 MONTHS* | | | | | | |
| CITATIONS # | 551 | 1070 | 482[6] | 1523 | 1,633 | 5305 |
| DECISIONS # | 192 | 208 | 121 | 271 | 287 | 1087 |
| **POST-TRANSITION** | | | | | | |
| *0 TO 6 MONTHS* | | | | | | |
| CITATIONS # | 294 | 1,428 | 1113 | 3012 | 1118 | 7081 |
| DECISIONS # | 80 | 272 | 193 | 455 | 219 | 1228 |
| *18 TO 24 MONTHS* | | | | | | |
| CITATIONS # | 509 | 694 | 1414 | 1652 | 1438 | 5838 |
| DECISIONS # | 159 | 165 | 222 | 270 | 301 | 1136 |
| **CITATIONS #** | 1,354 | 3,192 | 3,009 | 6,187 | 4,189 | 17,931 |
| **DECISIONS #** | 431 | 645 | 536 | 996 | 807 | 3,415 |

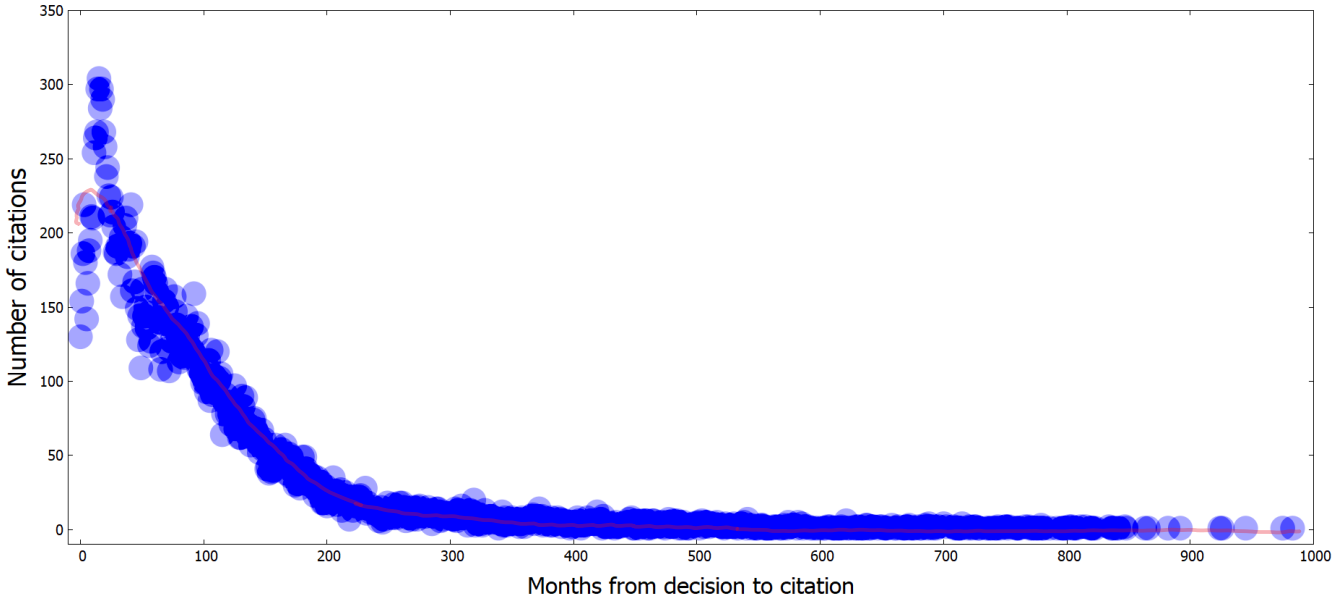
## V. Results and discussion

*An (inductive) theory of citations*

Using all citations in the data set, graph 2 plots the correlation between the month intervals between each citing decision and the corresponding cited decision and the number of citations within each month interval. Most clearly, the SCA disproportionately favors recent cases in its citations. Notice that very recent cases (a year or so before the present decision) were not so frequently cited as cases a bit older, which is perhaps a function of the fact that those cases were still unpublished and hence harder to search for.

One-third of all citations were to cases decided around 40 months (or 3.6 judicial years) removed from the decision, and two-thirds to cases at most 100 months (or 9 judicial years) removed. The function has a clear curvilinear shape, flattening out at about the 20-year threshold. Instead of specifying a form, I let Stata choose the model that best fitted the data. A nonparametric model with the month interval as the sole variable explaining citation numbers accounted for 96 percent of the variation in this outcome.

**Graph 2.** Citations function—correlation between number of months from decision to citation and number of citations by month

