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“During good Behaviour”: An Investigation of Failed Legal Frameworks for Judicial Impeachment and Democracy

By Sky Crawford

Introduction

Throughout history, many emerging and changing states have adopted constitutional models from more powerful established nations, often without adapting them to local institutional needs. While these influential states occasionally revised their own judicial removal mechanisms, the exported constitutional templates do not automatically incorporate these changes, reproducing weak impeachment structures and embedding systemic gaps in the law.³⁴¹ The U.S. Constitution exemplifies this tension: Article III grants federal judges tenure during “good Behaviour,” strongly protecting judicial independence, while formal removal depends on impeachment and conviction.³⁴² Constitutions modelled on this approach may likewise create strong protections for judicial independence while, without supporting political institutions, struggling to hold judges accountable.³⁴³ In this paper, I explore these trends by investigating research on structural transplantation and performing data analysis on states which have participated in this process. I ultimately look to confirm the trend of judicial structural transplantation—especially of removal mechanisms—and its impacts on corruption, government efficacy and democracy. Through this, I also problematise the way we compare judicial structures globally because of the trends discovered.

I begin by investigating the UK’s impact on Nigerian judicial systems and corruption as an exemplar case of the transfer of structural faults and corruption with them. Then, I explore Vietnam as a complex case in which the U.S.S.R. and China have both played large roles in shaping judicial structures and struggles. I next expand this study to include 4 great-power states and 6 developing states, attempting to cover a variety of exemplar global cases to create a dataset from which to compare trends in structure and resulting corruption levels. My data’s focus is largely on events and legal documents from 1990 to the present, representing the end of the Cold War and the subsequent general stabilisation of governmental structures in many states. I then collect and analyse the data to identify the impacts of the transplantation of structural faults before exploring typification of judicial structures and corruption, as well as the impacts of these trends on government efficacy and democracy. Finally, I conclude with some thoughts on resolving corruption and how to meaningfully discuss judicial law in academia and a recount of the paper’s main analytical results.

This paper ultimately demonstrates that postcolonial transplantation of flawed judicial systems and removal structures from great-power influencing states to smaller developing states also transfers and consequently expands forms of corruption caused by structural faults. I argue that different structural faults are

³⁴¹ Alan Watson, “Introduction to Legal Transplants,” in *Legal Transplants: An Approach to Comparative Law*, 2nd ed. (University of Georgia Press, 1993), p. 22.

³⁴² U.S. Constitution, art. III, § 1; Jarrod Wong, “The U.S. National Report on the Independence and Impartiality of International Adjudicators,” *American Journal of Comparative Law* 70, suppl. 1 (2022): i376–i393, <https://doi.org/10.1093/ajcl/avac019>; Library of Congress, *Constitution Annotated*, “Good Behavior Clause Doctrine,” https://constitution.congress.gov/browse/essay/artIII-S1-10-2-3/ALDE_00000686/.

³⁴³ Stefan Voigt and Jerg Gutmann, “On the Wrong Side of the Law – Causes and Consequences of a Corrupt Judiciary,” *International Review of Law and Economics* 43 (2015): 156–66, <https://doi.org/10.1016/j.irle.2014.04.005>.

the source of different types of corruption, and that transferring these structural faults often erodes governmental efficacy and democracy, especially in states importing the flawed structures. I also discuss issues of liberal centrism in mainstream academia on judicial law, proposing a more global framework of understanding, as well as briefly exploring how systemic change is the only real solution to corruption and misbehaviour across the globe.

1. Data, Evidence, and Method: Notes for the Reader

Briefly, I will outline key decisions made in the construction, analysis, and use of my data. My data is collected primarily from academic articles and book chapters on individual states and their judicial systems. My period of interest begins roughly in 1980 and extends to the present, academia permitting. Where large political changes have taken place, I seek either to acknowledge the relevance of these changes or to focus on the most current situation. My discussion of the U.S.S.R. intentionally refers to the influence of the Soviet Union, which was dissolved in 1991 but continues to have large and observable impacts on states across the globe today. I frequently deem certain states ‘great-power’ states, referring to the sizeable influence they have or have had on the structuring of governments worldwide because of postcolonialism. ‘Developing’ or ‘influenced’ states refer to states which have either been founded or undergone significant change after being impacted significantly by colonialism and its end in the mid-20th century. For this reason, despite some regional influence, states like India are considered ‘developing,’ whereas states like the U.S. are considered ‘great-power’ states. Crucial to many analyses of corruption in its various forms is the Corruption Perceptions Index and related data produced by Transparency International. This index measures perceived levels of public-sector corruption on a scale from 0 (highly corrupt) to 100 (very clean) and provides further information on individual states where possible. It does not isolate judicial corruption and is therefore used here as a contextual indicator rather than a direct measure of corruption within the judiciary. These scores form a substantial part of my data but are significantly supplemented by context-sensitive articles and book chapters for analysis and conclusion-drawing.

2. The Case of the UK and Nigeria: a Textbook Case

In 1960, Nigeria was granted independence from the UK. Three years later, Nigeria transitioned into a constitutional republic but maintained heavy interaction with British advisers.³⁴⁴ In addition, the members of the educated populace who formed the government were largely British-educated and -trained. Thus, when designing and executing the new government, including the judiciary, British design was imported into Nigeria for a smooth transition. This meant an independent hierarchical court system reflecting UK principles and ideology, despite struggles to execute it successfully.³⁴⁵ Common judicial practices, including removal mechanisms, took longer to

³⁴⁴ 1st Attorneys, “Upholding Independence: The Judiciary’s Role in Nigeria,” September 7, 2023, <https://1stattorneys.com/articles/2023/09/07/upholding-independence-the-judiciarys-role-in-nigeria/>.

