






## Trials, lustration, and clean elections: the uneven effects of transitional justice mechanisms on electoral manipulation

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# Trials, lustration, and clean elections: the uneven effects of transitional justice mechanisms on electoral manipulation

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## ABSTRACT

Transitional justice aims to promote democratization, but previous research has found that it has mixed effects. We address this puzzle by focussing on how transitional justice affects a necessary condition for democracy: clean elections. We test for the effects of four transitional justice mechanisms – truth commissions, lustration policies, amnesties, and trials – on two different types of electoral manipulation, using data from 187 post-transition elections held in 63 countries around the world from 1980 to 2004. We find that post-transition trials limit illegal forms of electoral manipulation, such as vote-buying and falsification of results, but have no effect on legal forms of manipulation. By contrast, lustration policies limit legal manipulation tactics, like intimidation and harassment of opponents by the security services, but do not affect illegal tactics. By showing that different aspects of transitional justice can have varying influence on electoral integrity, this project improves understanding of the mechanisms that link transitional justice and democratization.


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**KEYWORDS** Transitional justice; electoral manipulation; trials; lustration; democratization

## Introduction

After toppling dictatorships or ousting abusive regimes, countries must decide how to address past crimes, heal present wounds, and ensure peace. This is difficult even for established democracies, so post-conflict experts have developed a set of approaches and philosophies – known as transitional justice – to help countries democratize. Despite the global use of transitional justice, few systematic studies investigate whether transitional justice meets its goals. Recent quantitative research examines the connection between transitional justice and democracy, but empirical results are mixed, and causal connections between transitional justice and democratization remain under-examined. We fill this gap by analysing how four specific transitional justice mechanisms – lustration, trials, truth commissions, and amnesties – affect electoral integrity, a necessary condition for democratization. In particular, this article tests how transitional justice mechanisms affect the prevalence of legal and illegal types of electoral manipulation in post-transition elections.

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None of the four forms of transitional justice discussed in this article is consistently associated with improved democratic quality.<sup>1</sup> This is puzzling, since transitional justice aims to help countries democratize. To address this puzzle, we examine the effect of transitional justice on electoral integrity rather than overall democratization. While democracies take many forms, free and fair elections are a necessary condition for democratic governance. If transitional justice does not influence this foundational element of democratization, its value to transitional societies may need to be reassessed.

Drawing on the transitional justice and electoral manipulation literatures, this article theorizes that individual transitional justice mechanisms affect electoral manipulation differently. Specifically, it argues that lustration efforts help prevent legal pre-election manipulation, while trials reduce illegal electoral manipulation. We expect lustration to restrict legal electoral manipulation by removing entrenched elites from office, reducing the former ruling party's influence over security services, limiting the ability of antidemocratic forces to bias electoral rules against opposing parties, and giving reformers opportunities to liberalize policies. Trials, by contrast, should reduce illegal forms of election manipulation, such as ballot-rigging, by signalling judicial strength and indicating that law-breakers can be held accountable. The two other transitional justice mechanisms we examine – truth commissions and amnesties – do not curtail illiberal elites' opportunities and incentives for electoral manipulation like lustration and trials do, so we do not expect them to improve election quality. These predictions are tested using ordered logit models to analyse data from 187 post-transition elections in 63 countries around the world from 1980 to 2004.

This article contributes to the literatures on transitional justice and electoral manipulation. Although previous studies have found mixed relationships between transitional justice and democratization, they do not closely investigate the causal mechanisms that underpin these results.<sup>2</sup> We help fill this gap by showing that some transitional justice mechanisms improve electoral integrity, a foundational element of democracy, while others do not. This article also contributes to an emerging literature on the causes and effects of different electoral manipulation tactics.<sup>3</sup> By showing that transitional justice mechanisms have complex effects on electoral manipulation, these results suggest that decision-makers pursuing free and fair elections would be better served by some transitional justice mechanisms than others.

This article proceeds in five sections. First, it presents literature on the effects of transitional justice and the determinants of electoral manipulation. Second, it discusses the theory. Third, it presents the data and methods. Fourth, it reviews the findings, discusses the results, and suggests avenues for future research.

## **Transitional justice and electoral manipulation**

By examining the relationship between transitional justice mechanisms and electoral integrity, rather than assessing the effects of transitional justice on the wide-ranging process of democratization, we move one step down on the “ladder of abstraction”.<sup>4</sup> This helps avoid aggregation errors in theory and measurement. The contradictory results and conflicting theories in transitional justice literature can be better understood if some transitional justice mechanisms have positive effects on certain aspects of democratization and no effect (or a negative effect) on others. By focussing on one basic aspect of democracy – free and fair elections – this study illuminates specific conditions under which transitional justice mechanisms foster democratization. In this section, we

show that there is no consensus on the effects of four major transitional justice mechanisms on democratization, and we discuss how analysing the effect of transitional justice on electoral integrity helps explain some of these discrepancies.<sup>5</sup>

Although truth and reconciliation commissions are believed to promote democracy,<sup>6</sup> a countervailing view argues that they neither build up the rule of law nor demobilize potential anti-democratic spoilers, because they produce less accountability for perpetrators than post-transition trials do, while failing to offer the full immunity provided by amnesties.<sup>7</sup> Although many qualitative case studies document the importance of truth commissions for democratization, statistical analyses<sup>8</sup> and other qualitative studies<sup>9</sup> produce less encouraging results. Despite being a paradigmatic example of transitional justice, current research shows that truth commissions do not have a clear relationship with democratization.