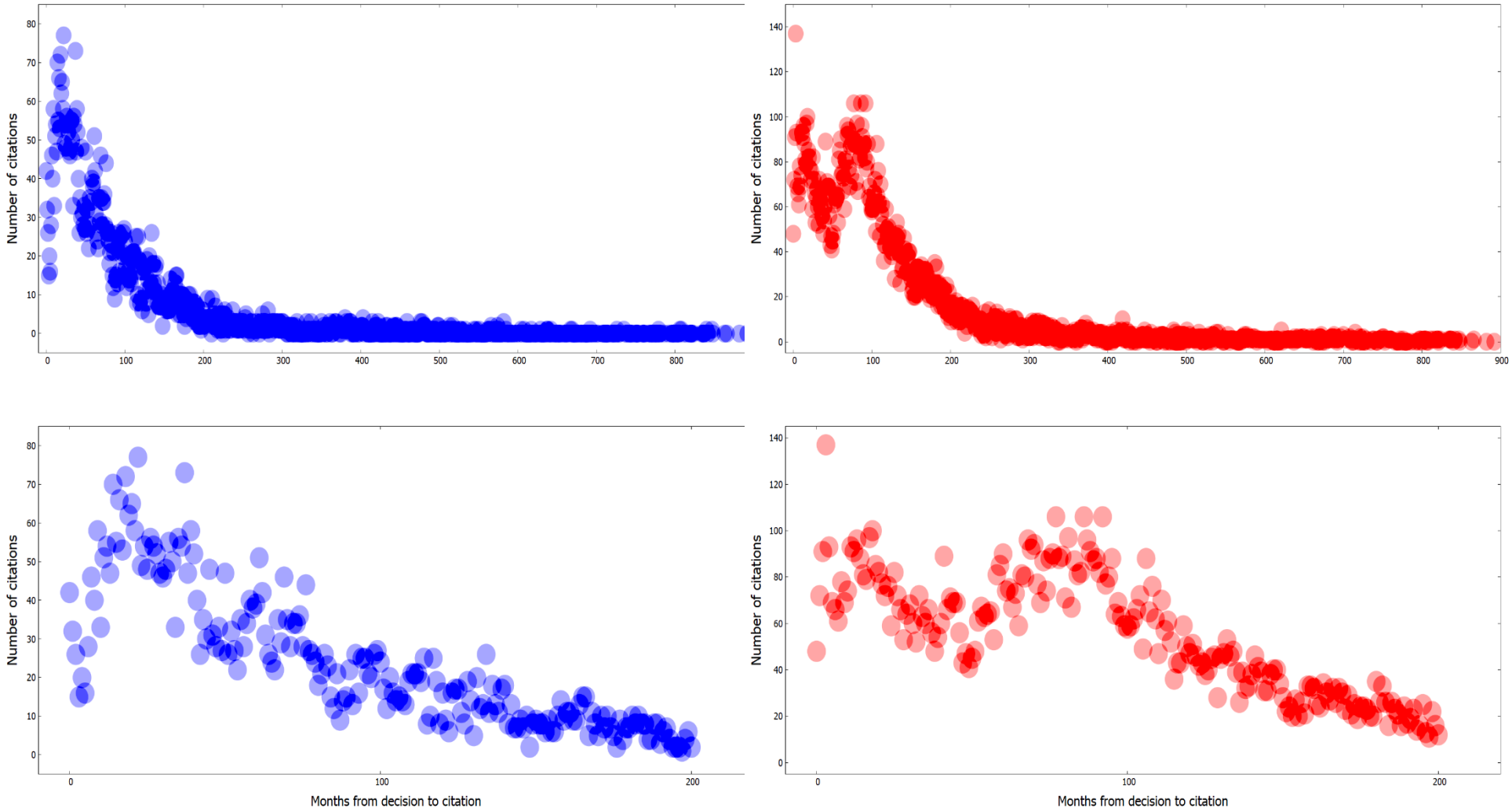



These results are compatible with the U.S. findings above. It may be that younger cases express the legal state of the art and/or that, combining all cases together, temporally closer cases are also ideologically closer. It may even be that an availability bias is at play—that recent cases come more easily to mind to judges or their clerks, intent on optimizing their scarce resources. Although computer searches can overcome this, computers were not available during most of the periods of the study. Finally, notice that, in some cases, the decisions the SCA cites can also contain citations to previous decisions, and that, when referring to the former, the SCA may implicitly be referring to the latter as well, something that is not captured in my data set and that may exaggerate somewhat the previous trend.[7] Even with this caveat in mind, it is clear that decisions lose value at an increasing rate. This will provide the baseline for the analysis of transitions, to which I turn next.

*Citations and transitions*

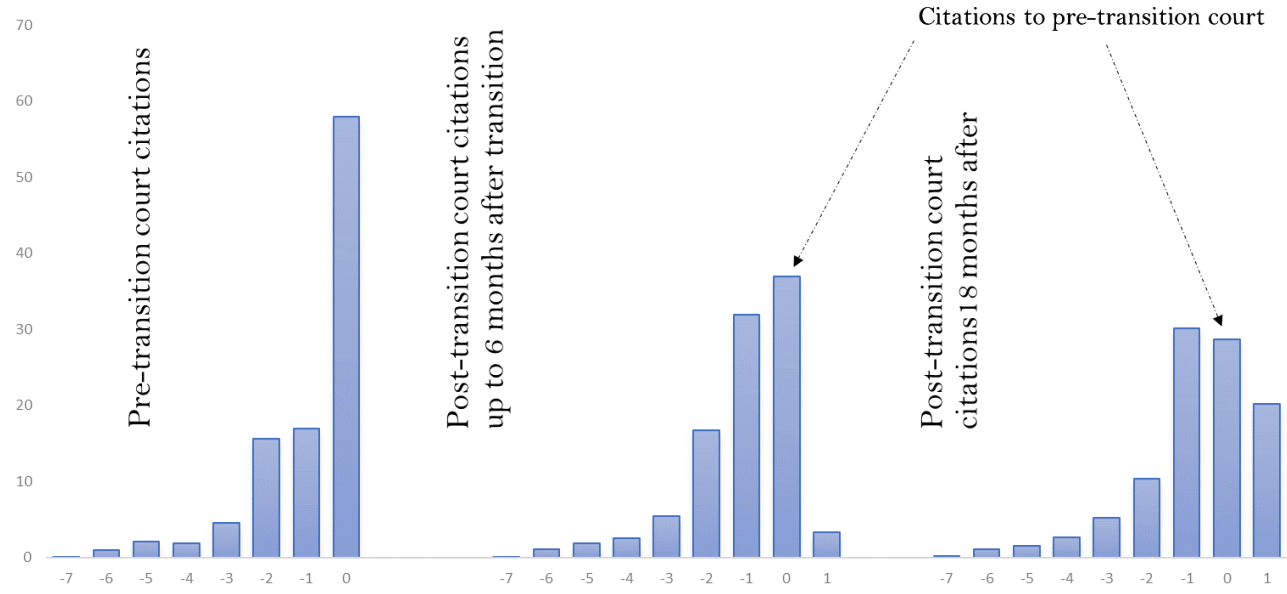
The plots in graph 3 present the same information as the citations function above, now discriminating by transition phase. The top left plot shows citations during the pre-transition stage, while the top right plot shows citations during the post-transition stage. Very clearly, the left plot tracks the citations function above, but the right plot depicts something starkly different—a very noticeable depression at smaller intervals. Better to see this depression, the bottom plots only show citations to decisions at most 200 months removed from the citing decision. Although preliminary in many ways—e.g. each of the combined periods had a different duration—this result is clearly compatible with the notion that the new court disproportionately abstains from citing decisions from the old court.

**Graph 3.** Scatter plots of months from decision to citation by transition (*left*: pre-transition; *right*: post-transition; *top*: all intervals; *bottom*: citations to decisions at most 200 months removed from citing decision)



Combining all the periods of the study, graph 4 displays bar charts depicting the court to which cited decisions belong. The left chart refers to citations by the pre-transition or old court, while the center and right charts show citations by the post-transition or new court. The charts mark as 0 all citations to the pre-transition court, as -1 all citations to the period before the pre-transition court, and so on. Citations coded as 1 are those by the post-transition court to itself. The left chart shows both more citations the closer the period is to the period during which the SCA is sitting and many more citations to the present period than to other periods. Yet, the post-transition charts show something different. Even if post-transition citations are only months apart from the pre-transition citations, references to the pre-transition court dramatically drop immediately following the transition. At the descriptive level, the difference between pre- and post-transition citations to the old court is around 25 percentage points, and the difference is even larger (30 points) if only considering the post-transition 18-month period. The explanation of the difference is not just that the new SCA cites itself, since citations to the court before the pre-transition court (identified in the graph as -1) double in the post-transition stage. Notice that this "-1" court operated under the same regime type (democracy or dictatorship) as the new court. In line with the previous, this is evidence of a level of distancing by the new court right after the transition.

