

Message from the Chairs

ILRIG made a successful transition to new leadership with four new officers. ILRIG warmly welcomes our new Co-chair, Wanita Scroggs, International Law Librarian and Adjunct Professor, Stetson University College of Law Library; Marilyn Raisch, Associate Law Librarian for International and Foreign Law, Georgetown Law Library, as the new Secretary; and, Gabriela Femenia, Foreign and International Law Librarian, University of Pennsylvania Law School, Bidle Law Library, as our new Treasurer.

ILRIG sincerely thanks the following members of the ILRIG organizing committee for their extraordinary efforts during the last three years: Amy Emerson and Marin Dell as Co-Chairs; Megan O'Brien as Treasurer; Janelle Beitz as Secretary; and Karina Condra, Don Ford, and Megan A. O'Brien as newsletter editors.

ILRIG continues to seek interested individuals to serve as Newsletter Editors. These positions are appointed rather than elected; if interested, please notify one of the co-Chairs for details. Prior editions of the Informer are

available through the ILRIG website. The Informer was cited as a model ASIL interest group newsletter at the ASIL IG Chair breakfast in 2012.

Report on the 2013 Business Meeting:

ILRIG again had a strong presence at the 2013 ASIL Annual Meeting.

ILRIG hosted its Business Meeting at the Annual ASIL Meeting in Washington D.C. on April 3, 2013. Outgoing co-chair Amy Emerson started the meeting and thanked retiring members and introduced new board members. The group also thanked Cambridge University Press for sponsoring the research kiosk and for providing access to Cambridge Books Online and computer access for this year's ILRIG Research Liaison Program. Furthermore, the group thanked Hein Online for access to their databases. Treasurer, Megan O'Brien presented the budget; ILRIG spent half of its annual budget for refreshments for the Business Meeting and gifts for speakers.

ILRIG also hosted a program during its Business Meeting. We are very grateful to the special guest speakers, Sonia Rolland, Associ-

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NEWS & EVENTS

ILRIG Business Meeting
Wednesday, April 9, 2:45
p.m. to 3:15 p.m.

A Program Hosted by ILRIG:
Connecting the Dots: Visualizing International Law
Wednesday, April 9, 1:45
p.m. to 2:45 p.m.

INTEREST GROUP OFFICERS CO-CHAIRS:

Jootaek ("Juice") Lee
Wanita Scroggs

SECRETARY:

Marilyn Raisch

TREASURER:

Gabriela Femenia

NEWSLETTER EDITORS:

Don Ford
Jootaek ("Juice") Lee (for this
issue)

A critical question was what skills are needed for public international law research and transnational legal practice?

Now in its third year, the Research Kiosk was again available at the ASIL 2013 Annual Meeting.

ate Professor, Northeastern University School of Law, and Mark Wojcik, Professor, John Marshall Law School, who presented the program. We also thank the Teaching International Law Interest Group (TILIG) for helping to facilitate the program's presentation. The program topic dealt with the need for law librarians to teach substantive international law in an advanced legal research course on international law. A related topic, viz., whether it is necessary to invite law librarians into law professors' doctrinal courses, was also covered.

Sonia Rolland presented the results of two surveys on legal research skills and trends in international and comparative law, one for academic and one for practitioners and members of the judiciary; her presentation was entitled *The Intersection between Substantive Law and Legal Research*. A critical question was what skills are needed for public international law research and transnational legal practice?

Professor Wojcik said that the following exercises can be great ice-breakers for FCIL research:

- Find a treaty
- Find cases from international tribunals
- Find arbitral cases

- Find a foreign judicial decision
- Find sources of customary international law
- Find regional decisions and resolutions, such as those of the EU, ECJ, ECHR, etc.

As a group, he challenged the ILRIG members to take on these tasks:

- Have casebook authors include FCIL research exercises
- Cover FCIL research in post-law school CLE sessions have graduated from law school and need refreshers
- Present FCIL legal research workshops at ASIL
- Draft FCIL online research classes for distance learning

Research Kiosk

Now in its third year, the Research Kiosk was again be available at the ASIL Annual Meeting in Washington, D.C. The ILRIG Research Liaison Program is a service through which ILRIG members provide on-site research assistance to speakers, panelists, and attendees of the meeting pre-conference research assistance to speakers. The Kiosk would not be possible without the ILRIG members who staff it, and it is important to us that they are rec-

ognized for the time they dedicate to this unique ILRIG initiative. This year, ILRIG members who served at the Kiosk received a 50% discount off their Annual Meeting registration fee.

We are also pleased to announce that Kiosk in 2003 was sponsored by Cambridge University Press, which equipped the Kiosk for its technology needs, as well as providing complimentary access to Cambridge Books Online for our researchers. Likewise, HeinOnline graciously provided complimentary access to the Hein databases. We are extremely grateful to both Cambridge University Press and HeinOnline for their generosity. These materials significantly enhance the services that the ILRIG Research Liaison Program is able to provide.

This year, we are providing a business meeting and hosting a substantial program as follows:

ILRIG Business Meeting
Wednesday, April 9, 2:45 p.m. to
3:15 p.m.

A Program Hosted by ILRIG:
Connecting the Dots: Visualizing International Law
Wednesday, April 9, 1:45 p.m. to
2:45 p.m.

We are looking forward to seeing you! Thank you!