Like truth commissions, post-transition trials have been shown to have both positive and negative effects on democratization. Trials of human-rights abusers and authoritarian-regime officials have been linked to improved human rights and democracy,<sup>10</sup> and the causal mechanism seems clear: prosecuting perpetrators demonstrates respect for the rule of law, signals an end to impunity, and shows that the new state will not continue the old state's abuses.<sup>11</sup> Indeed, the mere fact that a state is holding such trials is a positive signal about a state's investments in and the professionalization of its judiciary.<sup>12</sup> Proponents of trials usually suggest two ways that trials aid democratization: by deterring future potential perpetrators and by cementing human rights norms and respect for the rule of law.<sup>13</sup> Nevertheless, other researchers warn that trials could exacerbate societal tensions and cause those at risk of prosecution to resist democratization.<sup>14</sup>

The relationship between amnesties and democratization is also unclear. Because amnesties are seen as countenancing abuses and emboldening perpetrators, they often raise objections from human rights activists. Proponents counter that although amnesties permit perpetrators to remain in public life, they assist democratization by keeping spoilers from derailing early democratization efforts.<sup>15</sup> Some researchers have found positive associations between amnesties, human rights, and democratization,<sup>16</sup> while others identify negative relationships.<sup>17</sup> Still others argue that the effect of amnesties depends on the amnesty – amnesties that shield perpetrators probably do not help democracy, and they offer few incentives to stop manipulating elections, but amnesties aimed at getting combatants to negotiate or dictators to resign may be beneficial.<sup>18</sup>

Finally, there are also conflicting theories about whether lustration aids democratization.<sup>19</sup> Lustration can be used as a tool of party politics, as when it promotes one group's political agenda over another's, but it can also be used to boost civilians' faith in governmental personnel and demonstrate commitment to the rule of law.<sup>20</sup> The type and severity of lustration also help determine its effect on democratization.<sup>21</sup> Extensive lustration empowers reformers but embitters former regime supporters, while milder lustration programmes are less likely to anger members and supporters of the former regime by letting them occupy positions where they can delay reforms and retain patronage networks. Furthermore, lustration may be an effect of democratization, not a cause.<sup>22</sup>

In sum, the association between democratization and the four main transitional justice mechanisms is contentious. One way to help resolve these discrepancies is to focus on electoral integrity. Electoral integrity – the adherence to agreed-upon norms

and standards of conduct throughout the electoral cycle – influences attitudes towards the legitimacy of regimes, individual behaviours like activism, large-scale behaviours like mass protest, and democratic consolidation.<sup>23</sup> Consequently, since transitional justice mechanisms are intended to promote democracy, it is important to understand how they affect electoral integrity.

### Theory: effects of transitional justice on legal and illegal manipulation

Transitional justice mechanisms are rarely aimed at curbing electoral manipulation. Truth commissions, trials, amnesties, and lustration efforts are usually responses to major human rights abuses, not electoral fraud. In order to understand what effect transitional justice has on manipulation, and thus on democratization, we follow existing literature on the causes of electoral manipulation. In order for a transitional justice mechanism to have an effect on electoral manipulation, it must alter the incentives to tamper with elections in at least one of three ways: by reducing the benefits of manipulation, increasing the risks of manipulation, or raising the logistical costs of manipulation. Below, we define legal and illegal electoral manipulation, identify sources of variation in the severity of manipulation, and analyse the effects of four transitional justice mechanisms on different types of manipulation.

Electoral manipulation comes in many forms, ranging from invalidating election results to restricting the resources available to opposition parties.<sup>24</sup> Birch<sup>25</sup> divides these tools into three categories: manipulation of electoral institutions, manipulation of vote choice, and manipulation of election administration. The first category relies on legal tactics, while the other two categories are almost always at least *de jure* illegal. Those who engage in illegal forms of manipulation risk prosecution even in countries where rule of law is relatively undeveloped.<sup>26</sup>

In the first category, governing parties may alter the rules of the electoral game to favour incumbents, perhaps through denying suffrage to segments of the population, gerrymandering, and restricting opposition access to financing and other resources.<sup>27</sup> Such legal manipulation relies on creating and implementing public, formal rules that bias election results in the ruling group's favour. Elites prefer these tools, because they are relatively cheap to implement in terms of organizational and regime legitimacy costs.<sup>28</sup> Other legal tools can also be used against the opposition, including extraordinary tax inspections, probes by the police, and arrests. By contrast, manipulating vote choice and election administration is almost always illegal. This type of manipulation can include vote-buying and voter pressure in the former category, and ballot-stuffing, multiple voting, and ballot falsification in the latter.

A growing literature has identified three considerations that illiberal elites must weigh when deciding whether to engage in electoral manipulation: the logistical difficulty of implementing a manipulation effort, the risk that manipulation efforts will be exposed, and the benefits to be gained through manipulation. With regard to benefits, electoral manipulation has multiple effects that privilege ruling parties. Fundamentally, it is a tool incumbents use to attempt to ensure victory at the polls.<sup>29</sup> However, it can also signal the ruling party's institutional dominance,<sup>30</sup> thereby attracting ambitious politicians, preventing elite splits,<sup>31</sup> and encouraging compliant behaviour from voters, bureaucrats, and others.<sup>32</sup> Pre-election forms of manipulation, such as legal limits on opposition access to the media, can limit the effective number of political parties, reducing electoral risk for the dominant party.<sup>33</sup> Institutional features, such

as the electoral system,<sup>34</sup> the level of economic corruption,<sup>35</sup> and the competitiveness of the election, also condition these benefits.<sup>36</sup> Factors affecting the logistical costs of manipulation include education and poverty levels,<sup>37</sup> population size and density,<sup>38</sup> and state influence over economic sectors that represent large numbers of workers.<sup>39</sup>

Finally, the severity of electoral manipulation is also tied to how likely it is that manipulation will be discovered and the potential costs of discovery for those who engaged in manipulation. Independent government institutions, including courts and election commissions, can expose manipulation and impose punishments. Consequently, manipulation usually increases when the ruling party co-opts such institutions.<sup>40</sup> Similarly, the absence of independent election-monitoring organizations makes illegal manipulation likelier<sup>41</sup> by reducing this strategy's potential costs,<sup>42</sup> and the level of local political competition can influence incumbents' tactical choices, with increased levels of administrative manipulation occurring in less competitive areas and increased levels of vote-buying occurring in more competitive areas.<sup>43</sup> The costs of electoral manipulation also increase when a large, united opposition threatens to protest the election's outcome.<sup>44</sup>

Both lustration and trials affect the costs and benefits of manipulation, albeit in different ways. By investing in the judiciary and sending a signal of accountability and judicial independence, post-transition trials increase the likelihood that *illegal* forms of manipulation will be punished, thereby raising their logistical and legitimacy costs. However, these signals about the judicial system do not influence legal forms of electoral manipulation, which courts cannot punish.