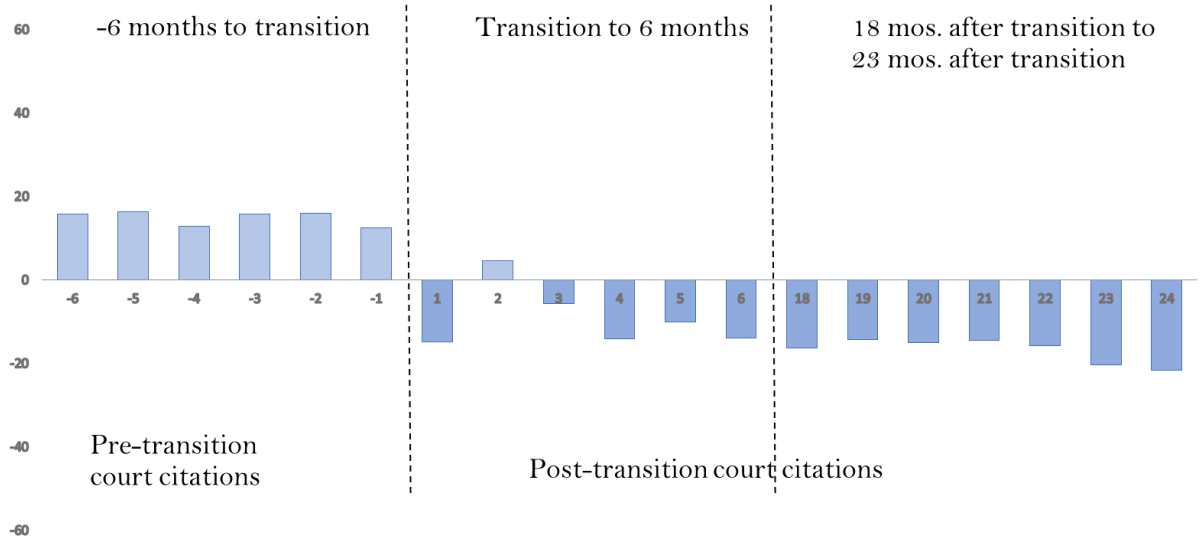
**Graph 4.** Citations to all courts before and after all transitions by pre-transition (left) and post-transition (center and right) courts




To delve deeper into this issue, I compared expected and observed citations during each stage of the transitions. The citations function provides an estimate of expected citations for any time period measured from the time of the citing decision. For example, as noted, one-third of citations were to cases decided around 4 judicial years from the decision. Grouping citations by the month in which the decision containing them was rendered, I calculated for each group the

number of months elapsed since the pre-transition SCA sat for the first time. Regarding the 1976 transition, the old court started operating in July 1973, so a decision in July 1974 was separated by 11 judicial months from the beginning of the period. For each of the observed months before and after the transition to the beginning of the period, I calculated the difference between observed and expected *citations to the old court* (as a portion of citations to all periods). In the pre-transition phase, expected citations were simply calculated by considering the number of months to the beginning of the period. In the case of the post-transition phase, I deducted the post-transition months. If, say, decisions were rendered 50 months after the pre-transition court sat for the first time but 2 months after the transition, the proportion of expected citations to the old court only considered the period before those first 2 months. Graph 5 depicts this for all periods. A positive difference means more observed than expected citations, and vice versa. The results clearly suggest, first, that the difference is mediated by the transition, and, second, that the source of the difference is *both* that the old court cited itself more than expected *and* that the new court cited the old court less than expected.

**Graph 5.** Difference between observed and expected citations to the pre-transition court by month of decision, before and after transition




Two linear regression models analyze this effect. The observations in both are the months in which the citing decisions were announced. The dependent variable is the difference in percentage points between observed and expected citations to the old court. Like before, a positive difference means more observed than expected citations, and vice versa. The main independent variable is a dummy with a cutoff point—the transition. A single variable codifies as 1 the subject matters that were clear from the cases and in which a change after the transition was most expected—labor, eminent domain, criminal, and other constitutional matters including habeas corpus petitions. (Only a portion of the cases identify their subject matter.) Given the strong sympathies and antipathies around the first Perón administration, a dummy identifies the "Perón 1" court and another does the same with the post-"Perón 1" stage. In model 1, I studied

decisions from 6 months before the transition, 6 months after the transition, and 6 months eighteen months after the transition, for a total of 97 observations. I only included a month if it had at least 20 citations. (Decisions from some of the 6-month periods exceed 6 actual months.) Model 2 is identical to model 1 but it only keeps from the post-transition stage the decisions rendered 18 months after the transition.

Table 6 reports results. The coefficient for *transition* taking both models into account shows the expected negative sign. The post-transition phase is correlated with a 17-18 percentage-point decrease in observed citations to the pre-transition court relative to expected citations by month, with a p-value smaller than .001 in both models. This is so even controlling for the "Perón 1" court and its aftermath. The models predict 18 percentage points more observed citations by month from the "Perón 1" court to itself than expected citations. Yet, they predict 41-45 points fewer observed citations to the "Perón 1" court by the post-transition court that followed it than expected citations. The strong political animosity toward the first Perón administration and court seem to explain this more dramatic shift in the SCA's citation profile. Still, as noted, the effect largely transcends this period. The coefficient for the identified subject matters is not significant. The models' adjusted fit is strong, representing 60-76 percent of the variation in the observed-expected difference.

**Table 6.** Lineal regression analysis

| | **1** | | **2** | |
|---|---|---|---|---|
| | **All months** | | **6 months to transition and 18-24 months after** | |
| **DEPENDENT VARIABLE** | Difference between observed and expected citations to pre-transition court | | | |
| | C | SE | C | SE |
| **INDEPENDENT VARIABLE** | | | | |
| Transition | -16.53 | (3.75)*** | -18.37 | (3.26)*** |
| "Peron_1" court | 17.58 | (6.93)* | 17.6 | (5.30)** |
| Substantive | -.19 | (.14) | -.122 | (.126) |
| Post-"Peron_1" court | -41.72 | (4.85)*** | -44.51 | (5.13)*** |
| N | 97 | | 64 | |
| Adjusted $R^2$ | .60 | | .76 | |

* p< .05, ** p< .01, *** p<.001.

*More results and discussion*

The previous results show that the stage of the transition is strongly correlated with the prevalence of citations to the pre-transition SCA. The notion that the new court attempts to distance itself from the old court receives support from the data. Along the lines of what others have shown (Black and Spriggs 2013), this suggest that citations are guided in part by ideological proximity, which, in cases involving a regime transition and a complete renovation of the court, may not always coincide with temporal proximity.