Co-chairs:

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**THE SELECTION PROCESS FOR JUSTICES OF THE COLOMBIAN CONSTITUTIONAL COURT:
DOES IT IMPACT JUDICIAL INDEPENDENCE?**

By Katharine Valencia¹

I) Introduction

Courts throughout Latin America have traditionally tended to be highly deferential to the executive and legislative branches of government.² A notable exception is the Constitutional Court of Colombia, developed over two decades ago in the context of the country's history of social and political conflict, legislative inaction, and executive overreaching.³ It has been called "one of the strongest courts in the world."⁴ Both supporters and critics alike generally agree that the Colombian Constitutional Court ("the Court") has been activist⁵ and progressive,⁶ ruling on numerous controversial matters such as abortion,⁷ presidential powers,⁸ and gay rights.⁹ Because it has often rejected the political status quo, the Court has developed a reputation for independence in a region where judicial activism is far from the norm. But are individual justices (*magistrados*) really free from political influence?

¹ Donald M. Wilson Fellow, Robert F. Kennedy Center for Justice and Human Rights. She wishes to thank Dante Figueroa, Katya Salazar, Mirte Postema, and Samuel Ureta for their support in the production of this article. Unless otherwise stated, all translations are by the author.

² Michael Pahl, *Judicial One-Hit?: The Decriminalization of Personal Drug Use by Colombia's Constitutional Court*, 6 IND. INT'L & COMP. L. REV. 1, 52 (1995). See also Martha I. Morgan, *Taking Machismo to Court: The Gender Jurisprudence of the Colombian Constitutional Court*, 30 U. MIAMI INTER-AM. L. REV. 253, 257 (1998).

³ David Landau, *Political Institutions and Judicial Role in Comparative Constitutional Law*, 51 HARV. INT'L L.J. 319, 343 (2010).

⁴ *Id.* at 339.

⁵ See generally *id.* Compare Morgan, *supra* note 2 (favoring the Court), and Manuel José Cepeda-Espinosa, *Judicial Activism in a Violent Context: The Origin, Role, and Impact of the Colombian Constitutional Court*, 3 WASH. U. GLOBAL STUD. L. REV. 529 (2004) (supporting the Court), with Pahl, *supra* note 2, and Luz Estella Nagle, *The Cinderella of Government: Judicial Reform in Latin America*, 30 CAL. W. INT'L L.J. 345 (2000) (criticizing the Court).

⁶ See, e.g., Brett Max Kaufman, Book Note, *Weak Courts on Steroids: Improving Weak-Form Judicial Review*, 87 TEX. L. REV. 639 (2009) (reviewing MARK TUSHNET, *WEAK COURTS, STRONG RIGHTS: JUDICIAL REVIEW AND SOCIAL WELFARE RIGHTS IN COMPARATIVE CONSTITUTIONAL LAW* (2008)); Julieta Lemaitre, *Legal Fetishism: Law, Violence, and Social Movements in Colombia*, 77 REV. JUR. U.P.R. 331, 341 (2008).

⁷ Sentencia C-355/06, May 10, 2006 (Colom.), available at <http://www.corteconstitucional.gov.co/relatoria/2006/C-355-06.htm> (recognizing a right to abortion in certain circumstances).

⁸ Cepeda-Espinosa, *supra* note 5, citing *In re Decreto 874 of 1994*, *In re Decreto 1370 of 1995* (limiting presidential powers during states of emergency).

⁹ Sentencia C-577/11, July 26, 2011 (Colom.), English summary available at <http://english.corteconstitucional.gov.co/sentences/C-577-2011.pdf> (recognizing the right of same-sex couples to form a family).

This article will address the theme of judicial independence in Colombia primarily by examining the process for nominating justices to the Constitutional Court and reviewing the voting patterns of justices in several key cases. In Section I, the author questions whether there may be a relationship between how justices vote and the political institution that supported their appointment to the Court. Following Section I's introduction, Section II outlines the importance of judicial independence and the challenge of balancing this value with accountability. To place the Court in its socio-political and legal context, a brief explanation of the development of the Constitutional Court in 1991 follows in Section III. Section IV explains the formal process of selecting justices to serve on the Constitutional Court. Section V reviews several of the Court's key decisions, noting whether justices nominated by a president (as opposed to judicial entities) tended to vote against or in favor of executive branch interests, and Section VI briefly notes some recent developments. This article concludes in Section VII that the Colombian Constitutional Court justices on the whole tend to vote in a manner indicative of judicial independence, although this might not be the case for individual justices who were nominated by a sitting president.

II) International Standards and the Independence-Accountability Spectrum

An independent judiciary is a fundamental element of the democratic rule of law.¹⁰ The right to be adjudicated before a competent, independent, and impartial tribunal is enshrined in multiple regional and international instruments.¹¹ This right has also been recognized by the United Nations Human Rights Committee as “an absolute right” with no exception.¹²

¹⁰ Mirte Postema, *La selección transparente y basada en el mérito es esencial para la independencia judicial*, in SELECCIÓN DE MIEMBROS DE ALTAS CORTES E INDEPENDENCIA JUDICIAL, 17 APORTES DPLF 3 (DUE PROCESS OF LAW FOUNDATION ED., 2012), available at http://dplf.org/sites/default/files/aportes_17_web.pdf.

¹¹ See, e.g., International Covenant on Civil and Political Rights, art. 14(1), *opened for signature* Dec. 16, 1966, 999 U.N.T.S. 17; Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, art. 8(1); Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, Europ.T.S. No. 5; 213 U.N.T.S. 221, art 6.