South Korea provides one example of a trial that signalled new democratic norms and repudiated previous electoral manipulation. In 1996, former South Korean presidents Chun Doo-hwan and Roh Tae-woo were tried for graft, mutiny, and treason. Chun was accused of taking bribes totalling \$282 million while president, and, in addition to spending millions on legislative elections in 1981, 1985, and 1988, he financed the 1987 presidential election, distributed \$64 million to various domestic politicians, and spent \$100 million trying to construct a political party that would be loyal to him alone.<sup>45</sup> The trials, which yielded a commuted death sentence for Chun and prison for Roh, were widely seen as an attempt to bolster South Korean democracy before upcoming legislative elections.<sup>46</sup>

Though post-transition trials may target only the worst perpetrators of human rights abuses, they have a long-lasting knock-on effect on electoral manipulation. Post-transition trials signal that the government will enforce the rule of law and demonstrate an investment in judicial strength. This raises the likelihood that future violations of citizens' rights will lead to criminal charges and trials. Put simply, "the main mechanism through which prosecutions lead to improvements in human rights practices is by increasing the costs" for officials.<sup>47</sup> This logic applies to many criminal activities,<sup>48</sup> and we apply it to illegal acts of electoral manipulation by arguing that trials increase the costs of electoral manipulation. Even if convictions are not forthcoming, trials still help establish accountability norms and indicate that illegal acts will be prosecuted.<sup>49</sup> Trials also signal that incumbents might not be able to protect agents who break laws for the ruling party. Judicial independence reduces political leaders' ability to shield themselves and their allies from prosecution for illegal activities.<sup>50</sup> This lack of protection and the threat of prosecution reduce the attractiveness of certain electoral manipulation tactics.

Crucially, trials have this deterrent effect only for *illegal* forms of electoral manipulation – legal attempts to bias the rules of the game are outside a court’s purview.<sup>51</sup> Because holding trials raises the potential costs of engaging in illegal forms of electoral manipulation, countries that have employed trials should have lower rates of illegal electoral manipulation than countries where trials did not occur. The use of trials should not affect the incidence of legal electoral manipulation.

H1: Countries that have held post-transition trials will have lower levels of illegal electoral manipulation than countries that have not held trials. Trials will have no effect on legal manipulation.

Lustration laws regulate “the access of members of the former repressive apparatus [in an authoritarian regime] to public positions in the new democracy”, primarily in public administration and the military.<sup>52</sup> New governing coalitions in a democratizing country face administrative and political challenges from inherited personnel in the security services, military, tax authorities, and national and regional administrations. To the extent that these individuals belong to old-regime patronage networks, enjoy power and privileges based on current institutions, or feel loyalty to the old regime, they may obstruct reform or privilege the former ruling party.<sup>53</sup>

In this study, we consider only democratizing cases. Consequently, our theory and results apply only to cases in which parties engaging in lustration are political reformers; we are not examining cases in which lustration is used to consolidate an authoritarian system. Lustration can affect electoral manipulation in our cases in multiple ways. By removing potential anti-democrats from the security services and regulatory authorities, lustration reduces the availability of legal forms of manipulation, including state-sanctioned intimidation and limits on opposition campaign freedom. If new officials in the administration and security services are unwilling or unable to countenance such actions, those who wish to intimidate voters or candidates cannot easily do so. Instead, they have to use more costly and complex tools, perhaps by bribing lower-level officials or outsourcing intimidation to private militias. These options involve organizational difficulties, legitimacy costs, and principal–agent problems not associated with the intimidation strategies available before lustration.

In post-communist Czechoslovakia, for example, pro-lustration forces argued that lustration would improve democracy in part by ensuring a fair political structure.<sup>54</sup> Removing certain holdover politicians from office and/or banning them from certain posts was seen as a way to take power from former regime members who were complicit in human rights abuses, constructing a criminal bureaucracy and government, and controlling patronage networks that perpetuated injustices.<sup>55</sup> David<sup>56</sup> quotes Stefan Bačinsky, the head of the new Czechoslovak Security Service in 1991, as saying that people involved in the corrupt practices of the old regime “certainly have the right to go with us to build the democratic society. But I am convinced they should not lead us.”<sup>57</sup> Thus, lustration was intended to usher in people who would create a new, efficient, trustworthy system. After the Velvet Divorce, the Czech Republic continued with lustration and, although the Czechoslovak law was applied unevenly, it largely achieved its desideratum of keeping staunchly illiberal forces from important posts.<sup>58</sup>

Because lustration breaks up patronage networks of old-regime supporters within the state, it raises the organizational costs of legal forms of manipulation and makes it likelier that such activities will be exposed. As a result, lustration is expected to reduce the severity of legal forms of electoral manipulation. However, even if

removed from political power, networks of former officials can reconstitute themselves into business ventures, political parties, and criminal networks.<sup>59</sup> These new networks may be able to illegally influence elections. For example, ballot-tampering can be done at the precinct level<sup>60</sup> by individuals with limited ties to the governing party, and activities like vote-buying are often performed by party activists.<sup>61</sup> As a result, we predict that lustration will not affect illegal forms of manipulation.

H2: Countries that have implemented lustration efforts will have lower levels of legal electoral manipulation than countries that have not used lustration. Lustration will have no effect on illegal manipulation.

Amnesties – which retroactively pardon people accused or convicted of crimes ranging from human rights violations to protesting a dictatorial regime – are likely to have an ambiguous effect on electoral manipulation. Amnesties can create space for a democratic transition by preventing reactionary responses from authoritarian spoilers.<sup>62</sup> By hastening democratic transition and helping bring reformers to power, they may increase the cost of committing electoral manipulation in future elections. However, by leaving agents of the prior regime in positions of power, they may preserve those actors' ability to legally or illegally tamper with elections. In other words, amnesties are likely to have two opposing influences on electoral manipulation, by increasing exposure risk and potential legitimacy costs on the one hand, but keeping logistical costs relatively low on the other. As a result, we do not expect a consistently positive or negative effect for amnesties.