³⁴⁵ M. A. Ikhariale, “The Independence of the Judiciary under the Third Republican Constitution of Nigeria,” *Journal of African Law* 34, no. 2 (1990): 145–58, <https://doi.org/10.1017/S0021855300008287>.

develop due to decades of militarisation and an unstable political environment.³⁴⁶

However, the start of the Fourth Republic came with the establishment of the National Judicial Council (NJC), which became responsible for recommending appointments and removals, as well as disciplining officers for misbehaviour. The removal process varies by office: specified heads of court may be removed by the President or a state Governor following an address supported by a two-thirds majority of the relevant legislature, while other judicial officers may be removed by the President or Governor on the recommendation of the NJC.³⁴⁷ The establishment of the NJC pulled the structure of the judiciary even closer to the British system: both have an external advisory and disciplinary system designed to deal with misbehaviour yet lacking the capacity to remove high-ranking judges. Further, they both have a seldom-used and difficult impeachment process reserved for a small set of serious offences in the name of judicial independence.³⁴⁸

The mirrored court and removal structures produced similar risks of corruption; in Nigeria, these developed into a systemic problem. The UK is considered to have low levels of public-sector corruption overall, but integrity risks and instances of personal corruption may occur; the evidence base on domestic corruption has also historically been limited.³⁴⁹ Nigeria's comparable system of judicial independence faces these risks in a more acute form, including widespread unchecked personal corruption as well as systemic political influence associated with broader politicisation.³⁵⁰ Personal corruption is widespread, and the structures established to deal with it lack the capacity to do so effectively because of the large population, number of corruption cases, and weakness and inefficiency of government structures.³⁵¹

The types of corruption can therefore be seen to resemble those identified in the UK, while the extent to which that corruption is able to proliferate rises sharply with a lack of effective and efficient government to hold judges accountable. This case helps to illustrate that even a small lack of accountability in an influencing structure, like the UK's lack of capacity to deal with lower-level personal accountability, is mirrored and expanded considerably when states import these structures to their own struggling systems.

3. The Case of Vietnam: Hybrid Transplantation

Vietnam's case is markedly different from most of my other cases insofar as the structures, ideologies, and practices employed today reflect mixed influences, integrating influential U.S.S.R. structures with other states' practices. Vietnam has experienced a variety of judicial structures since achieving independence from the French

³⁴⁶ 1st Attorneys, "Upholding Independence."

³⁴⁷ Constitution of the Federal Republic of Nigeria 1999, s. 292(1)(a)–(b); Third Schedule, Part I, para. 21(b), (d).

³⁴⁸ Raoul Berger, "Impeachment of Judges and 'Good Behavior' Tenure," *Yale Law Journal* 79, no. 8 (1970): 1475–1531, <https://doi.org/10.2307/795270>; Andrew Le Sueur, "Developing Mechanisms for Judicial Accountability in the UK," *Legal Studies* 24, nos. 1–2 (2004): 73–98, <https://doi.org/10.1111/j.1748-121X.2004.tb00241.x>.

³⁴⁹ Transparency International, Corruption Perceptions Index 2025, <https://www.transparency.org/en/cpi/2025>; see also Home Office, Assessing the Evidence Base of Domestic Corruption in the UK (December 8, 2025), <https://www.gov.uk/government/publications/assessing-the-evidence-base-of-domestic-corruption-in-the-uk/assessing-the-evidence-base-of-domestic-corruption-in-the-uk>.

³⁵⁰ Vasudev Das, "Judicial Corruption: The Case of Nigeria," *Journal of Financial Crime* 25, no. 4 (2018): 926–39, <https://doi.org/10.1108/JFC-02-2017-0011>; Yusuf Sulayman, "Judicial Legislation: The Supreme Court of Nigeria's Model for Strategic Decision-Making?" *Journal of African Law* 69, no. 2 (2025): 233–51, <https://doi.org/10.1017/S0021855324000330>.

³⁵¹ Das, "Judicial Corruption"; Sulayman, "Judicial Legislation."

in 1954. At first, Vietnam followed the socialist Soviet model closely: courts served the Communist Party in Vietnam and largely subordinated rule-of-law concerns to party priorities.³⁵² This meant that accountability measures were directed not towards respecting the law but towards complying with party decrees and norms. Furthermore, the judicial system was not fully codified, and tenure—including removal—was determined exclusively by party leaders.³⁵³ However, with the decline of the U.S.S.R. and a push for modernisation, Vietnam began to reflect Western and Chinese values, ideologies, and structures alongside socialist Soviet ones.

Especially with more modern shifts towards law and development, Vietnam began structural judicial expansion and shifted away from complete party control towards the rule of law in the 1980s and 1990s.³⁵⁴ When the 2013 Constitution of Vietnam was written, it affirmed both socialist Soviet legacies of party leadership over political messaging, ideology, and decision-making, and modern codification of structural and removal systems.³⁵⁵ Notably, despite codification, Vietnam still does not conceive of the judicial branch as fully independent from the state or leading party, and the appointment and removal of officers are processes carried out by other governmental branches and overseen by party leadership.³⁵⁶

Consequently, Vietnam has experienced a hybrid of the forms of corruption and institutional influences associated with these states. Before codification, political influence was inherent, and politically influenced denial of renewed tenure was commonplace.³⁵⁷ As I explore later, this indicates a potential for higher levels of personal corruption, as judges experience less pressure to have good behaviour.

This potential has at times in Vietnam's recent history been realised: bribery and misconduct (frequently linked to inadequate education or training) are well known to the public and judicial sector and taken as common practice.³⁵⁸ Vietnam's experience is not the only hybrid one: socialist states across the globe have looked to modernise court and removal systems by incorporating great-power states' codification and regulatory structures.³⁵⁹ Despite the unique hybrid structural transplantation these states experience, Vietnam's case demonstrates that my theory of transplanted structural issues still holds. Vietnam's structural transplantation over the past 75 years closely correlates with shifts in corruption over the same period, and today Vietnam experiences forms of corruption reflecting both historical socialist Soviet influence and more recent Chinese codification practices.

4. Widened Comparative Dataset

This section presents judicial practices and structures across 4 powerful (structurally influential) states and 6

³⁵² Penelope Nicholson, *Borrowing Court Systems: The Experience of Socialist Vietnam* (Martinus Nijhoff Publishers, 2007), p. 260.