¹² Human Rights Committee, General Comment No. 32: Article 14: Right to equality before courts and tribunals and to a fair trial, ¶19, U.N. Doc. CCPR/C/GC/32 (Aug. 23, 2007), available at <http://www.refworld.org/docid/478b2b2f2.html>.

“Finding the proper balance of independence and accountability is particularly important in Colombia.”

Judicial independence can be conceptualized as a spectrum, with self-generation, wherein sitting members of the judiciary select their successors at one end,¹³ contrasted with direct partisan and popular election (and re-election) at the other.¹⁴ Both systems represent two extremes: autonomy and self-perpetuation, often associated with high levels of independence but also counter-majoritarian dilemmas and a lack of accountability;¹⁵ versus greater democratic legitimacy but also the politicization of the selection process.¹⁶ In other words, while judicial independence may limit undue influence, unrestrained independence can be at odds with accountability to the general public if it results in corporatism within the judiciary¹⁷ or a lack of transparency.¹⁸ The opposite extreme runs the risk of producing decisions based more on political considerations and judges’ concerns for job security than matters of law and justice.¹⁹ Finding the right balance between independence and accountability seems to be at the heart of the dilemma in effectuating a constitutional democracy.

III) Out of unique challenges arises a unique Court

Finding the proper balance of independence and accountability is particularly important in Colombia. First, political actors are still subject to various threats and pressures by illicit groups in the context of the nation’s ongoing civil conflict,²¹ and the Colombian Congress has been infamously tied to illegal organizations.²² In what became known as the “para-political scandal,” numerous politicians, including almost half of the last Congress, have been charged with ties to paramilitary groups in recent years.²³

¹³ Sanford Levinson, *Identifying “Independence,”* 86 B.U. L. REV. 1297, 1302 (2006).

¹⁴ *Cf. id.* at 1301.

¹⁵ *Cf. id.* at 1299.

¹⁶ Council of Europe, Venice Commission, Opinion No. 403/2006 on Judicial Appointments, June 22, 2007, CDL-AD(2007)028, ¶9 (hereinafter “Council of Europe Opinion”).

¹⁷ *Id.* at ¶51; Rodrigo Uprimny, *Reforma a la justicia y cooptación*, EL ESPECTADOR, May 21, 2012, available at <http://www.elespectador.com/opinion/columna-347735-reforma-justicia-y-cooptacion>.

¹⁸ See Levinson, *supra* note 13, at 1299.

¹⁹ *Id.* at 1300-01, 1307.

²⁰ See Council of Europe Opinion, *supra* note 16, at ¶51; Uprimny, *supra* note 17. See generally Mary L. Volcansek, *Exporting the Missouri Plan: Judicial Appointment Commissions*, 74 MO. L. REV. 783 (2009); Miguel Schor, *An Essay on the Emergence of Constitutional Courts: The Cases of Mexico and Colombia*, 16 IND. J. GLOBAL LEGAL STUD. 173, 187 (2009).

²¹ Lemaitre, *supra* note 6, at 331, 340-41.

²² Landau, *supra* note 3, at 342.

²³ 128 former representatives (out of the 268 total) from the 2006-2010 Congress were accused of having paramilitary ties. As of the end of last year, 13 re-elected representatives to the 2010-2014 Congress were being investigated by the Supreme Court for ties to illegal groups. JUNE S. BEITTEL, CONG. RESEARCH SERV., RL32250, COLOMBIA: BACKGROUND, U.S. RELATIONS, AND CONGRESSIONAL INTEREST 21 (2012).

Second, the executive, traditionally the most powerful branch,²⁴ has attempted to interfere with judicial affairs often throughout Colombia's history²⁵ and particularly since the development of the 1991 Constitution²⁶ (discussed further in this section, *infra*). The president has also exercised sweeping powers in reaction to legislative inertia. From 1958-1986, the National Front (*Frente Nacional*) power-sharing system between liberals and conservatives effectively shut out all but the most prominent families in Colombian politics, resulting in personalistic and ineffective legislating.²⁷ Consequently, the president often bypassed Congress, using emergency powers to implement policy.²⁸ While this may have been a necessary exercise of executive authority in light of the dysfunctional legislature, the fact that the country was under a declared state of emergency eighty-two percent of the time between 1970 and 1991 raised serious concerns for the health of its democracy.²⁹

To tackle the challenges of decades of violent internal conflict and democratic decay, Colombian citizens voted in 1990 to reform the Constitution, and created the Constituent Assembly with the specific goal of furthering a more participatory and democratic society.³⁰ The Assembly represented a wide range of stakeholders,³¹ and, perhaps reflecting this diversity, the resulting document embraces a broad range of principles, rights, and duties.³² The 1991 Constitution establishes Colombia as a social state of law,³³ and enumerates the right to the free development of the personality³⁴ and the duty of the state to protect Colombia's ethnic and cultural diversity.³⁵ (The diversity of ideologies it represents may have an influence on the Court's independence, because the Constitution offers interpretative leeway via a variety of philosophies that justices may draw upon in formulating their decisions.³⁶)

"To tackle the challenges of decades of violent internal conflict and democratic decay, Colombian citizens voted in 1990 to reform the Constitution[.]"

²⁴ See Schor, *supra* note 20, at 184.

²⁵ See generally Cepeda-Espinosa, *supra* note 5.