Truth commissions fail to meet any of the three criteria that affect electoral manipulation. Because truth and reconciliation commissions are backward-looking, temporary, and usually designed to exempt participants from prosecution, they do not raise the likelihood that electoral manipulation will be discovered and punished in the way that trials do. For the same reasons, truth and reconciliation commissions do not make manipulation harder to organize or increase the legitimacy costs of manipulation. Lastly, they do not change the relative benefits of manipulation tactics for incumbents. While truth commissions may last for years, they do not necessarily have enduring reformative effects on institutions, alter the makeup of the elite, or invest in the judiciary.

H3: Truth commissions and amnesties will have no effect on legal or illegal electoral manipulation.

## Data and methods

This theory is tested using data from two existing datasets. The Data on International Election Monitoring (DIEM) dataset records election-observation missions' assessments of the quality of elections on a variety of dimensions, and it provides the dependent variables for this study.<sup>63</sup> We selected the DIEM dataset, which is widely used when studying electoral manipulation, because of its broad temporal and geographic coverage (including national legislative and executive elections in 108 countries from 1980 to 2004) and because it measures specific forms of electoral manipulation. These include legal pre-election cheating, such as media and campaign restrictions, and illegal election-day forms of manipulation, such as ballot-stuffing and vote-buying. DIEM largely excludes consolidated democracies, where elections are less frequently monitored. This is appropriate given the theoretical focus of our project.



Though some transitional justice efforts take place well after democracy is consolidated, our concern is whether or not such efforts aid in democratic consolidation by helping improve electoral integrity. Post-consolidation transitional justice efforts will be uninformative on that score, given that high electoral integrity is often a definitional feature of consolidated democracy. In addition, research on late transitional justice efforts suggests they are aimed at improving deeper aspects of democracy, including social trust.<sup>64</sup> Despite this constraint, there is wide variation in our dependent variables (see online Appendix B), due to widespread acceptance of the election-monitoring norm (even among election-manipulating governments).<sup>65</sup>

Most of the explanatory and control variables are drawn from the Transitional Justice Data Base (TJDB), which records all trials, truth commissions, amnesties, reparations, and lustrations used in the world between 1970 and 2007<sup>66</sup> (we also employ updated, though not yet finalized, data from the Transitional Justice Research Collaborative as a robustness check in the online appendix).<sup>67</sup> The TJDB records transitional justice mechanisms in societies that have undergone a liberalizing transition (operationalized as a positive shock to their Polity IV score); consequently, the theory and results apply to elections in post-transition hybrid regimes and democracies, not to transitions from one authoritarian regime to another. We combine the two datasets to test our hypotheses on the countries in the TJDB dataset that are also in DIEM. Several control variables from the TJDB are also used. Finally, we include GDP data from the World Bank, a latent judicial independence measure, and data on the transition type.

The unit of observation in DIEM is the election-observation mission, meaning there are multiple observations per election in cases where multiple groups monitored the election. To remove these duplicate observations, the dataset is restricted to only the data generated by the observation mission with the largest number of observers, because these missions likely gathered the most comprehensive, representative data.<sup>68</sup> In the TJDB, the unit of observation is the transition. Since the primary concern is determining the effect of transitional justice mechanisms on election quality in transitional cases, our analysis excludes elections that occurred before the transition date marked in the TJDB. This prevents measuring the same country under radically different institutional circumstances. The start and end dates for each transitional justice mechanism employed are also recorded. Of course, transitional justice mechanisms will affect the electoral process only if their start date precedes the election, so the relevant transitional-justice dummy variables, discussed below, are coded as one if the mechanism began before the election being observed, and zero otherwise. Similarly, transitional justice mechanisms are not included if they happened before the democratic transition. This ensures that the analysis measures the quality of post-transition elections following the initiation of the transitional justice measure recorded by the TJDB and minimizes confusion about the direction of causality.

### **Dependent variables**

The analysis examines the effects of various transitional justice mechanisms on two types of electoral manipulation. Both dependent variables are taken from DIEM and range from zero (no problems) to three (major problems). First, *pre-election cheating* evaluates forms of electoral manipulation that are legal even though they bias the election in favour of one party. This category includes clientelism, restrictions on the media,

or limitations on campaign freedom prior to election day. The variable also includes pre-election voter intimidation, which sometimes involves illegal methods but mainly includes legal forms of intimidation, such as tax inspections, fines, and arrests. As a result, this is an important aspect of legal manipulation to include in the dependent variable. Second, *election-day cheating* refers to explicitly illegal manipulation that takes place at the time of the election. This includes ballot stuffing, vote padding, vote buying, multiple voting, and illegal intimidation (an example is having unauthorized monitors in the polling place). Since each dependent variable takes on four ordered values, the data are analysed using ordered logit models.

### Explanatory variables

All of the explanatory variables are dummy variables that record whether a particular transitional justice mechanism began before the election in question; the definition of each mechanism is given by the Transitional Justice Database.<sup>69</sup> *Trials* are marked in cases where a court holds alleged perpetrators of human rights violations criminally accountable and issues a verdict. *Truth commissions* are defined as temporary, official institutions charged with investigating human rights abuses. *Amnesties* occur when the government announces that alleged (or actual) perpetrators of human rights abuses will either not be prosecuted or will be pardoned. Finally, *lustration policies* purge or vet individuals in official positions and sometimes ban them from office.<sup>70</sup> In all cases, the variables are coded as one if the transitional justice mechanism has begun before the election, even if it has not yet concluded. Our expectation is that the beginning of a trial or the passage of a law is itself a signal of government intent, even if implementation is delayed. Table 1 shows the correlation coefficients for the four variables; the largest correlation – between trials and truth commissions – is only 0.25. Finally, it should be noted that our binary coding scheme does not capture the level or intensity of the transitional justice mechanism. While future work might address this question using more granular data, this blunt approach offers a tougher test of the hypothesis. If, for example, “weak” lustration laws are less effective at constraining legal manipulation than “strong” lustration laws, our coding scheme should weaken the correlation between lustration and legal manipulation by treating the two types as equivalent. This makes it harder to observe our predicted outcome.