³⁵³ Nicholson, *Borrowing Court Systems*, p. 260.

³⁵⁴ Ngoc Son Bui, "Vietnam: Legal Reform and Legal Convergence," in *Legal Reform in the Contemporary Socialist World* (Oxford University Press, 2024), pp. 105–86.

³⁵⁵ Constitution of the Socialist Republic of Vietnam, 2013, arts. 2, 4, 70, 88, 104, https://www.constituteproject.org/constitution/Socialist_Republic_of_Vietnam_2013.

³⁵⁶ Bui, "Vietnam: Legal Reform and Legal Convergence," pp. 105–86.

³⁵⁷ Nicholson, *Borrowing Court Systems*, pp. 258–60.

³⁵⁸ Nicholson, *Borrowing Court Systems*, pp. 258–60.

³⁵⁹ See other chapters in Ngoc Son Bui, *Legal Reform in the Contemporary Socialist World* (Oxford University Press, 2024), for additional examples of hybrid judicial structures.

developing states, incorporating information on constitutional origins, removal procedures, and corresponding corruption levels and types.

The UK judiciary is formally independent and structured through hierarchical courts, with a strong cultural emphasis on impartiality.³⁶⁰ Corruption is not considered widespread, but the judiciary is aware of integrity risks and has recently introduced measures to address them, though with mixed success. Debate continues regarding the most effective accountability practices.³⁶¹ The Judicial Conduct Investigations Office (JCIO) plays a central role in reviewing misconduct complaints. Final disciplinary responsibility is shared by the Lady Chief Justice and the Lord Chancellor. Removal is available for sufficiently serious misconduct but is uncommon, reflecting the UK's prioritisation of judicial independence alongside judicial discipline.³⁶²

India's judiciary is structured as an independent, hierarchical system culminating in the Supreme Court.³⁶³ Research often highlights frequent personal rather than politically driven corruption.³⁶⁴ Institutional boundaries sometimes appear blurred, complicating accountability.³⁶⁵ The Supreme Court can discipline judges internally, but external removal is only possible through impeachment—a process widely regarded as ineffective or unsuccessful and therefore rarely pursued.³⁶⁶ Limited removal mechanisms make addressing misconduct difficult; while corruption does not dominate the entire system, its presence raises questions about whom the courts ultimately serve and how effectively the judiciary functions.

Nigeria's judiciary is legally designed to function as an independent, hierarchical system headed by the Supreme Court, but in practice it struggles primarily with widespread personal corruption, which sometimes becomes political.³⁶⁷ Scholars describe corruption as a “virus,” highlighting its reach throughout the system.³⁶⁸ Numerous investigative and disciplinary committees exist, including the National Judicial Council (NJC), which is responsible for reviewing misconduct and recommending dismissals. However, these bodies often operate inefficiently and struggle to address widespread low-level corruption.³⁶⁹ Conflicting and overly complex laws also impede accountability efforts.³⁷⁰ Despite efforts to combat corruption, its persistence continues to undermine public trust, electoral confidence, and the perception that courts ultimately serve citizens fairly.³⁷¹

The United States maintains a hierarchical federal judiciary with strong formal safeguards for

³⁶⁰ Berger, “Impeachment of Judges”; Transparency International, Corruption Perceptions Index 2025; Home Office, Assessing the Evidence Base of Domestic Corruption in the UK.

³⁶¹ Le Sueur, “Developing Mechanisms for Judicial Accountability in the UK.”

³⁶² Judicial Conduct Investigations Office, “Judicial Conduct Investigations Office,” *Courts and Tribunals Judiciary*, <https://www.judiciary.uk/related-offices-and-bodies/judicial-conduct-investigations-office/>.

³⁶³ Arghya Sengupta, “In-Tenure Questions: Mechanisms for Judicial Discipline,” in *Independence and Accountability of the Higher Indian Judiciary*, ed. Arghya Sengupta (Cambridge University Press, 2019), pp. 63–99.

³⁶⁴ Sengupta, “In-Tenure Questions”; see also Akhil Gupta, “Blurred Boundaries: The Discourse of Corruption, the Culture of Politics, and the Imagined State,” *American Ethnologist* 22, no. 2 (1995): 375–402.

³⁶⁵ Gupta, “Blurred Boundaries.”

³⁶⁶ Sengupta, “In-Tenure Questions.”

³⁶⁷ Ikhariale, “Independence of the Judiciary”; Sunday Bontur Lugard, “Judicial Corruption as a Self-Inflicted Impediment to the Independence of the Judiciary in Nigeria,” *KAS African Law Study Library* 4, no. 3 (2017): 310–21, <https://doi.org/10.5771/2363-6262-2017-3-310>.

³⁶⁸ Das, “Judicial Corruption.”

³⁶⁹ Constitution of the Federal Republic of Nigeria 1999, s. 292(1)(a)–(b); Third Schedule, Part I, para. 21(b), (d).

³⁷⁰ Das, “Judicial Corruption”; Emmanuel Luka Madaki, “An Analysis of the Legal Framework on Corruption and Its Attendant Effect on Judicial Performance in Nigeria,” *International Review of Law and Jurisprudence* 7, no. 2 (2025): 105–12.

³⁷¹ Waziri B. Adisa, “Judicial Corruption, Institutional Reform, and the Electoral Process in Nigeria,” *Journal of Anti-Corruption Law* 1, no. 1 (2017): 88–106.

independence from the other branches of government.³⁷² However, real-world politics can still influence judicial behaviour, and political pressure has featured prominently in scholarly discussions.³⁷³ The primary mechanism for removing Article III federal judges is impeachment and conviction; internal disciplinary processes cannot themselves remove a judge. The Constitution's "during good Behaviour" clause is not ignored: it provides the basis for life tenure and protects judges from at-will removal, while leaving formal removal dependent on impeachment.³⁷⁴ A Judicial Council of the Circuit of the U.S. courts participates in judicial oversight yet cannot execute removal, and the country promotes anti-corruption efforts both domestically and globally, though internal issues persist.³⁷⁵ Overall, U.S. courts emphasise independence, but the system's reliance on impeachment makes meaningful accountability structurally difficult.