²⁶ Landau, *supra* note 3, at 344.

²⁷ For a more detailed history on the National Front period, see, e.g., *id.* at 335-337.

²⁸ *Id.* at 337.

²⁹ See *id.*

³⁰ Pahl, *supra* note 2, at 9-10.

³¹ Its members were democratically elected by Colombian voters and represented a diverse range of political forces, including indigenous groups and demobilized guerillas. No particular group or ideology dominated the Assembly. See Schor, *supra* note 20, at 185.

³² CONSTITUCIÓN POLÍTICA DE COLOMBIA, available at <http://web.presidencia.gov.co/constitucion/index.pdf>.

³³ *Id.*, art. 1. For further discussion regarding the significance of this phrase, see Juan Fernando Silva Henao, *Evolución y Origen del Concepto de "Estado Social" Incorporado en la Constitución Política Colombiana de 1991*, Vol. 7 No. 14 REVISTA RATIO JURIS 141 (2012), available at <http://www.unaula.edu.co/sites/default/files/EVOLUCI%C3%93N%20Y%20ORIGEN%20DEL%20CONCEPTO%20DE.pdf>.

³⁴ CONSTITUCIÓN POLÍTICA DE COLOMBIA, *supra* note 32, art. 16.

³⁵ *Id.* art. 7.

³⁶ See Pahl, *supra* note 2, at 50.

To protect Constitutional guarantees, the Constituent Assembly incorporated new remedies into the Constitution, such as the *tutela* action³⁷ and increased the authority of the judiciary during declarations of constitutional emergencies.³⁸ The Constitutional Court was created after considerable debate but with the support of the President³⁹ to supplant the Supreme Court's jurisdiction over constitutional matters,⁴⁰ mandating it as the nation's highest authority for safeguarding "the integrity and supremacy of the Constitution."⁴¹ The document provides for a very accessible system of judicial review⁴² whereby the Court may hear complaints from any citizen regarding the constitutionality of any law passed by Congress, prior to its entry into force and without any case-or-controversy requirement.⁴³

In addition to the formal processes for nomination and election outlined in Part IV *infra*, the professional categories of individuals who can become Constitutional Court justices also impact the Court's independence. The Constitutional Court selection process allows for the nomination of academics. This is distinct from its predecessor in Constitutional jurisdiction, the Supreme Court, which allowed only career judges to serve.⁴⁴ It has been argued that career judges in Colombia tend to adopt technocratic and "traditional-positivist" approaches to statutory and Constitutional interpretation, adhering to a strict separation of powers system.⁴⁵ According to this theory, they tend to be constrained by "bureaucratic rationality" and thus not completely free to determine legal outcomes.⁴⁶ Consequently, they ultimately do not enjoy a high degree of judicial independence. In contrast, a court that is dominated by constitutional and public law scholars may be more open to reading Constitutional values broadly instead of deferring to formalist or legislative interpretations.⁴⁷ With this relationship between professional background and judicial independence in mind, it is interesting to note that the Colombian Constitutional Court since its founding has been largely dominated by constitutional law scholars.⁴⁸

³⁷ A writ of protection of fundamental rights.

³⁸ See Pahl, *supra* note 2, at 11. See generally Donald T. Fox & Anne Stetson, *The 1991 Constitutional Reform: Prospects for Democracy and the Rule of Law in Colombia*, 24 CASE W. RES. J. INT'L L. 139 (1992).

³⁹ Cepeda-Espinosa, *supra* note 5, at 547-48.

⁴⁰ Schor, *supra* note 20, at 186.

⁴¹ CONSTITUCIÓN POLÍTICA DE COLOMBIA, *supra* note 32, art. 241.

⁴² Cepeda-Espinosa, *supra* note 5, at 533.

⁴³ See CONSTITUCIÓN POLÍTICA DE COLOMBIA, *supra* note 32, art. 86. See also Pahl, *supra* note 2, at footnote 77.

⁴⁴ See generally David Landau, *The Two Discourses in Colombian Constitutional Jurisprudence: A New Approach to Modeling Judicial Behavior in Latin America*, 37 GEO. WASH. INT'L L. REV. 687 (2005).

⁴⁵ *Id.* at 716.

⁴⁶ *Id.* at 706.

⁴⁷ *Id.*

⁴⁸ *Id.* at 712.

“The importance of judicial selection can be extrapolated from international human rights law’s emphasis on judicial independence[.]”

IV) The Process of Selecting Constitutional Court Justices

The importance of judicial selection can be extrapolated from international human rights law’s emphasis on judicial independence, discussed in Part II *supra*.⁴⁹ The Inter-American Court of Human Rights has addressed the need for adequate appointment processes in relation to judicial independence in several cases.⁵⁰ In *Palamara Iribarne v. Chile*, for example, it stated that “[t]he independence of any judge presumes that his appointment is the result of an appropriate process...and that there are guarantees against external pressures.”⁵¹ Inter-American jurisprudence also establishes that the judicial selection process itself is required to be independent.⁵² International standards generally favor a depoliticized process, although no single ideal model exists.⁵³ Regardless of the ultimate selection method that a country chooses, it should “safeguard against judicial appointments for improper motives.”⁵⁴

In Colombia, the 1991 Constitution introduced a new method of judicial appointment.⁵⁵ The Constitutional Court is one of four roughly co-equal supreme judicial organs; the others are the Supreme Court (*Corte Suprema de Justicia*), the Council of State (*Consejo de Estado*), and the Superior Judicature Council (*Consejo Superior de la Judicatura*). These three organs all have a direct or indirect role in nominating individuals to serve as justices on the Constitutional Court.