### Control variables

This article utilizes the same control variables as Olsen et al.<sup>71</sup> in their study of transitional justice mechanisms and democratic consolidation. These include the *Polity score* of the country immediately after its transition and the year before, whether

**Table 1.** Correlation coefficients of transitional justice variables.

	Trials	Amnesties	Truth commissions	Lustration
Trials	1.00	−0.01	0.25	0.08
Amnesties	−0.01	1.00	0.08	0.09
Truth commissions	0.25	0.08	1.00	−0.05
Lustration	0.08	0.09	−0.05	1.00

or not the country has undergone *multiple transitions*, the *GDP per capita* (measured in 2015 US dollars), and regional dummy variables for the *Americas*, *Asia*, *Africa*, and *Europe*. We also control for the amount of *time* since the transition to democratic governance (in years) to help account for the possibility that the occurrence of transitional justice mechanisms and improvement in electoral integrity may be correlated with consolidation of the new regime over time. We also add two control variables from DIEM: measures of *pre-election* and *election-day administrative capacity problems*. These variables capture problems with voter lists or identification cards, election-commission transparency, misprinted ballots, long lines at the polling place, and so on. These variables are used as controls because the implication of such problems is unclear: capacity problems might indicate an alternative type of manipulation that governments can pursue (for example, by making voting difficult in opposition areas), or they may indicate state weakness, which could limit the state's ability to mobilize agents to manipulate the election illegally. We also control for illegal manipulation when modelling legal manipulation, and vice versa. These controls are important, since parties and governments may shift towards one form of manipulation if another becomes too costly.<sup>72</sup>

In our models of illegal election-day manipulation, where we expect trials to have a significant effect, we control for two potentially confounding variables. First, post-transition trials may be an indicator of underlying judicial independence, prompting the alternative hypothesis that the severity of illegal manipulation depends on judicial independence, not trials. We measure *judicial independence* using the latent measure constructed by Linzer and Staton<sup>73</sup> in order to test the proposition that trials have an effect on illegal manipulation independent of underlying judicial norms and powers. Second, some evidence suggests that the decision to hold post-transition trials hinges in part on the balance of power between old and new elites following the transition<sup>74</sup>; it could be that this balance of power, not trials, affects manipulation levels. We address this alternative hypothesis by using the share of *opposition party seats* in the legislature prior to an election as a proxy for the strength of the opposition and then controlling for this effect.<sup>75</sup>

Lastly, it is possible that electoral manipulation levels change due to the type of transition, which may also affect the occurrence of particular transitional justice mechanisms. For example, amnesties are more likely to be used in peaceful, pacted transitions, whereas trials are more likely to occur in cases of regime collapse. It may be that swift, contentious transitions pave the way both for trials and for reductions in electoral manipulation. Alternatively, peaceful transitions in which the old elites retain some influence may be associated with weaker transitional justice efforts and higher manipulation levels. There are two theoretical reasons to doubt this hypothesis. First, democratization processes in Mexico and post-communist Eastern Europe show that electoral manipulation can still occur even when reformers quickly wrest control from illiberal elites, because the new elite can succumb to the temptation of using inherited state machinery for its own ends.<sup>76</sup> Second, it is unclear why a swift transition (for example) would reduce illegal but not legal manipulation, as our model predicts. Still, we include a measure of *transition mode* in order to control for this possibility. We have aggregated the nine types of authoritarian breakdown coded by Geddes, Wright, and Franz into four categories: peaceful, contested, independence, and continuity.<sup>77</sup>

## Results and discussion

Tables 2 and 3 show the results of the analyses for legal and illegal manipulation, respectively. In all five models, negative coefficients for the independent variables indicate an improvement in election quality. Model 1 shows that lustration has a negative and statistically significant effect on legal pre-election manipulation, while no other transitional justice mechanism has any significant effect; for comparison, Model 2 shows the coefficients and standard errors for control variables only. Similarly, Model 3 demonstrates that trials are the only transitional justice mechanism that influences illegal electoral manipulation. Because the control variable we use as a proxy for the balance of power, *opposition seat share*, has a large number of missing values, Model 4 removes this control variable, and the effect of trials on electoral integrity is largely unchanged. Finally, Model 5 reports control variables only. In all models, “contested”

**Table 2.** Ordered logit models of legal (pre-election) manipulation.

	<i>Dependent variable:</i>	
	Legal manipulation	
	(1)	(2)
Trials	-0.029 (0.407)	
Amnesties	-0.145 (0.390)	
Truth commissions	-0.079 (0.541)	
Lustrations	-1.439** (0.585)	
Election-day cheating	0.867*** (0.225)	0.809*** (0.212)
Years since transition	0.003 (0.034)	-0.021 (0.031)
Polity before transition	-0.019 (0.047)	-0.016 (0.045)
Polity after transition	-0.307*** (0.094)	-0.232*** (0.083)
Pre-election admin. capacity problems	0.551** (0.232)	0.559** (0.227)
Election-day admin. capacity problems	-0.202 (0.301)	-0.218 (0.289)
Transition mode: Continuity	-0.101 (0.778)	-0.015 (0.749)
Transition mode: Independence	-0.705 (0.592)	-0.466 (0.525)
Transition mode: Peaceful	-0.094 (0.423)	-0.276 (0.384)
Multiple transitions	-0.523 (0.467)	-0.779* (0.436)
Americas	-0.697 (0.562)	-0.543 (0.541)
Africa	-0.743 (0.752)	-0.565 (0.727)
Asia	-0.472 (0.636)	-0.135 (0.584)
GDP per capita (log)	-0.023 (0.271)	-0.124 (0.258)
Observations	155	156

\* $p < 0.1$ ; \*\* $p < 0.05$ ; \*\*\* $p < 0.01$ .