Argentina's judiciary is formally structured as an independent, hierarchical court system, but in practice it experiences significant strains on that independence.³⁷⁶ Scholars note persistent abuse of discretion, often involving misuse of legal reasoning or strategic case manipulation.³⁷⁷ The only formal mechanisms for disciplining or removing judges are impeachment and an external disciplinary body, both of which offer limited enforcement power. This leaves the system vulnerable to executive interference, a long-discussed issue in Argentine judicial politics.³⁷⁸ As a result, corruption concerns often centre on political influence as well as some personal gain, shaping a judiciary that frequently appears to serve shifting political interests rather than the public.

The Philippines operates a hierarchical judicial system designed to be independent, with the Supreme Court at its apex. Judicial discipline is handled internally through rules of court and codes of conduct, while impeachment is the only mechanism for removing Supreme Court justices.³⁷⁹ Lower-court judges may face internal disciplinary action, but external removal options remain limited.³⁸⁰ Research highlights frequent politicisation as well as some personal corruption, including bribery concerns noted by Transparency International.³⁸¹ These issues contribute to instability in public trust and raise questions about whether courts serve impartial justice, broader political dynamics, or themselves; while anti-corruption efforts exist, institutional constraints make thorough accountability challenging.³⁸²

Under the U.S.S.R., officially dissolved in 1991, the judiciary functioned within a strictly hierarchical structure that lacked genuine independence. Courts were effectively subordinated to the legislature and, more importantly, to the Communist Party leadership.³⁸³ Judicial processes were deeply shaped by political priorities

³⁷² U.S. Constitution, art. III.

³⁷³ Alliance for Justice, *Accountable to None: The Urgent Need for Supreme Court Ethics Reform* (Alliance for Justice, 2022), https://afj.org/wp-content/uploads/2023/02/JudicialEthicsReport_Final-2.pdf.

³⁷⁴ Library of Congress, *Constitution Annotated*, "Good Behavior Clause Doctrine."

³⁷⁵ Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364; Lynne Wrennall, "Confronting Judicial Misconduct," *Criminal Justice Matters* 80, no. 1 (2010): 10–11, <https://doi.org/10.1080/09627251.2010.482228>.

³⁷⁶ Gretchen Helmke, *Courts Under Constraints: Judges, Generals, and Presidents in Argentina* (Cambridge University Press, 2005).

³⁷⁷ Edgardo Buscaglia, "An Analysis of Judicial Corruption and Its Causes: An Objective Governing-Based Approach," *International Review of Law and Economics* 21, no. 2 (2001): 233–49.

³⁷⁸ Helmke, *Courts Under Constraints*.

³⁷⁹ Constitution of the Philippines 1987, art. VIII, secs. 1, 6, 11; art. XI, sec. 2.

³⁸⁰ Constitution of the Philippines 1987, art. VIII, secs. 1, 6, 11; art. XI, sec. 2.

³⁸¹ Alejandro N. Ciencia Jr., "From Judicialization to Politicization of the Judiciary: The Philippine Case," in *The Judicialization of Politics in Asia*, ed. Björn Dressel (Routledge, 2012); Transparency International, Corruption Perceptions Index 2025.

³⁸² Björn Dressel, *The Judicialization of Politics in Asia* (Routledge, 2012).

³⁸³ Peter H. Solomon Jr., "The Dynamics of Stalinist Justice: Bureaucratic and Political Pressures on Legal Officials," in *Soviet Criminal*

rather than legal principles, and judges could be removed at the discretion of executive or party authorities. Official disciplinary systems were minimal or largely irrelevant, as adherence to party directives superseded formal rules.³⁸⁴ The Soviet legal system thus demonstrated minimal commitment to the rule of law, with courts ultimately serving political control rather than justice in any autonomous or impartial sense.

Cuba's judiciary retains important features of the Soviet-influenced socialist model, but the 2019 Constitution formally provides that courts are functionally independent and that judges owe obedience only to the law.³⁸⁵ At the same time, the Constitution places the Communist Party of Cuba as the superior driving force of society and the state, while the People's Supreme Court reports to the National Assembly and judges are removed by the bodies that elect them. These features place formal judicial independence within a one-party constitutional order.³⁸⁶ Historical accounts also record bribery and other misconduct within the Cuban criminal justice system.³⁸⁷

China's judicial system is hierarchical and formally codified, but subservient to the Chinese Communist Party, which maintains significant control over legal processes and judicial appointments.³⁸⁸ Lubman (2000) described the courts as operating within a "cage" of political constraints, despite reforms introduced towards commercial-law-related codification.³⁸⁹ Discipline and court organisation are defined by state regulations, but these mechanisms reinforce political supervision rather than judicial independence. While anti-corruption campaigns exist, they also operate through party-led channels, raising questions about transparency and impartiality. Ultimately, Chinese courts largely serve state and party objectives, with limited autonomy. Corruption at the personal and lower levels is somewhat present, largely occurring in individual bribery or abuse of discretion cases.³⁹⁰

Vietnam's 2013 Constitution outlines a judicial hierarchy of courts designed for both criminal and civil cases for the people. By law, judges are independent in adjudication and obey only the law, while Article 4 of the Constitution establishes the Communist Party as the leading force of the state and society. Political influence in judicial decision-making is therefore inherent.³⁹¹ For senior judicial offices, removal powers are divided between the National Assembly and the State President: the National Assembly may remove the President of the Supreme People's Court and approve the removal of Supreme People's Court judges, while the State President exercises removal powers over judges in accordance with Article 88.³⁹² Judicial structure is borrowed heavily from Soviet

Justice under Stalin (Cambridge University Press, 1996).

³⁸⁴ Solomon, "The Dynamics of Stalinist Justice."

³⁸⁵ Constitution of the Republic of Cuba, 2019, arts. 5, 147–50, 154–55, https://www.constituteproject.org/constitution/Cuba_2019; Ngoc Son Bui, "Cuba: Legal Reform and Updating Socialism," in *Legal Reform in the Contemporary Socialist World* (Oxford University Press, 2024), pp. 275–310.