⁴⁹ For further discussion of the relationship between judicial selection processes and judicial independence in Latin America, see Postema, *supra* note 10. See generally APORTES DPLF, *supra* note 10.

⁵⁰ See, e.g., Chocrón Chocrón vs. Venezuela, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 227 (July 1, 2011); Apitz Barbera and others (“Corte Primera de lo Contencioso Administrativo”) v. Venezuela, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 182 (Aug. 5, 2008); Aguirre Roca, Rey Terry and Revoredo Marsano v. Peru (“Constitutional Tribunal Case”), Judgment, Inter-Am. Ct. H.R. (ser. C) No. 71, ¶ 73 (Jan. 31, 2001).

⁵¹ *Palamara Iribarne v. Chile*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 135, ¶ 156 (Nov. 22, 2005).

⁵² See *Reverón Trujillo v. Venezuela*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 197 ¶ 74 (June 30, 2009).

⁵³ Council of Europe Opinion, *supra* note 16, at ¶3.

⁵⁴ United Nations Basic Principles on the Independence of the Judiciary, Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Endorsed by G.A. Res. 40/32 (Nov. 29, 1985) and 40/146 (Dec. 13, 1985) at ¶ 10, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx>

⁵⁵ Schor, *supra* note 20, at 173.

Constitutional Court justices are elected by the Senate from a list of up to three nominations each by the Council of State, the Supreme Court, and/or the President of the Republic.⁵⁶ The set of three nominees is known as a *terna*.⁵⁷ After election by the Senate, Justices serve single eight-year terms.⁵⁸ The prohibition on re-election may impact independence by removing a strong incentive to serve political interests.

The number of Constitutional Court justices is determined by law.⁵⁹ During its first two years of existence, only seven justices sat on the court, but since that time the number has consistently been nine.⁶⁰ The terms of most individual justices are not very staggered; therefore, a group tends to be replaced within a short time frame. For example, six new Justices were elected to the Court in 2009 upon the expiration of terms for the same number of incumbents.⁶¹ This means that the composition and legal philosophy of the Court is potentially subject to rapid change every few years.

To better understand the forces behind the selection process and its effect on independence, the following sub-sections will explain how the nominating and electing bodies are composed.

A) The Council of State: The Council of State is a judicial body with jurisdiction over administrative law cases.⁶² New Council of State justices are elected by the sitting Council.⁶³ Thus, the selection process itself for the Council of State appears to be of the autonomous and self-perpetuating nature discussed in Part II *supra*. The Council of State must elect its own members from a list of nominees provided by another judicial body, the Superior Judicature Council.⁶⁴ The Superior Judicature Council, in turn, is composed of a

⁵⁶ CONSTITUCIÓN POLÍTICA DE COLOMBIA, *supra* note 32, art. 239. Each of the three nominating bodies take turns nominating a *terna* when a vacancy arises. The body that originally nominated the retiring justice will nominate his or her successor. See *Todos los Magistrados de la Historia*, ELECCIÓN VISIBLE: CORTE CONSTITUCIONAL, <http://www.eleccionvisible.com/index.php/corte-constitucional/magistrados-antiores> (last visited May 31, 2013).

⁵⁷ *Preguntas Frecuentes*, ELECCIÓN VISIBLE: CORTE CONSTITUCIONAL, <http://www.eleccionvisible.com/index.php/preguntas-frecuentes> (last visited May 31, 2013).

⁵⁸ CONSTITUCIÓN POLÍTICA DE COLOMBIA, *supra* note 32, art. 239.

⁵⁹ *Id.*

⁶⁰ See *Todos los Magistrados de la Historia*, ELECCIÓN VISIBLE: CORTE CONSTITUCIONAL, *supra* note 56 and *Preguntas Frecuentes*, ELECCIÓN VISIBLE: CORTE CONSTITUCIONAL, *supra* note 57.

⁶¹ See *Todos los Magistrados de la Historia*, ELECCIÓN VISIBLE: CORTE CONSTITUCIONAL, *supra* note 56.

⁶² CONSEJO DE ESTADO, <http://www.consejodeestado.gov.co/> (last visited May 31, 2013).

⁶³ CONSTITUCIÓN POLÍTICA DE COLOMBIA, *supra* note 32, art. 231.

⁶⁴ *Id.*

combination of justices nominated by the Supreme Court, the Constitutional Court, the Council of State (which together name a total of six justices), and Congress (which names seven justices).⁶⁵ Thus, the body which nominates candidates to the Council of State is produced by a near-equivalent influence of the judicial and legislative branches, with a slight majority of the latter.

The executive has no formal influence on the composition of the Council of State, and the legislature has only an attenuated influence through its ability to name candidates to the body which subsequently nominates candidates for the Council of State (i.e., the Superior Judicature Council). The Council of State, composed entirely of judicial officials, has the final and exclusive say on who is elected to replace its outgoing members. Therefore, its part in nominating justices to the Constitutional Court seems to contribute to judicial autonomy and independence.