I now further explore discrete transitions. In a simple model that I do not report, employing "transition" as the single predictor of the above difference between observed and expected citations to the old court, the coefficient always has the predicted negative sign, and, in 4 out of the 5 periods, it has a p-value lower than .05. Yet, the number of observations for each period (around 18, the number of months) is too low to meaningfully resort to regression analysis in each. Instead, graphs 7-11 and 12-16 in the appendix display, respectively, differences

in expected and observed citations by transition and citations to all courts by transition, what graphs 4 and 5 did for all the periods combined.

In line with the regression outcomes above, the SCA that replaced the justices appointed by the first Perón administration distanced itself from the latter in an extremely drastic way (graphs 7 and 12). The mean observed-expected difference by month in the pre-transition stage was 29 percentage points, with the "Perón 1" court citing itself much more than expected, but the difference in the post-transition stage was 45-50 points in the opposite (negative) direction, a total mean difference of 78 points across these stages. It is true, as former Justice Oyhanarte put it, that the new court "fell into the unreal situation of ignoring 25 consecutive official volumes of the Court's case law" (Pellet Lastra 2001). The new court sidestepped the "Perón 1" court entirely both by citing the court previous to it and by disproportionately citing itself, which is curious given that post-transition cases were announced at most two years after a court sat for the first time, not a long time for a court to have developed a considerable body of case law to cite. Considering the 6-month period a year and a half after the transition, only in 2 percent of the new court's citations did the new court reference the "Perón 1" court. The latter was erased from the record.

Although the effect was smaller, the other four periods always showed fewer citations than expected to the older court after the transition. The figures for the difference in the case of the 1966 and 1973 transitions are in the range of 21-24 percentage points. The other two periods (the 1976 and 1983 transitions) showed a somewhat smaller effect, which merits some discussion. The former involved, once again, a court appointed by a Peronist government at the pre-transition stage, and one may have expected the same reaction afterwards as in the 1955 transition. Yet the "Perón 2" court showed fewer observed citations to itself than expected, likely a function of the fact that it was a fleeting court that never consolidated itself due to political turmoil. Now, the court appointed right after the transition (during the "Dictatorship", as the last dictatorship is usually named) cited the "Perón 2" court much less frequently even (graphs 10 and 15). The transition was correlated with a mean 11-point variation in observed-expected citations to the old court by month. On the other hand, the transition in 1983, which involved the final return to democracy, was correlated with a 13-point difference. Considering that, in the mid-1980s, the new democratic court announced a host of decisions to distance itself from the authoritarian "Dictatorship" court, it is somewhat surprising that the difference was not larger.

So why was the effect of regime transition larger in some episodes than in others? While the data in this paper do not allow to provide a definitive answer, I offer possible explanations. To begin with, four of the five episodes (all but the one involving the "Perón 1" court) were relatively similar in terms of effect magnitude compared with that outlier, and, as anticipated, the effect of transition was not expected to be enormous anyway. So rather than asking about those four episodes where the effect of transition was moderate, one could ask why the effect was so big—a sea change—in the case of the outlier. And the answer is rather straightforward—the explanation seems to be the deep ideological schism around the first Perón administration.

Still, at least in 1983, one would have expected a stronger stance against the previous court, a clear symbol of authoritarianism. Like in other episodes, perhaps there *was* more discontinuity as time passed, as clerks and staff from the old court—and not only the justices—were replaced.

It is likely that justices who sit for the first time at a court right after a transition do not dismiss or reassign all clerks and staff, since the latter have the expertise on the minutiae of appeals and case law that the former may still lack. Even if the new justices want to signal a departure from the past, it is likely that such departure is not absolute, and that clerks and staff illuminate justices as to previous legal criteria—particularly though not only on appeals requirements—not to be easily overlooked. Also, clerks and staff may be biased in favor of recent cases either politically or because those are the cases that come more easily to mind. All this hints at the potential power of a high court's bureaucracy in deliberately or inadvertently forestalling (or advancing) a type of change that might be favored (or disfavored) by the justices.

But these are conjectures. The data suggest that, salient cases marking a departure notwithstanding, there was a high degree of continuity after 1983 in the bulk of cases constituting the routine decision-making at the court. In support of its decisions, the new democratic court cited the old court mostly concerning appeals requirements but also in some substantive matters. Ironically, in the early 1980s, the new court announced a theory on the limited validity of *rules* passed by dictators—those rules would be *invalid* save for their explicit or implicit endorsement by the new democratic authorities. But the new court did not say anything remotely similar regarding the *SCA's decisions* under dictatorship. The new court was obviously not expected to reopen already decided cases. But, at the very least, it may have decided to reference the old court only if it was completely necessary to do so, even in cases of legal continuity with the previous legal criteria. This is, after all, what the court after the "Perón 1" court (one appointed by a dictatorship) did in the 1950s. This outcome concerning the 1983 transition merits future exploration.

The findings have broader implications for future research. Among these, they can inform a discussion of the value of precedents and, more broadly, the normativity of law. It is possible that changing citation patterns did not involve a legal change but an attempt at symbolic differentiation or legitimation. But to the extent that it did involve the former—a point that deserves further analysis—litigants seemed to receive different legal answers by virtue of the seemingly arbitrary fact of being at each side of a transition. And, to some degree, the court's justices saw themselves at liberty to pick and choose legal criteria and case law to support it.

However, is that fact truly arbitrary? Settled expectations about the law are an important element of the rule of law, and they are best satisfied with a promise of a degree of stability in legal interpretation. Surely, however, this cannot mean that a new democratic court must take the authoritarian court at face value. (While a court appointed by a dictatorship may consider the same about the previous democratic court, this is not as normatively relevant.) Change is *supposed* to take place in these cases, although probably more clearly so in some areas than in others. And, as noted, at a more symbolic level, one would think that the new democratic court should avoid citing the previous court as frequently as expected in normal circumstances. Determining the degree of rupture that is justified as well as the boundaries of each of those areas becomes an important normative enterprise.

These considerations revolve around relevant questions about courts' role and justification in a democracy and in a dictatorship, particularly when their members were appointed by that same regime. But perhaps the most pressing question—and one that triggered this positive

research—concerns the continuity or discontinuity of courts *across* regimes. In this area, like in others, normative inquiry and positive exploration must complement each other.

## VI. Conclusion

I employed both a novel methodology in the study of Latin American courts and a fresh hand-picked dataset to study judicial behavior before and after regime transitions in Argentina, a still unexplored issue. I reviewed the five episodes that led to the complete (or almost complete) makeover of the SCA—in 1955, 1966, 1973, 1976, and 1983. Three of these episodes involved a change to dictatorship, while two entailed a return to democratic rule. I analyzed the SCA's citation patterns before and after each change, specifically focusing on the court's citations to its pre-transition phase.