³⁸⁶ Bui, "Cuba: Legal Reform and Updating Socialism," pp. 275–310.

³⁸⁷ Ray Michalowski, *World Factbook of Criminal Justice Systems: Cuba* (U.S. Department of Justice, 1993), <https://bjs.ojp.gov/library/publications/world-factbook-criminal-justice-systems-cuba>.

³⁸⁸ Randall Peerenboom, *China's Long March Toward Rule of Law* (Cambridge University Press, 2002).

³⁸⁹ Stanley B. Lubman, "Bird in a Cage: Chinese Law Reform after Twenty Years," *Northwestern Journal of International Law & Business* 20, no. 3 (2000): 383–424.

³⁹⁰ Ling Li, "Order of Power in China's Courts," *Asian Journal of Law and Society* 10, no. 3 (2023): 490–515, <https://doi.org/10.1017/als.2023.16>.

³⁹¹ Nicholson, *Borrowing Court Systems*.

³⁹² Constitution of the Socialist Republic of Vietnam, 2013, arts. 70, 88, 104.

structures and moulded to reflect Vietnamese culture where necessary.³⁹³ Bribes and other misbehaviour occur with some frequency.³⁹⁴ However, historical, renewed, and increasing Chinese influence has led to continued Confucian moral principles along with increased use of capitalist economics.³⁹⁵

State	Judicial Emphasis	Removal System	Corruption/Influence	CPI
UK	Independent, codified	Impeachment, external disciplinary office	Personal: minimal Political: none	70
→ Nigeria	Independent, codified	Impeachment, external disciplinary office	Personal: frequent Political: some	26
→ India	Independent, codified	Impeachment, internal disciplinary office	Personal: frequent Political: minimal	39
U.S.	Independent, codified	Impeachment, internal disciplinary office	Personal: minimal Political: some	64
→ Philippines	Independent, codified	Impeachment, internal disciplinary office	Personal: some Political: frequent	32
→ Argentina	Independent, codified	Impeachment, internal disciplinary office	Personal: some Political: frequent	36
U.S.S.R.	Served Communist Party	Executive or party removal	Personal: some Political: frequent	N/A
→ Cuba	Serves Leading Party	Executive or party removal	Personal: some Political: frequent	40
→ China	Serves Leading Party, codified	Executive/party removal, internal disciplinary practice	Personal: some Political: frequent	43
→→ Vietnam	Serves Leading Party, codified	Executive/party removal, internal disciplinary practice	Personal: some Political: frequent	41

Figure 1. Summary of Data Collected. Arrows indicate structures drawn from the influencer states above.

³⁹³ Nicholson, *Borrowing Court Systems*, see esp. ch. 6, p. 231.

³⁹⁴ Nicholson, *Borrowing Court Systems*, see esp. ch. 6, p. 231.

³⁹⁵ Bui, "Vietnam: Legal Reform and Legal Convergence," pp. 105–86.

Independent indicates equal and nonpolitical positioning in government; codification indicates hierarchisation and/or establishment of precedent akin to common law. Corruption/Influence is determined based on the qualitative data collected and is indicated first for personal corruption or malpractice and second for political influence. Corruption Perceptions Index score for each state is shown in the final column.³⁹⁶

5. Analysis

5.1. Observations from the Data, Postcolonial Applications, and the Need for Origins

In this section I analyse the data previously collected to find key correlations before determining their implications. The most obvious correlation, denoted in Figure 1, is the alignment between great-power states and states influenced by them in structure. The structure of the judiciary is closely mirrored by the younger, developing states. Cuba's judicial system, for example, is intensely similar to the Soviet system it was derived from: courts hold a subservient position both to the state legislature and the ruling political party.³⁹⁷ This follows the overall trend of Cuba's replicating Socialist Soviet governmental structures beginning in the 1970s. Thus, we can see judicial systems as derivatives of their influencing state's structures, and as part of systemic shifts to mirror great-power states' structures.

This observation can be extended to the removal structures put in place to address corruption among judicial officers. States influenced by the U.S. share similar impeachment requirements and processes as mechanisms for removal; judicial officers in states influenced by the Soviet model were often removable by political or party authorities. In China, despite codification and "guiding cases" being established after independence was achieved, judicial officers are responsible to the executive officer and have little protection from political disapproval.³⁹⁸ Soviet judges, in turn, were accountable to party and state authorities and could be removed by them. Influence by great-power states again has shaped structural realities: removal structures and limits are closely correlated between influencing and influenced states.

Likewise, the chart indicates that types of corruption can be traced from influencer states to those they influenced. The U.S.'s repeated executive intervention and judicial misbehaviour, whether it be administrative or adjudicative, are mirrored by both Argentina and the Philippines, which struggle constantly in similar ways.³⁹⁹ They both struggle with executive intervention and politicisation of cases, as well as smaller misbehaviours which often go neglected under the pretence of judicial independence.⁴⁰⁰ Conversely, the UK literature cited here focuses

³⁹⁶ Transparency International, Corruption Perceptions Index 2025.

³⁹⁷ Bui, "Cuba: Legal Reform and Updating Socialism," pp. 275–310.

³⁹⁸ Benjamin M. Chen et al., "Detecting the Influence of the Chinese Guiding Cases: A Text Reuse Approach," *Artificial Intelligence and Law* 32 (2024), p. 482, <https://doi.org/10.1007/s10506-023-09358-7>.

³⁹⁹ Berger, "Impeachment of Judges"; Constitution of the Philippines 1987, art. VIII, secs. 1, 6, 11; art. XI, sec. 2; Helmke, *Courts Under Constraints*.