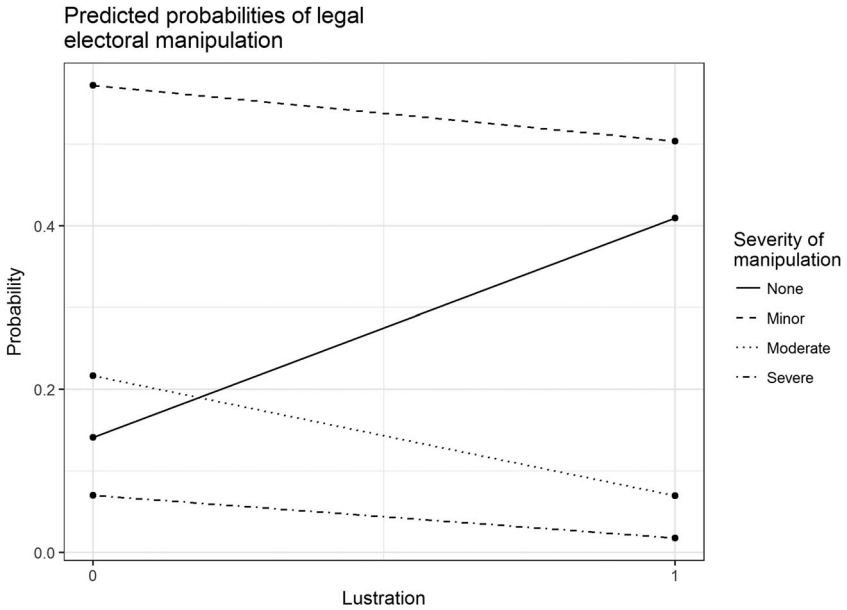
**Table 3.** Ordered logit models of illegal (election-day) manipulation.

	<i>Dependent variable:</i>		
	Illegal manipulation		
	(3)	(4)	(5)
Trials	-1.277*** (0.441)	-1.413*** (0.423)	
Amnesties	0.030 (0.443)	0.019 (0.417)	
Truth commissions	0.087 (0.642)	0.147 (0.639)	
Lustrations	0.979* (0.588)	1.131* (0.580)	
Pre-election cheating	0.789*** (0.232)	0.765*** (0.220)	0.733*** (0.223)
Years since transition	-0.003 (0.036)	0.012 (0.034)	0.002 (0.033)
Polity before transition	-0.050 (0.051)	-0.049 (0.051)	-0.050 (0.046)
Polity after transition	0.032 (0.111)	0.021 (0.101)	0.007 (0.096)
Pre-election admin. capacity problems	0.374 (0.242)	0.473** (0.240)	0.325 (0.241)
Election-day admin. capacity problems	1.037*** (0.320)	0.942*** (0.308)	1.052*** (0.310)
Transition mode: Continuity	-1.012 (0.801)	-0.743 (0.792)	-0.646 (0.779)
Transition mode: Independence	-0.514 (0.821)	-0.030 (0.664)	-0.216 (0.709)
Transition mode: Peaceful	-1.191** (0.475)	-1.076** (0.460)	-0.676 (0.442)
Multiple transitions	0.465 (0.488)	0.670 (0.483)	0.251 (0.469)
Americas	-0.764 (0.688)	-0.483 (0.602)	-0.731 (0.651)
Africa	-0.418 (0.862)	-0.238 (0.806)	-0.310 (0.835)
Asia	0.229 (0.732)	0.581 (0.662)	0.455 (0.676)
GDP per capita (log)	0.058 (0.303)	0.003 (0.283)	0.111 (0.294)
Latent judicial independence	-0.212 (1.625)	-0.081 (1.311)	-0.735 (1.552)
Opposition seat share (pre-election)	0.009 (0.009)		0.010 (0.009)
Observations	139	155	140

\* $p < 0.1$ ; \*\* $p < 0.05$ ; \*\*\* $p < 0.01$ .

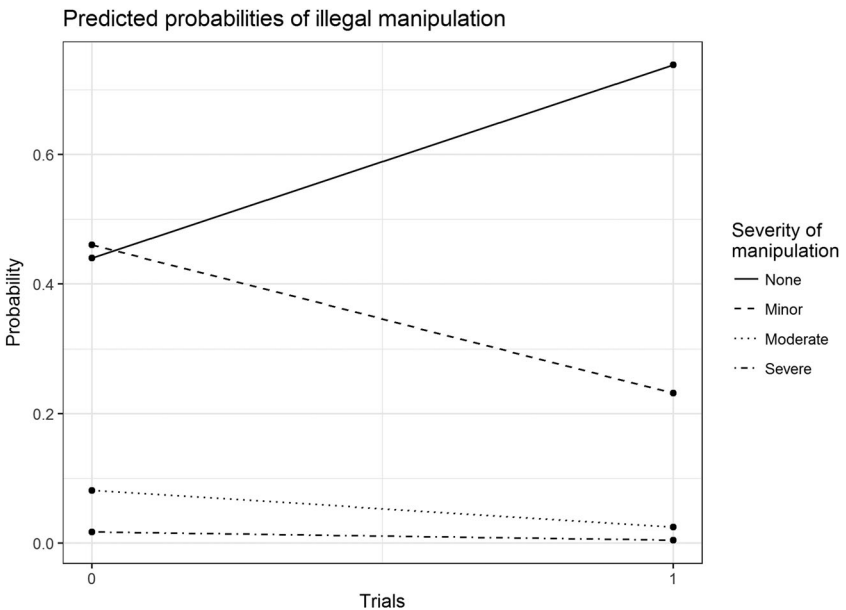
is used as the excluded category for *transition mode*. Figures 1 and 2 depict how implementing lustration or trials changes the predicted probabilities for different levels of legal and illegal electoral manipulation, respectively. Predicted probabilities are calculated after setting control variables to their means or modes (for categorical variables).<sup>78</sup>

Model 1 supports the hypothesis that lustration efforts limit the ability of old-regime supporters to use legal mechanisms to manipulate the election. As Figure 1 shows, implementing lustration results in the predicted probability of legal pre-election bias falling across the board. The probability of experiencing moderate pre-election problems falls from approximately 22% to just under 7%; severe problems, while rare even in the absence of lustration, are almost non-existent following it. Minor problems



**Figure 1.** Lustration and the predicted probability of legal electoral manipulation.

remain fairly likely, but the predicted probability still falls from about 57% to 50%. As a consequence of this general reduction in the probability of manipulation, the probability of a clean pre-election environment jumps dramatically, from about 14% to over 40%.