Regime and court transitions seem to have strongly accounted for changes in those citation patterns. This suggests that a level of rupture with the old court was in place after the transitions. While this was present across the board in the five periods, the level of this rupture varied. The court appointed by the first Perón administration in the late 1940s was obliterated after the 1955 coup. At the other extreme, two periods showed a smaller effect of the transition in citation changes—the 1976 and 1983 transitions. Of these, the latter, which involved the final restoration of democracy, is somewhat intriguing, since the SCA's case-law in certain matters including constitutional rights showed a departure from the previous court. At the level of the court's more routine decision making, however, rupture and departure seem to have gone hand in hand. This and other questions suggest the potential usefulness of further exploration.

In sum, various episodes of irregular regime transition led to abrupt changes of the court's makeup. This, in turn, prompted a change in the court's decision making, including a level of distancing from the old court, albeit a varying one from one period to the next. By and large, this finding may seem unsurprising. And yet, it is surprising that the tremendously important issue of the effect of regime interruption on judicial behavior had remained largely unexplored. I hope that both the questions I asked and the methodology I employed in this article—a novel one in Latin American judicial politics—are positive steps to contribute in that regard.

## Appendix 1. Case selection and litigant effect

Non-experimental studies of courts typically present case-selection issues, since the decisions scholars observe are not necessarily a non-biased sample of all decisions. Although this is the case of this study as well, it does not present a serious problem. Before 1990, when a statute gave it the power to dismiss a case on its discretion, the SCA was supposed to rule on every case that met the formal requirements. (Although scholars say that, to some extent, the SCA did this even before 1990.) If all SCA decisions during the years of the study (1955-1985) were observed, this would rid of most case-selection issues. However, I only accessed those reported in the *official volumes*, a portion of decisions deemed worthy of publication by an office within the SCA. A question is whether the publication criteria changed from one stage to the next, particularly from the pre- to the post-transition phases I am observing. Although I cannot discount this possibility, I cannot presently envision a reason for it.

Another issue worth-considering concerns *litigant effect*. It may be that a change in citations is driven by a push by litigators to move the law in a different direction (Black and Spriggs 2013). Litigants may press the new SCA to go back to a criterion that was announced before the old court sat for the first time. This is not a problem for this research. If present, a litigant effect likely shows later in time, not in the first 6-24 months after the new SCA started working (Black and Spriggs 2013). More important, the effect would be endogenous to the SCA's decisions. It would be the court's opinions that "signal an interest in changing the law, to which private parties respond by bringing new test cases…" (Black and Spriggs 2013).

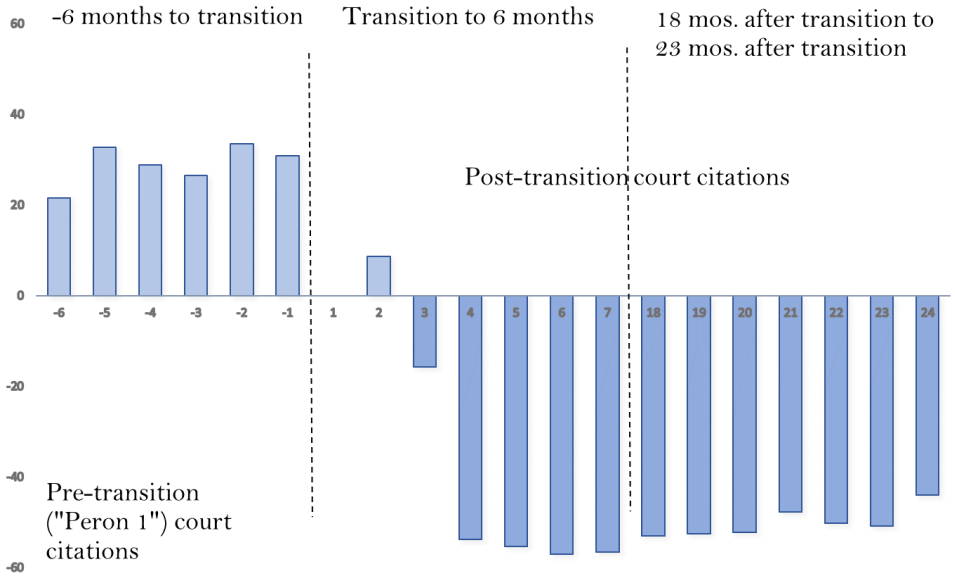
A more serious, though largely inconsequential, concern is that a hypothetically observed divergence in citation patterns before and after the relevant cut-point (i.e. the transition) reflects changes in the *nature of the cases* decided. If a dictatorship takes power and starts illegally arresting people or worse, the SCA may hear cases concerning it, while it would not have done that before the coup. It may then be natural if the new SCA cites older cases—there may not be more recent cases related to the present issue. If the entire post-transition stage were observed, one would be certain to observe some such changes. Yet I am only observing decisions 6 months after the transition and 18-24 months after. Some of these cases (particularly those decided within the first 6 months) were likely already in the SCA's pipeline when the transition took place and most cases were likely filed in a lower court, since it often takes years from first filing to a SCA decision.

Determining which cases were filed in some court before the transition is impossible, since the SCA does not usually specify filing dates. Now, the decisions most removed from the transition cut-point were those decided 24 months after it—this is the worst-case scenario for the notion that cases were already in the judicial system from before the transition. Assuming that one year has passed from the lower appealed decision to the SCA decision (a conservative assumption based on scattered information), and that another year has passed from the case's first filing to that appealed decision (another conservative assumption, since this usually encompasses the intervention of two courts), this takes us back to the cut-point. Thus, since most cases are sufficiently close to the transition, the empirical strategy concerning them approaches a *regression discontinuity* design.

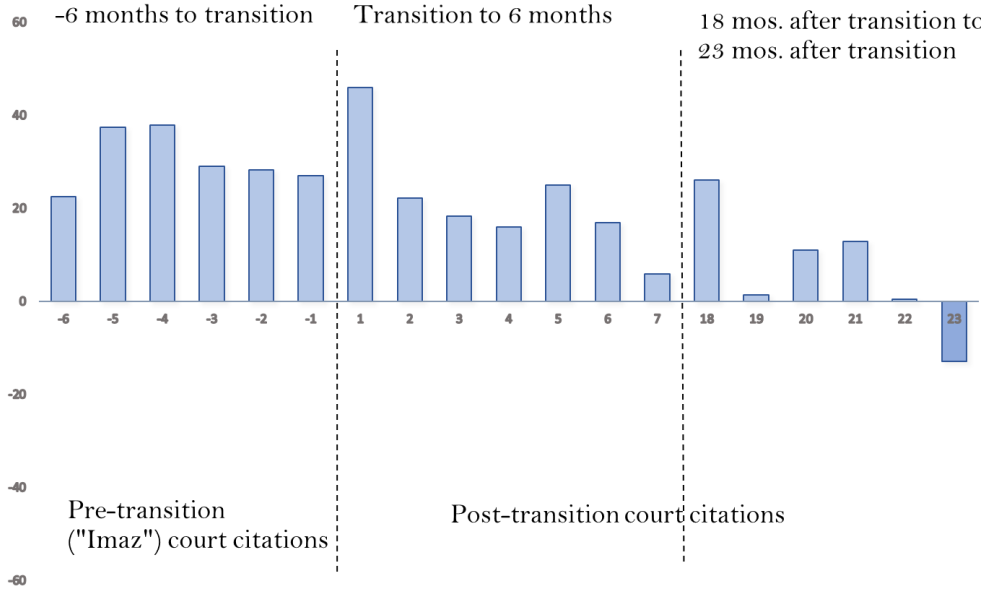
Admittedly, other cases, such as, in the example, habeas corpus petitions and perhaps other criminal cases, may have reached the SCA faster. These are most likely a minority, since my data set combines cases from multiple topics. In any case, I do my best to control for this.