⁴⁰⁰ Ciencia, "From Judicialization to Politicization of the Judiciary"; Transparency International, Corruption Perceptions Index 2025; Helmke, *Courts Under Constraints*; Buscaglia, "An Analysis of Judicial Corruption and Its Causes."

more on individual integrity risks than on systemic judicial corruption.⁴⁰¹ This trend can similarly be observed in both Nigeria and India, where the federal state plays a small role in the courts, but corruption on the individual or local level is so extreme that some scholars label it a “virus.”⁴⁰²

Thus, it can be concluded that as states transplant judicial structures and removal practices, so too do they transplant potential forms of corruption, misbehaviours, and other struggles.⁴⁰³ Placing this within a postcolonial conceptualisation, postcolonial independence pushed states to rewrite governmental infrastructure; when states transplanted judicial structures into their own societies, the institutional normative corruption was transplanted as well.⁴⁰⁴ In other words, as judicial structures embedded with issues in influencer states were transferred, so were their issues. Where an imported structure struggles, importing states will continue to struggle until significant changes can be made.

Moreover, where removal structures are lacking, like in the case of the U.S., the removal structures in influenced states will similarly struggle. Consequently, corruption will persist with at least equal rigour. As some scholars and governmental officers have noted, corruption may even worsen in both the influencer and influenced states because a lack of successful removal systems may create a culture of impunity.⁴⁰⁵ In India, for example, Gupta’s broader study of everyday state bureaucracy shows how unequal access to legal and administrative knowledge can create opportunities for officials to extract bribes.⁴⁰⁶ Such dynamics can persist where accountability structures are weak or ineffective.⁴⁰⁷ Overall, therefore, influential states’ problematic structures give rise to inescapable mirrored and amplified corruption, misbehaviour, and other struggles with the judiciary.

Importantly, forms of corruption are not simply replicated exactly by structure-importing states for two key reasons. First, systems are designed for individual societies, and transplanting often ignores political and socioeconomic realities of the receiving societies. Ethnic conflicts and biases, state/regime strength, different values, systems or government structures, existing infrastructure, population and demographics, and history all impact the reception of the system significantly.⁴⁰⁸ This misalignment with replicated structures has consistently worsened corruption. This has been particularly noticeable in India and Nigeria, where weak state capacity and large populations have coincided with high levels of personal—especially financial—corruption among local officials.⁴⁰⁹

Second, even in the original states which created or employed them, judicial structures still have issues and are frequently being improved with the help of a strong state to support the improvements. Without a strong

⁴⁰¹ Le Sueur, “Developing Mechanisms for Judicial Accountability in the UK”; Transparency International, Corruption Perceptions Index 2025; Home Office, Assessing the Evidence Base of Domestic Corruption in the UK.

⁴⁰² Das, “Judicial Corruption”; Gupta, “Blurred Boundaries.”

⁴⁰³ Key transplant research scholarship agrees: see, for example, Daniel Berkowitz, Katharina Pistor, and Jean-François Richard, “The Transplant Effect,” *American Journal of Comparative Law* 51, no. 1 (2003): 163–204, <https://doi.org/10.2307/3649143>.

⁴⁰⁴ For similar postcolonial logics, see Homi K. Bhabha, *The Location of Culture* (Routledge, 1994), and Edward Said, *Orientalism* (Penguin, 2003), who together argue that coloniser structures were reproduced, or mimicked, in colonised states, including the reproduction and distortion of the coloniser states’ struggles and dysfunctions.

⁴⁰⁵ U.S. Congress, Senate, *Congressional Record*, 74th Cong., 2nd sess., April 23, 1936, p. 5934, <https://www.govinfo.gov/content/pkg/GPO-CRECB-1936-pt6-v80/pdf/GPO-CRECB-1936-pt6-v80-2.pdf>; supported and updated by Berger, “Impeachment of Judges.”

⁴⁰⁶ Gupta, “Blurred Boundaries.”

⁴⁰⁷ Gupta, “Blurred Boundaries.”

⁴⁰⁸ Watson, “Introduction to Legal Transplants”; Voigt and Gutmann, “On the Wrong Side of the Law.”

⁴⁰⁹ Gupta, “Blurred Boundaries”; Das, “Judicial Corruption.”

state to replicate these shifts as needed, importing states can be seen as stuck with flawed and inapplicable inherited judicial structures. Viewed through a postcolonial perspective, this combination of contextual mismatch and already-flawed imported systems can create a path dependency towards similar yet amplified corruption struggles.⁴¹⁰ Again, struggles in influencer-state structures will persist in influenced states so long as the structures remain borrowed and accepted.

5.2. Typification in Academia and Different Conceptions of Accountability

Similar structures create similar corruption types. This is far from a new concept, as many scholars have traced these structure-corruption trends. One example maps particularly well onto the Western-oriented dataset used here: Gong (2004) presents a matrix comparing the strength of judicial independence with the strength of judicial accountability, creating 4 types of states characterised by political or personal corruption.⁴¹¹ Figure 2 attempts to incorporate the dataset used here into Gong's matrix:

	Strong Accountability	Weak Accountability
Strong Independence	Characterised by low political and personal corruption	UK → Nigeria, India Characterised by low political but high personal corruption
Weak Independence	U.S. → Philippines, Argentina Characterised by high political but low personal corruption	Characterised by high political and personal corruption *Gong identifies China in this group.

Figure 2. Gong (2004) with this article's dataset overlaid

However, Gong's analysis struggles to apply accurately to the previously socialist states. This is because these states conceive of judicial position and thus political corruption/accountability dynamics differently. States in which the judiciary is completely subordinate to the ruling political party treat political influence in courts differently, so a lack of judicial independence is not necessarily conceptualised domestically as an accountability failure. In other words, where a constitutional system prioritises party leadership over liberal conceptions of judicial independence, political influence may not be categorised domestically as corruption, and accountability

⁴¹⁰ Bhabha, *The Location of Culture*; Said, *Orientalism*.