**Figure 2.** Trials and the predicted probability of illegal electoral manipulation.

Figure 2 depicts a similar relationship between post-transition trials and illegal forms of electoral manipulation. While severe illegal manipulation is relatively uncommon, predicted to occur in about 2% of cases without trials, it is practically eliminated in cases that conduct trials. The likelihood of moderate cheating falls from 8% to 3%, and the probability of minor problems drops from 46% to 23%. The probability of a clean election is considerably higher in the presence of trials, shifting from 44% to 74%.

These results help explain how transitional justice efforts may have mixed effects on democratization more generally. Although electoral integrity is crucial for successful democratization, it is but one of many components of liberal democracy, and it has a complex relationship with transitional justice. Countries that hold post-transition trials may not see declines in legal manipulation, but they will likely see subsequent reductions in forms of electoral manipulation like vote-buying or falsification, improving an important link in the “chain of democratic choice”.<sup>79</sup> The positive effects of lustration have a similarly limited scope. Although reformers’ lustration efforts appear to reduce the risk of legal bias in the electoral arena, they do not prevent party agents from adopting more covert forms of manipulation.

Finally, amnesties and truth commissions appear to have no effect on either form of manipulation. Consequently, transitional governments that implement these measures will likely see no direct effect on the quality of elections, though they may assist democratization in other ways, for example by improving support for democracy among old-regime elites or the general public. By lessening the extent to which supporters of the old regime resist democratization, these transitional justice mechanisms may make semi-democratic elections more likely. However, such measures may also pave the way for elections that are marred by legal or illegal forms of manipulation, potentially fostering electoral democracy and hybrid regimes.<sup>80</sup>

By examining the effects of transitional justice on one component of democratization, rather than looking at the effects of transitional justice on democratization as a whole, this article attempted to untangle the relationship between these two phenomena. However, the connection between transitional justice and a single element of democratization, electoral integrity, is complex. Given the intricate relationship between transitional justice and electoral manipulation, which is only one aspect of democratization, it is not surprising that previous studies have found that transitional justice has mixed effects on democracy. Our theory is but one step towards resolving the ambiguity in the literature. Future research might investigate the effects of transitional justice mechanisms on other elements of democratization, including judicial independence, civil rights protection, and the level of political competition. It might also consider the effects of variation within types of transitional justice on electoral manipulation, by considering the breadth and intensity of the mechanism employed.

## Conclusion

Free and fair elections are a fundamental part of democracy. This article shows that lustration and trials can help countries improve electoral integrity. These mechanisms work in different ways, however, as each mechanism addresses a different element of electoral manipulation. Lustration reduces the likelihood of legal electoral bias, which occurs when elites create an electoral environment that privileges one party over another. By removing anti-democratic forces from influential positions and ensuring

that ancien-régime holdovers no longer control the state's coercive instruments, lustration helps political reformers implement unbiased electoral institutions.

In contrast, trials reduce illegal (but not legal) manipulation. This article posits that trials have this effect because they are a costly investment in judicial capacity and independence, and they serve as a deterrent signal to those who would engage in ballot-stuffing, vote-buying, and falsification. By raising the likelihood that people who illegally manipulate elections will be identified and prosecuted, individuals become less inclined to illegally manipulate elections.

Ultimately, lustration and trials can be powerful tools for liberal elites seeking to improve election quality. These two mechanisms appear to reduce major, moderate, and minor forms of legal and illegal electoral manipulation (respectively) and to dramatically increase the likelihood that a country will hold clean elections. This substantively significant finding is particularly notable in light of the logistical, societal, and political difficulties that electoral integrity presents for transitional countries. Countries seeking to improve their electoral quality will be best served by implementing lustration policies and trials, whereas the benefits of amnesties and truth commissions appear to lie elsewhere.

## Notes

1. Another form of transitional justice, financial reparations, is focused on assisting victims, not on punishing perpetrators, building institutional capacity, or directly fostering democracy. Thus, this article does not include reparations in its analysis.
2. Olsen, Payne, and Reiter, "The Justice Balance."
3. Birch, *Electoral Malpractice*; Harvey, "Changes in the Menu of Manipulation."
4. Sartori, "Concept Misformation in Comparative Politics."
5. We select these four mechanisms because they are most commonly analysed in the literature on transitional justice and democratization and because they are the mechanisms most frequently used in practice. As a result, we exclude some forms of transitional justice, like reparations and memorialization, which provide moral or financial restitution to victims of human rights abuses.
6. Thoms, Ron, and Paris, "State-Level Effects."
7. de Greiff, "Transitional Justice and Development"; Olsen, Payne, and Reiter, "The Justice Balance."
8. Olsen, Payne, and Reiter, "Transitional Justice in the World."
9. Bakiner, "Truth Commission Impact"; Fletcher, Weinstein, and Rowen, "Context, Timing and the Dynamics of Transitional Justice"; The International Center for Transitional Justice, "Focus: Truth Commissions"; Snyder and Vinjamuri, "Trials and Errors."
10. Dancy and Wiebelhaus-Brahm, "Timing, Sequencing and Transitional Justice Impact"; Olsen, Payne, and Reiter, "The Justice Balance"; Sikkink and Walling, "The Impact of Human Rights Trials in Latin America."
11. Dukalskis, "Interactions in Transition"; Roht-Arriaza, "After Amnesties are Gone"; Snyder and Vinjamuri, "Trials and Errors."
12. Roht-Arriaza, "After Amnesties are Gone."
13. Kim and Sikkink, "Explaining the Deterrence Effect"; Vinjamuri, "Deterrence, Democracy."
14. Huntington, "The Third Wave"; Snyder and Vinjamuri, "Trials and Errors"; Vinjamuri and Snyder, "Advocacy and Scholarship"; Sikkink and Walling, "The Impact of Human Rights Trials in Latin America"; Sikkink, *The Justice Cascade*; Meernik, Nichols, and King, "The Impact"; Stensrud, "New Dilemmas."
15. Olsen, Payne, and Reiter, "The Justice Balance."
16. Jeffery, "Amnesty and Accountability"; Olsen, Payne, and Reiter, "The Justice Balance"; Snyder and Vinjamuri, "Trials and Errors."
17. Lie, Binningsbø, and Gates, "Postconflict Justice."
18. Mallinder, "Can Amnesties and International Justice be Reconciled?"