## Appendix 2. Graphs and tables

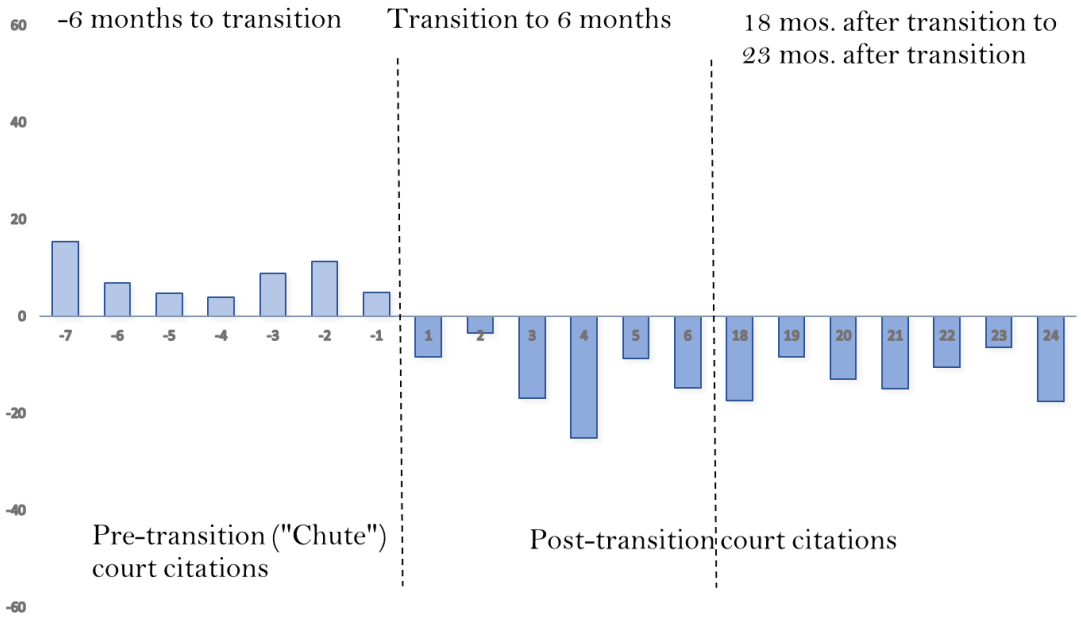
**Graph 7.** Difference between *observed* and *expected* citations to the pre-transition "Perón 1" court by month of decision before and after 1955 transition; pre-transition court: left; post-transition court: center and right



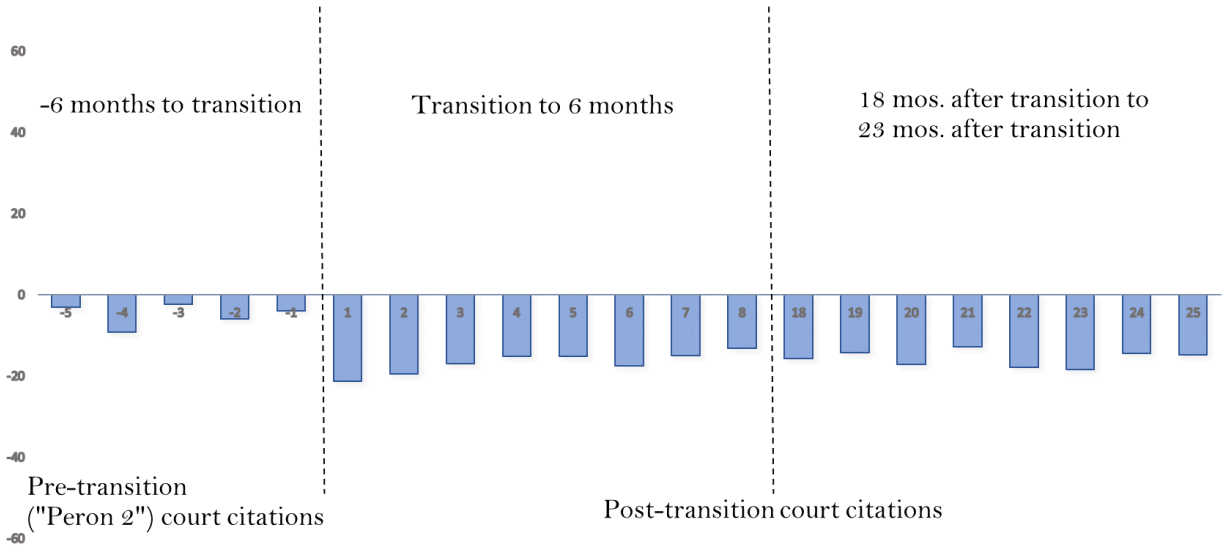

**Graph 8.** Difference between *observed* and *expected* citations to the pre-transition "Imaz" court by month of decision before and after 1966 transition; pre-transition court: left; post-transition court: center and right