⁴¹¹ Ting Gong, "Dependent Judiciary and Unaccountable Judges: Judicial Corruption in Contemporary China," *China Review* 4, no. 2 (2004): 33–54, <https://www.jstor.org/stable/23461883>.

mechanisms may target different forms of misconduct. This reality demonstrates that mainstream academia takes a liberal-centric approach to judicial law and fails to address non-liberal governments like that of the socialist states worldwide.⁴¹² Focusing on structural origins only partially addresses this issue, as corruption/accountability dynamics are still perceived very differently in non-liberal states than they are in mainstream academia. In addition to focusing on origins, then, the strength and use of removal structures to deal with corruption and misbehaviour could be employed instead of the mainstream approach of ‘accountability’ featured in Gong’s matrix.

Still, Gong’s matrix offers us a foundational context in which we can categorise states by judicial structures and forms of corruption combined. Taking Gong’s typification and incorporating what our data reveals about postcolonial path dependencies and corruption persistence, we can reconstruct the matrix more accurately. Replacing strength of independence with the structural types and their origins (i.e. Socialist Soviet influence on Cuba’s party-supportive judiciary) would increase accuracy and applicability of Gong’s matrix. Additionally, shifting from strength of accountability to strength of removal processes would allow for value differences in non-liberal states and still account for corruption differences. Figure 3 is a matrix incorporating these shifts and the resulting states’ locations within it. Each proposed resulting category would bear different trends in corruption, removal, and effective government.

	High accountability (strong structures or common removals)	Low accountability (weak structures or uncommon removal)
British Influence		UK, Nigeria, India
American Influence	Argentina	U.S., Philippines
Socialist Soviet Influence	U.S.S.R.	
Socialist Chinese Influence	Vietnam	China

Figure 3. Matrix: rows – structural origins, columns – strength/frequency of removal.

Regardless of typification, the correlations seen in the data indicate that shifting away from a liberal-centric perspective would improve the field of judicial law academia by assisting with accuracy and applicability of existing theories while creating space for new ones.

The boxes left blank in Figure 3 are perhaps incredibly telling. Where the British have incredibly little accountability and rarely hold mixed influence with a higher-accountability state, it is difficult to find states with high accountability rates, but which use the British as a template for their judicial system and accountability. For the other end of this scale, the U.S.S.R.’s incredibly high removal rates transferred to many influenced states,

⁴¹² Gong himself deems Chinese courts’ political influence integral to China’s rampant corruption; Bui, *Legal Reform in the Contemporary Socialist World*, helps put this into perspective by outlining how socialist states conceive of corruption largely in the personal sense.

making it difficult to find states influenced by the Soviets but that do not have high removal rates or strong removal structures. It should be noted, however, that not every state could be included in my study, and therefore there may be states which do belong in these categories. Regardless, difficulty finding them is indicative of just how impactful an influencing state can be on the structures and struggles of an influenced and developing state.

Also important to observe is the complexity of hybrid cases. Vietnam, for example, has been pulled strongly towards higher removal rates because of its drawing on Soviet removal practices, despite also incorporating other influences. The table helps to illustrate the hybrid cases I explored in my in-depth case study of Vietnam. Many developing states today exist with hybrid transplantation at the core of their judiciaries, complicating a clear vision of how transplantation of each structure impacts developing states.

5.3. Impact on Democracy and Effective Government

Thus far, I have demonstrated two concepts: first, incorporating structural origins in judicial law is necessary for understanding corruption and accountability trends because of transplanted flawed removal structures. Second, mainstream academia approaches judicial law with a liberal-centric approach that could be improved by shifting from traditional accountability perspectives towards the strength and use of removal structures. This section aims to assess the real-world impacts of structural transplantation and the resulting patterns of corruption that we've established so far. We can begin by assessing the levels of trust in various groupings of states. In Vietnam, for example, the frequency of bribery and inherent political influence frequently causes individuals to abandon the use of courts because they are too costly and are not expected to yield fair results.⁴¹³ Thus, regardless of how well the judicial system is designed, its politicisation and failure to carry out discipline against corruption inhibit the effective use of the courts. Furthermore, weak disciplinary and removal structures, as previously discussed, tend to create spaces of acceptance for personal corruption especially, constructing a cycle of reproduced corruption and struggle.⁴¹⁴

These struggles can increasingly erode the capacity of states to achieve their goals and support their citizens. In many cases of bribery, citizens are unable to benefit from courts and struggle more from needing to bribe or becoming indebted to local judicial officials.⁴¹⁵ This indicates that courts may be less able to apply and enforce national law because of a lack of opportunity to do so, and that national funding and effort put into the court system have little effective positive impact on the citizens they are intended to support.

Secondarily, Latin America's frequent abuse of discretion, especially in Argentina, indicates that a lack of established discipline and removal systems erodes national efforts to create common law, practice, and resolutions.⁴¹⁶ This misuse of cases can lead to contradictory court decisions and thus a lack of coherent practice and resolve among courts nationally.⁴¹⁷ These cases all harm government efficacy in terms of achieving goals and

⁴¹³ Nicholson, *Borrowing Court Systems*, see esp. ch. 3, p. 82.

⁴¹⁴ U.S. Congress, *Congressional Record*, p. 5934; see also Berger, "Impeachment of Judges," pp. 1515–16.

⁴¹⁵ Nicholson, *Borrowing Court Systems*, see esp. ch. 3, p. 82.

⁴¹⁶ Buscaglia, "An Analysis of Judicial Corruption and Its Causes."

⁴¹⁷ Buscaglia, "An Analysis of Judicial Corruption and Its Causes"; see also Adisa, "Judicial Corruption, Institutional Reform, and the Electoral Process in Nigeria"; Chen et al., "Detecting the Influence of the Chinese Guiding Cases," p. 482.

serving citizens; additionally, democracy is limited by the normalisation of practices like corruption, political influence, and adjudicative indecision.