B) The Supreme Court of Justice: Supreme Court Justices are named in a manner similar to the appointment of Council of State Justices. The Superior Judicature Council, made up entirely of judges who are voted onto the Council both by their judicial colleagues and by members of Congress, first provides a list of nominees for and to the Supreme Court.⁶⁶ The Supreme Court then chooses its new members, having the final say in its own composition. As such, there is only attenuated involvement and no review from outside the judicial branch. It appears that this process, like that of the Council of State, is designed to produce a relatively high level of judicial independence by separating justices from political loyalties. Thus, its role in nominating justices to the Constitutional Court would seem to further contribute to judicial independence.

C) The President of the Republic: The 1991 Constitution establishes that the President, like the Council of State and the Supreme Court, produces a *terna* of candidates from which the Senate can elect a new Constitutional Court justice.⁶⁷ Thus, the Executive branch's involvement in the nomination process for Constitutional Court candidates is direct, and without formal influence from the other branches regarding the composition of the *terna*.

⁶⁵ *Id.*, art. 254.

⁶⁶ *Id.*, art. 231.

⁶⁷ CONSTITUCIÓN POLÍTICA DE COLOMBIA, *supra* note 32, art. 239.

“[B]y virtue of simply being in office for a longer period, a two-term president potentially has the opportunity to nominate more justices to the Constitutional Court and thereby [has] a stronger influence[.]”

It is important to note that the 1991 Constitution established that the executive is elected by popular vote, and could serve no more than one term. However, President Álvaro Uribe, who was first elected in 2002, lobbied to change this.⁶⁸ His efforts bore fruit by December 2004, when Congress passed a Constitutional amendment allowing for two consecutive presidential terms.⁶⁹ This amendment was upheld by the Constitutional Court in 2005.⁷⁰ Uribe then ran for a second term in 2006 and was re-elected,⁷¹ serving until 2010. This arguably changed the balance of powers envisioned by the 1991 Constitutional design: by virtue of simply being in office for a longer period, a two-term president potentially has the opportunity to nominate more justices to the Constitutional Court and thereby can have a stronger influence on the body. Furthermore, justices who are nominated by a president might be reluctant to criticize executive branch actions while he remains in power, thus potentially thwarting judicial independence for an additional four years.⁷²

Having discussed the composition of the bodies which *nominate* justices, the body that has the final say in *electing* justices to the Constitutional Court must of course be considered.

D) The Senate: The Senate of Colombia is a popularly-elected body of 102 senators.⁷³ Senators vote on each *terna* proposed by the Council of State, the Supreme Court, and/or the President, selecting one of the three candidates from each to be appointed to the Constitutional Court. Nominees address Congress in televised sessions.⁷⁴ However, potential justices are not customarily subject to tough questioning about their views – political, legal, or otherwise – although Senators are allowed to question them under law.⁷⁵ The reticence to do so may indicate a legislative deference to, or respect for, judicial independence.

⁶⁸ *Corte declara exequible Ley de Garantías*, El País, Nov. 11, 2005, available at <http://historico.elpais.com.co/paisonline/notas/Noviembre112005/cortegara.html>.

⁶⁹ The law (*La Ley de Garantías Electorales*) amended Article 197 of the Constitution. *See id.*; CONSTITUCIÓN POLÍTICA DE COLOMBIA, *supra* note 32, art. 197.

⁷⁰ Sentencia C-1153/05, Nov. 11, 2005 (Colom.), available at <http://www.corteconstitucional.gov.co/relatoria/2005/c-1153-05.htm>.

⁷¹ *Colombia's Uribe wins second term*, BBC NEWS, May 29, 2006, available at <http://news.bbc.co.uk/2/hi/americas/5024428.stm>.

⁷² Interview with Paula Avila Guillen, Colombian Attorney, in Washington, D.C. (May 21, 2013).

⁷³ SENADO DE LA REPUBLICA DE COLOMBIA, <http://www.senado.gov.co/el-senado/historia> (last visited May 31, 2013).

⁷⁴ *See, e.g. Votaciones y Elecciones*, ELECCIÓN VISIBLE: CORTE CONSTITUCIONAL, <http://www.eleccionvisible.com/index.php/votaciones-y-eleccion> (last visited May 31, 2013).

⁷⁵ Cepeda-Espinosa, *supra* note 5, at 685.

While the legislative branch has only a very attenuated influence on the process of *nominating* justices to the Constitutional Court (via its role in nominating candidates to the Superior Judicature Council), it is formally the sole player in *electing* the justices; no other governmental body participates in the voting process. A former Constitutional Court justice has argued that this element of the selection process was intended by the Constituent Assembly to strengthen the Court's legitimacy. Moreover, he argues that the Senate's role amounts to "indirect popular election" of Constitutional Court justices.⁷⁶ Indeed, this system seems designed to promote accountability. However, it also runs the risk of creating a politicized Court. Additionally, the influence of illegitimate groups on Congress (discussed in Section III, *supra*) indicate that not all legislators will realistically vote on prospective justices based solely on objective, merit-based criteria.

E) Summary of the selection process: Referring to the spectrum of judicial independence discussed in Part II *supra*, Colombia's Constitutional Court has certain self-selecting aspects via nominations by relatively autonomous institutions (the Council of State and the Supreme Court). Democratically-elected officials also have an active role in the selection process: one-third of Constitutional Court candidates are nominated by the president, and all successful candidates must ultimately be elected by the Senate. Because it incorporates a variety of institutions, this process seems to facilitate a reasonable balance of independence and accountability.