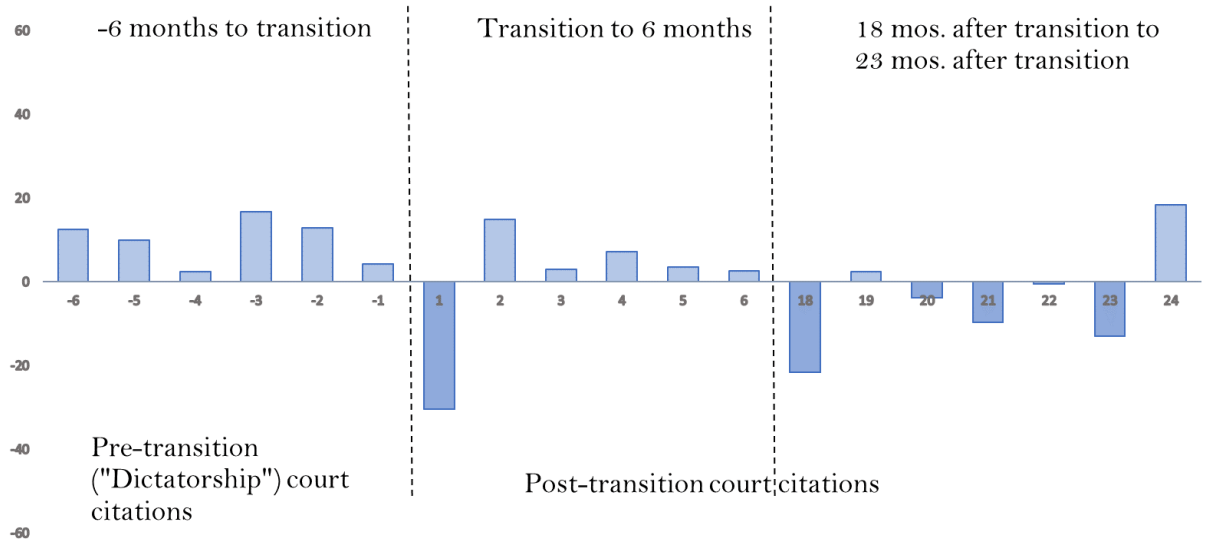
**Graph 9.** Difference between *observed* and *expected* citations to the pre-transition "Chute" court by month of decision before and after 1973 transition; pre-transition court: left; post-transition court: center and right



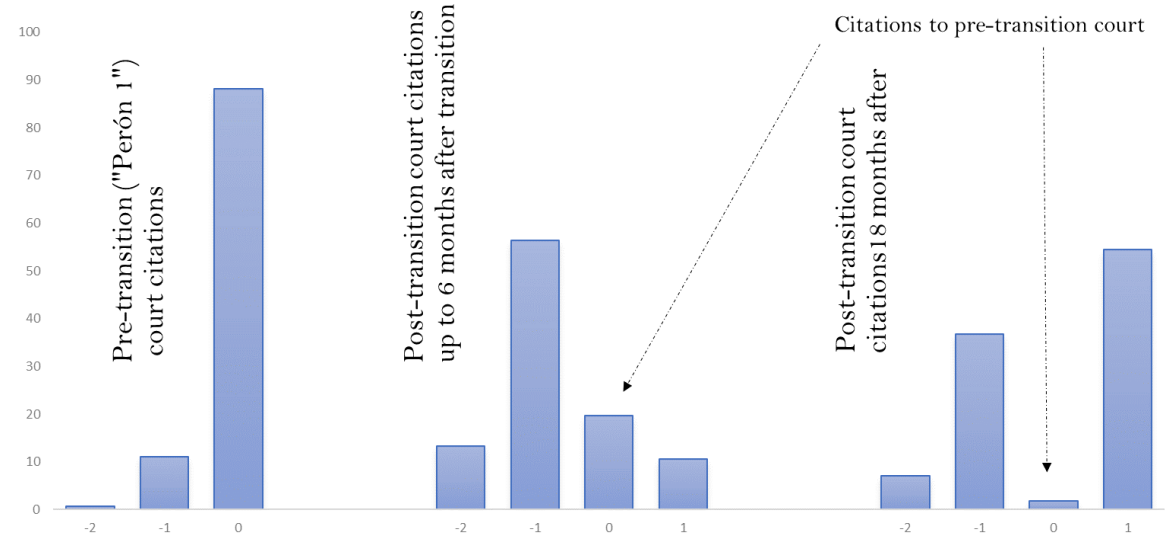

**Graph 10.** Difference between *observed* and *expected* citations to the pre-transition "Perón 2" court by month of decision before and after 1976 transition; pre-transition court: left; post-transition court: center and right



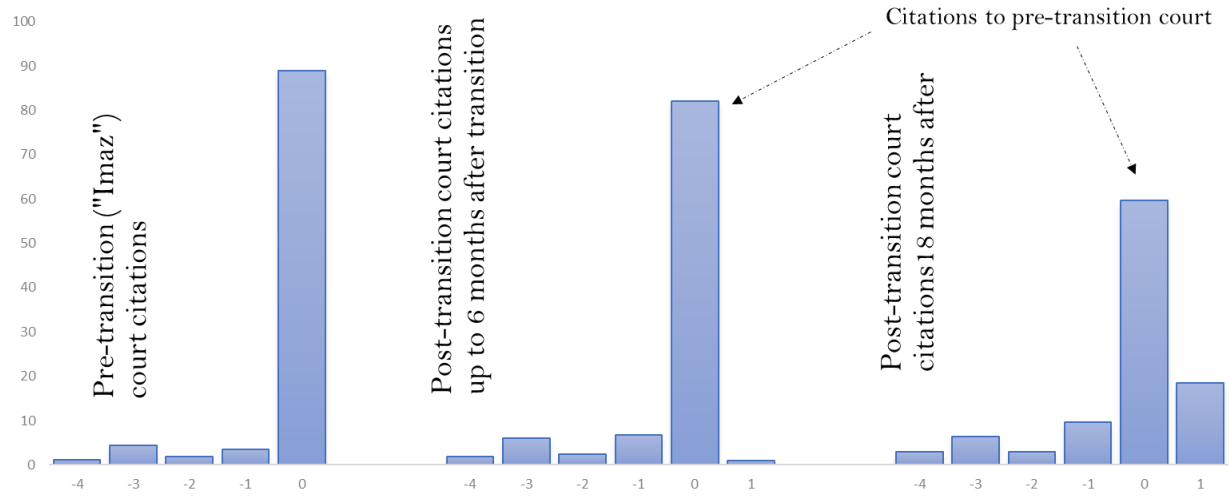
**Graph 11.** Difference between *observed* and *expected* citations to the pre-transition "Dictatorship" court by month of decision before and after 1983 transition; pre-transition court: left; post-transition court: center and right