19. David, "Lustration Laws in Action"; Horne, "The Impact of Lustration."
20. Letki, "Lustration and Democratisation"; Horne, "Assessing the Impact."
21. David, "From Prague to Baghdad."
22. Moltz, "Dealing With Communist Legacies."
23. Norris, *Why Electoral Integrity Matters*.
24. Schedler, "The Menu of Manipulation."
25. Birch, *Electoral Malpractice*.
26. Rundlett and Svolik, "Deliver the Vote!"
27. Schedler, "The Menu of Manipulation."
28. Birch, *Electoral Malpractice*.
29. Lehoucq and Molina, *Stuffing the Ballot Box*; Lehoucq, "Electoral Fraud."
30. Magaloni, *Voting for Autocracy*.
31. Greene, *Why Dominant Parties Lose*.
32. Simpson, *Why Governments and Parties Manipulate Elections*.
33. Donno and Roussias, "Does Cheating Pay?"
34. Birch, "Electoral Systems."
35. Birch, *Electoral Malpractice*; Ziblatt, "Shaping Democratic Practice."
36. Lehoucq and Molina, *Stuffing the Ballot Box*; Lehoucq, "Electoral Fraud"; Rundlett and Svolik, "Deliver the Vote!"; Simpson, *Why Governments and Parties Manipulate Elections*; Ziblatt, "Shaping Democratic Practice."
37. Kitschelt and Wilkinson, *Patrons, Clients and Policies*."
38. Larreguy, Marshall, and Querubin, "Parties, Brokers, and Voter Mobilization."
39. Frye, Reuter, and Szakonyi, "Political Machines."
40. Popova, "Watchdogs or Attack Dogs?"
41. Sjoberg, "Autocratic Adaptation."
42. Simpson and Donno, "Can International Election Monitoring Harm Governance?"
43. Harvey, "Changes in the Menu of Manipulation."
44. Howard and Roessler, "Liberalizing Electoral Outcomes"; Magaloni, "The Game of Electoral Fraud"; Schedler, "The Nested Game"; Rundlett and Svolik, "Deliver the Vote!"
45. Holley, "Ex-Leader of S. Korea Defends Slush Fund."
46. Lev, "South Koreans View Trials as a Cleansing Moment."
47. Kim and Sikkink, "How Do Human Rights."
48. Matsueda, Kreager, and Huizinga, "Deterring Delinquents."
49. Kim and Sikkink, "How Do Human Rights."
50. Helmke and Rosenbluth, "Regimes and the Rule of Law."
51. Of course, legal forms of manipulation (like gerrymandered districts) may be struck down by courts, but it is unlikely that legislators will face personal legal penalties for engaging in such practices.
52. David, "From Prague to Baghdad."
53. David, "Lustration Laws in Action"; Grigorescu, "The Corruption Eruption."
54. Horne, "The Impact of Lustration."
55. David, "Lustration Laws in Action"; Stan, "Witch-hunt or Moral Rebirth?"
56. David, "Lustration Laws in Action," 401.
57. Bačinský, "Speech to the Federal Assembly."
58. David, "Lustration Laws in Action."
59. *Ibid.*
60. Calingaert, "Election Rigging."
61. Stokes et al., *Brokers, Voters, and Clientelism*.
62. The dataset contains nearly equal numbers of amnesties for supporters of the prior regime as for opponents of the prior regime. The models were run three different ways: with all amnesties, with amnesties for former regime supporters, and with amnesties for former regime opponents, and the results remained the same throughout.
63. Kelley, *Monitoring Democracy*.
64. Horne, "Late Lustration Programmes"; Blakeley, "Digging Up Spain's Past."
65. Kelley, *Monitoring Democracy*; Hyde, "Catch Us If You Can."
66. Olsen, Payne, and Reiter, "Transitional Justice in the World."
67. Dancy et al., "The Transitional Justice Research Collaborative."

68. An alternative approach, using the most severe violations noted by any observation mission, is employed in the online appendix, with substantively similar results.
69. Olsen, Payne, and Reiter, "Transitional Justice in the World."
70. *Ibid.*
71. Olsen, Payne, and Reiter, "The Justice Balance."
72. Harvey, "Changes in the Menu of Manipulation"; Sjoberg, "Autocratic Adaptation"; Birch, *Electoral Malpractice*.
73. Linzer and Staton, "A Global Measure of Judicial Independence."
74. Kim, "Structural Determinants."
75. Cruz, Keefer, and Scartascini, "Database of Political Institutions."
76. Vachudova, *Europe Undivided*; Olvera, "The Elusive Democracy."
77. *Transition type* is based on the 'How end' variable in Geddes, Wright, and Franz, as follows (GWF code in parentheses). 'Peaceful' transitions are those in which regime insiders instituted liberalizing reforms (1), authoritarian parties lost elections and abided by the result (2), or competitive transitional elections were held (3). 'Contested' transitions follow popular uprising (4), coups (5), civil war (6), or foreign invasion (7). 'Independence' was coded for states that emerged from the breakup of the Soviet Union and Yugoslavia, which were coded by Geddes, Wright, and Franz as the end of the parent state (9). 'Continuity' was coded for transition from one authoritarian system to another (8); Geddes, Wright, and Franz, "Autocratic Breakdown."
78. The modal transition type is peaceful. Predicted probability plots for contentious transitions are included in the online appendix.
79. Schedler, "The Menu of Manipulation."
80. Howard and Roessler, "Liberalizing Electoral Outcomes."

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No potential conflict of interest was reported by the authors.

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