The lack of effective judicial and removal structures, further, creates environments in which states struggle to put positive changes into practice. Especially in the weaker states which inherit deficient structures, coercing all the judicial officers to cooperate with new leadership and put into practice new decisions becomes increasingly difficult to execute.⁴¹⁸ Thus, even decisions voted on by the public, such as leadership or a specific new law, may be harder to realise and implement for the populace that voted for them. Furthermore, a lack of judicial regulation, discipline, or removal structures may mean that judicial officers can choose to ignore even longstanding law and tradition in their courts, as little can be done to discipline such behaviour.⁴¹⁹ Some judges even lie about education levels and operate as officers without adequate qualifications to do so; these problems, largely neglected, may cause the rule of law to be ineffective or even completely contradicted at the local judicial level.⁴²⁰

Finally, efforts to maintain judicial independence usually result in a lack of democratic input in judicial officers' tenure, discipline, and decision-making. A lack of accountability in higher-level officers is usually—intentionally or not—maintained for the protection of independence from political turmoil or conflict, as well as from majoritarian or passionately driven decision-making by the populace.⁴²¹ However, especially when the misbehaviour is found in higher-level officials, these structures create government and democratic efficacy issues because it is so difficult to remove them regardless of public opinion and disciplinary action against them is all but non-existent.⁴²²

One well-known recent case concerns Justice Clarence Thomas in the U.S.: Senate investigations and public reporting identified multiple undisclosed gifts and trips, generating substantial criticism and renewed calls for enforceable Supreme Court ethics rules.⁴²³ Thomas has amended financial disclosures but has remained in office; the public has no direct role in disciplining a Supreme Court Justice or ending a Justice's tenure, and formal removal depends on impeachment and conviction.⁴²⁴ Thus, the controversy illustrates the distinction between disclosure and ethics enforcement on the one hand, and formal judicial removal on the other, as well as the democratic accountability concerns that can arise from life tenure.

5.4. Correlation and Causality

This article has employed largely correlative analysis: both these great-power, influential states and their developing, influenced counterparts demonstrate remarkably similar struggles within their judicial branches of government depending on the accountability measures transferred. Here, I would like briefly to outline two

⁴¹⁸ Adisa, "Judicial Corruption, Institutional Reform, and the Electoral Process in Nigeria."

⁴¹⁹ Chen et al., "Detecting the Influence of the Chinese Guiding Cases."

⁴²⁰ Nicholson, *Borrowing Court Systems*, see esp. pp. 258–60.

⁴²¹ Alexander Hamilton, "Federalist No. 78," in *The Federalist Papers* (1788).

⁴²² Berger, "Impeachment of Judges."

⁴²³ United States Senate Committee on the Judiciary, "Senate Judiciary Committee Releases Revealing Investigative Report on Ethical Crisis at the Supreme Court," December 21, 2024, <https://www.judiciary.senate.gov/press/releases/senate-judiciary-committee-releases-revealing-investigative-report-on-ethical-crisis-at-the-supreme-court>.

⁴²⁴ U.S. Constitution, art. III; Library of Congress, *Constitution Annotated*, "Good Behavior Clause Doctrine."

points: first, the unique and persistent issues in judicial structures are sometimes inconsistent with the other struggles of each state. For example, most of Nigeria's issues are rooted in militarisation, ethnic rivalry, and politicisation, but its judicial branch struggles more significantly with individual instances of personal corruption, mirroring the primary struggles of the influential UK judiciary.⁴²⁵ This helps to reveal that issues faced in the judiciary are not only constructed by the other struggles of the state, but also crucially linked to the transfer of specific gaps in judicial design. Consequently, we can rule out at least one potential source of simple coincidence in the cases.

In this paper I've looked to demonstrate both the specific correlations that we have seen as well as the mechanisms by which these correlations may come to exist. Determining whether this causal relationship is firmly established remains a difficult task. Scientific hypothesis testing or experimentation isn't typically possible on an international scale when dealing with these types of issues: case studies are all unique, there is no control group, and the evidence relies on unique phenomena like (post)colonialism. What can be concluded, as I have endeavoured to demonstrate here, is that judicial structures are systemic and transferrable, and have significant gaps and weaknesses often overlooked as sources of state struggle. While far from exhaustive, this paper has hopefully served as an illustration of how these factors can and do interact in the postcolonial world. Academia must give far more weight to the impact of the judiciary, and of the transfer of structures, if it hopes to understand the root causes and lived experiences of this correlation.

Conclusion

Contemporary structural faults like lack of independence—or too much independence—and their transplantation into developing societies routinely cause a variety of different types of corruption across the world. Solving these issues requires two primary approaches: individual structural improvements which bear context-sensitive mechanisms, especially removal mechanisms, and overall systemic changes decreasing postcolonial influence and improving developing states' situations with real sustainable development. However, without shifting perspectives away from liberal centrism, supremacy, and heroism, effective systemic improvements aren't likely. Further, without long-standing sustainable infrastructures, developing societies cannot expect to shift the outcomes of imported structural faults because widespread effective structural change is so difficult. Despite the difficulties with solving these issues, however, addressing corruption where possible is fundamental to invoking real systemic change. Without effective and accountable courts to execute and adjudicate responsibly, systemic changes lose validity and ground every day. Starting reforms in more powerful and established states may help to safely test solutions to structural faults from which struggling states might learn while systemic change remains impractical.

In this essay I have strived to locate some of the biggest trends in judicial structural development and corruption, highlighting deficient judicial structures and removal mechanisms, the process and impacts of

⁴²⁵ Lugard, "Judicial Corruption as a Self-Inflicted Impediment"; Transparency International, Corruption Perceptions Index 2025; Home Office, Assessing the Evidence Base of Domestic Corruption in the UK.

structural transplantation for the judiciary, and the resulting issues in government efficacy. I evaluated cases qualitatively and quantitatively in context-sensitive detail and constructed a dataset with 10 states from across the globe in order to analyse these factors with a diverse and accurate approach. My findings included confirming the relevance of transplantation in forming both judicial structures and removal mechanisms as well as corruption types. I also found liberal-centric approaches in mainstream academia on judicial law and looked for ways to resolve this with a context-sensitive and more widely applicable approach. Finally, I used examples from the cases that demonstrated various ways in which structural faults and resulting corruption can harm government efficacy through diminished trust, efficiency, and execution of law. Understanding judicial law is key to resolving government issues of all kinds effectively, as courts are crucial in supporting the rule of law and smooth governance, as well as supporting everyday people in interacting with the government.

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