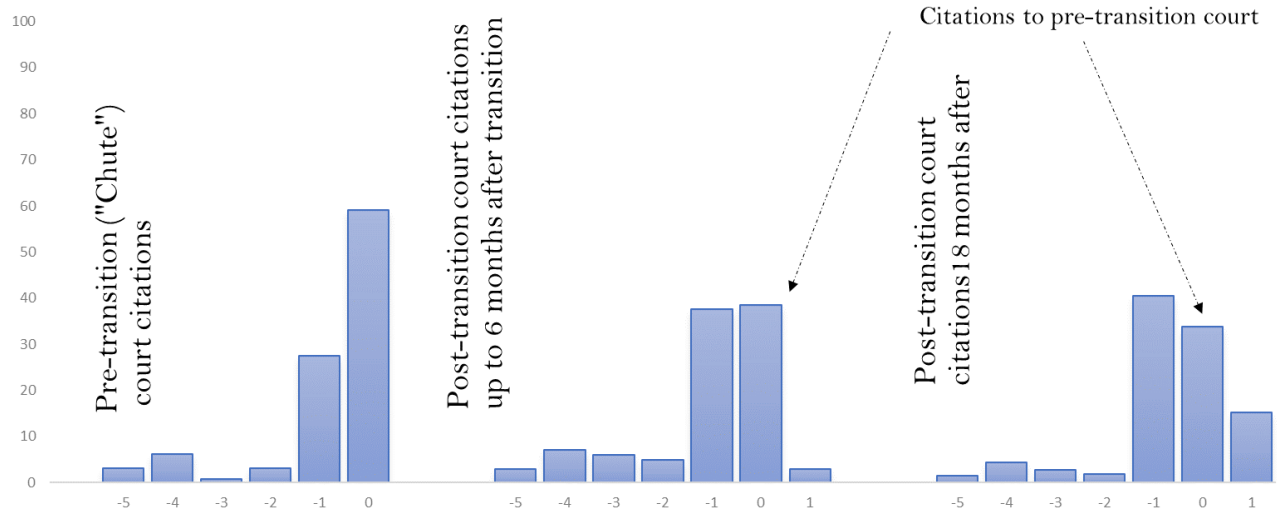

**Graph 12.** Citations to *all courts* before and after 1955 transition by pre-transition ("Perón 1 court", left) and post-transition (center and right) courts



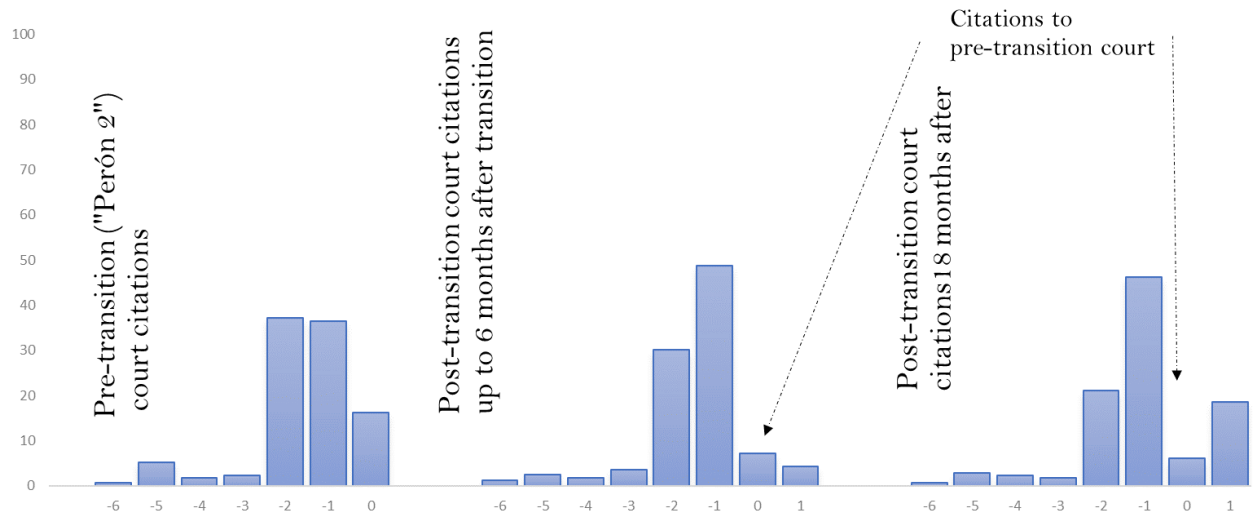
**Graph 13.** Citations *to all courts* before and after 1966 transition by pre-transition ("Imaz court", left) and post-transition (center and right) courts



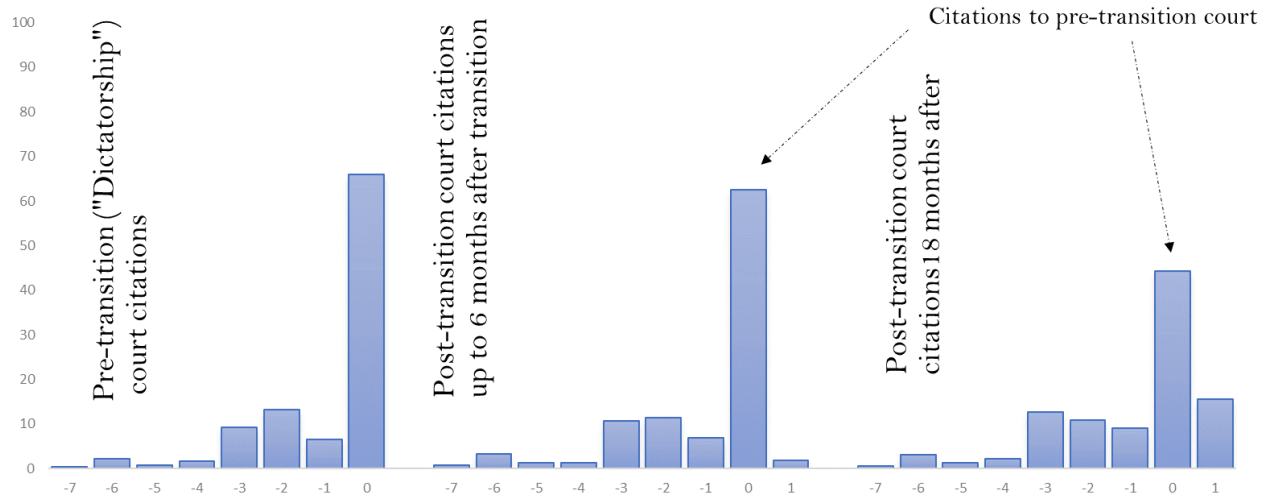

**Graph 14.** Citations *to all courts* before and after 1973 transition by pre-transition ("Chute court", left) and post-transition (center and right) courts



**Graph 15.** Citations *to all courts* before and after 1976 transition by pre-transition ("Perón 2", left) and post-transition (center and right) courts




**Graph 16.** Citations *to all courts* before and after 1983 transition by pre-transition ("Dictatorship court", left) and post-transition (center and right) courts



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[2] Quoted in Pellet Lastra (2001).

[3] The SCA's Presidency is since 1961 a temporary position selected by the justice's peers, but at the time presidents served for life as such.

[4] Initially appointed by a military government, Orgaz would later refer to Perón as a "dictator" (Pellet Lastra 2001).

[5] I found useful the literature review in Black and Spriggs (2013).

[6] This period likely had fewer citations and decisions because of the political turmoil related to the expected likelihood of renovation at the SCA following the elections. While this reasoning would also apply to the other transition to democracy (in 1983), cases did not seem to plummet.

[7] In a handful of cases that were not captured in the data set, the SCA cited the previous decision and said that it also was referring to the decisions that the previous decision cited—although it did not identify those cases.