V) Review of Key Cases:

While understanding the nomination procedures is a necessary step to analyzing judicial independence, the formal rules for naming justices to the Constitutional Court do not exist in a vacuum. For the purpose of illustrating the Court's manifestations of and challenges to independence, and to bring the Court's activities to life in a manner not possible by focusing solely on the selection process, this section seeks to provide a very general overview of three landmark cases decided by the Constitutional Court. A comprehensive review of the Court's prolific jurisprudence is beyond the scope of this article; however, the following examples are noteworthy.

A) Decriminalizing the personal consumption of drugs: An early example of a controversial judgment implicating judicial independence held that a law criminalizing drugs for personal use was unconstitutional.⁷⁷ In May 1994,

⁷⁶ *Id.* at 683.

⁷⁷ Sentencia C-221/94, May 5, 1994 (Colom.), available at <http://www.corteconstitucional.gov.co/relatoria/1994/C-221-94.htm>. See generally Pahl, *supra* note 2.

the Court ruled in a 5-4 vote that the law in question was contrary to the Constitution's guarantee of privacy, autonomy, and the free development of the personality.⁷⁸ (At the time, there was no Constitutional article that directly addressed the issue of drug use.) The ruling was clearly contrary to the political branches' expressed wishes: in addition to the obvious fact that the Court overruled a statute passed by Congress, drug decriminalization had recently been discussed by the Senate but had little grassroots support, and was vocally opposed by then-President César Gaviria.⁷⁹ Thus, in voting to overturn the law and effectively order decriminalization, the justices in the majority demonstrated independence from the legislature and president.

Three of the four justices who dissented and would have upheld the law had been nominated by President Gaviria, who was still in power at the time of the ruling.⁸⁰ While far from definitive, this scenario is at least probative of a potential lack of judicial independence on the part of these justices. In response to the Court's controversial judgment, President Gaviria condemned the decision, and supported an (ultimately unsuccessful) initiative in the Senate to diminish the Constitutional Court's future impact, which would have required a two-thirds super-majority of six judges to affect current law.⁸¹

There is an interesting epilogue to this case which is indicative of former President Uribe's power. Beginning in 2003, Uribe tried multiple times to overturn the Court's judgment and amend the Constitution.⁸² Although the Supreme Court reaffirmed the 1994 Constitutional Court ruling in September 2009,⁸³ Uribe did not give up. He was eventually successful in pushing through a law reinstating prohibition, passed by Congress in December 2009 (amending Article 49 to the Constitution regarding the right to health).⁸⁴

⁷⁸ Sentencia C-221/94, *supra* note 77.

⁷⁹ Pahl, *supra* note 2, at 2, 54.

⁸⁰ Analyses for this and the two following cases regarding how individual justices voted are based on the Court judgments themselves and *Todos los Magistrados de la Historia*, ELECCIÓN VISIBLE: CORTE CONSTITUCIONAL, *supra* note 56.

⁸¹ Pahl, *supra* note 2, at 56.

⁸² Coletta A. Youngers & John M. Walsh, *Drug Decriminalization: A Trend Takes Shape*, AM. Q., Fall 2009, available at <http://www.americasquarterly.org/node/978/>.

⁸³ *See id.*; *Corte Suprema: El porte y consumo de la dosis personal de drogas no es un delito*, CARACOL RADIO, Sept. 9, 2009, available at <http://www.caracol.com.co/judiciales/corte-suprema-el-porte-y-consumo-de-la-dosis-personal-de-drogas-no-es-un-delito/20090909/nota/875798.aspx>.

⁸⁴ Acto Legislativo 02 de 2009, Diario Oficial No. 47.570, Dec. 21, 2009, available at http://www.secretariassenado.gov.co/senado/basedoc/cp/acto_legislativo_02_2009.html. *See Corte Suprema defiende el porte de dosis mínima de droga*, EL TIEMPO, Aug. 25, 2011, available at <http://www.eltiempo.com/archivo/documento/CMS-10219935>.

“The Court’s 2006 judgment regarding the nation’s Justice and Peace Law (“JPL”) is another landmark which was controversial within Colombia and garnered international attention[.]”

The amendment states that “the possession and consumption of narcotic drugs or psychotropic substances is prohibited without a prescription.”⁸⁵ The Constitutional Court unanimously upheld the amendment in November 2011.⁸⁶ In June 2012, it issued a judgment clarifying that the constitutional prohibition on drugs did not amount to criminalization, i.e. it would be unconstitutional to incarcerate persons for possessing small amounts of marijuana or cocaine.⁸⁷ Rather, discovery of drugs for personal use obliges the state to facilitate treatment and therapy for the user.⁸⁸ Thus, its original 1994 opinion was not technically overruled.⁸⁹

B) Justice and Peace Law Provisions Overturned: The Court’s 2006 judgment⁹⁰ regarding the nation’s Justice and Peace Law (“JPL”) is another landmark which was controversial within Colombia and garnered international attention.⁹⁰ The JPL was designed to further the demobilization of illegal armed groups by granting benefits to disarmed guerillas and paramilitaries for certain humanitarian violations.⁹² Critics argued that it fostered impunity and violated victims’ rights.⁹³ In a 6-3 vote, the Court upheld the constitutionality of the JPL in general, but overturned certain key provisions.⁹⁴ Specifically, the Court invalidated Article 31 of the JPL, which reduced prison sentences for demobilized persons.⁹⁵ The Court also held that sites where demobilized beneficiaries serve out their sentences must be controlled by state penitentiary authorities.⁹⁶

⁸⁵ “El porte y el consumo de sustancias estupefacientes o sicotrópicas está prohibido, salvo prescripción médica.” Acto Legislativo 02 de 2009, *supra* note 84.

⁸⁶ Sentencia C-882/11, Nov. 23, 2011 (Colom.), *available at* http://www.secretariassenado.gov.co/senado/basedoc/cc_sc_nf/2011/c-882_1911.html#1. This was actually not the Court’s first judgment regarding the 2009 Act. Several months earlier, the petitioners had argued that the law was unconstitutional. However, in Sentencia C-574/11, July 22, 2011 (Colom.), *available at* <http://www.corteconstitucional.gov.co/relatoria/2011/C-574-11.htm>, the court refrained from addressing the substantive issue, ruling that it lacked jurisdiction to do so based on procedural issues related to the filing of the complaint.

⁸⁷ Sentencia C-491/12, June 28, 2012 (Colom.), *available at* <http://www.corteconstitucional.gov.co/relatoria/2012/C-491-12.htm>. See Associated Press, *Colombia court upholds no jail time for drug use*, SEATTLE TIMES, June 29, 2012, *available at* http://seattletimes.com/html/nationworld/2018563342_apltcolombiadrugs.html.

⁸⁸ Sentencia C-491/12, *supra* note 87. See Nicolás Uribe Rueda, *Otra vez la dosis personal*, EL ESPECTADOR, July 6, 2012, *available at* <http://m.elespectador.com/opinion/columna-357877-otra-vez-dosis-personal>.

⁸⁹ See Uribe Rueda, *supra* note 88.

⁹⁰ Sentencia C-370/06, May 18, 2006 (Colom.), *available at* <http://www.corteconstitucional.gov.co/relatoria/2006/C-370-06.htm>.

⁹¹ See generally Lisa J. Laplante & Kimberly Theidon, *Transitional Justice in Times of Conflict: Colombia’s Ley de Justicia y Paz*, 28 MICH. J. INT’L L. 49 (2006).

⁹² José E. Arvelo, Note, *International Law and Conflict Resolution in Colombia: Balancing Peace and Justice in the Paramilitary Demobilization Process*, 37 GEO. J. INT’L L. 411, 437 (2006).

⁹³ See generally Javaria Ahmad, Note, *The Colombian Law of Justice and Peace: One Step Further from Peace and One Step Closer to Impunity?*, 16 TRANSNAT’L L. & CONTEMP. PROBS. 333 (2006).

⁹⁴ Jennifer S. Easterday, *Deciding the Fate of Complementarity: A Colombian Case Study*, 26 ARIZ. J. INT’L & COMP. L. 49, 93 (2009).

⁹⁵ *Id.* at 94 *citing* Sentencia C-370/06, *supra* note 90.

⁹⁶ *Id.*

Furthermore, the Court invalidated a provision of the JPL which would have allowed those who initially failed to confess accurately or completely to receive benefits if they later admitted to the charges and if their omissions were unintentional.⁹⁷

In so ruling, the Court went against legislative intent (as expressed through legislative history and the JPL's eventual passage⁹⁸) and executive intent (as expressed by President Uribe's vigorous national and international campaigning in support of the JPL⁹⁹). Interestingly, the justices in the majority (ruling against certain provisions) included every member of the Court who had been nominated by the Executive; however, the President who nominated these justices was not Uribe but his predecessor. This suggests that even if executive-nominated justices do feel pressured to vote in favor of the head of state initially, this might become a moot issue once the president who nominated them is no longer in office.

Notably, in reaction to the Court's ruling, President Uribe issued Decree 3391 which seemed to reestablish the overturned provisions.¹⁰⁰ Human rights groups argued that the Decree attempted to undermine the Constitutional Court's holding on the JPL.¹⁰¹ This action reflected the President's continuing power despite apparent advances in judicial independence. Moreover, the President's willingness to issue decrees contrary to Court rulings indicates a potential threat to the Court's legitimacy.

C) Third Presidential Term: Finally, another important case that is essential to any discussion on Colombian judicial independence and the strength of the executive was decided in February 2010. As noted in Section IV(C) *supra*, President Uribe successfully lobbied for a change to Colombian law which allowed him to run for a second term, and the legislation was held to be constitutional by the Court in 2005. However, the Court did not find that the same was true for a potential third term. It ruled 7-2 that a Congressional statute authorizing a referendum regarding whether presidents could run for a third term was unconstitutional.¹⁰² The majority's decision was based on serious violations of the principles of transparency and pluralism, including improper delegation and expenditures of campaign finances.¹⁰³ The Court also criticized "an excessive

⁹⁷ *Id.* at 76-77.

⁹⁸ Laplante & Theidon, *supra* note 91, at 77.

⁹⁹ *Id.* at 73.

¹⁰⁰ Comisión Colombiana de Juristas, *Boletín No 4: Serie sobre los derechos de las víctimas y la aplicación de la Ley 975*, Oct. 4, 2006, available at http://www.coljuristas.org/documentos/boletines/bol_n4_975.html.

¹⁰¹ *Id.*; Easterday, *supra* note 94, at 94.

¹⁰² Sentencia C-141/10, Feb. 26, 2010 (Colom.), available at <http://www.corteconstitucional.gov.co/relatoria/2010/C-141-10.htm>.

¹⁰³ *Id.*

exercise of the power of constitutional reform” and emphasized that it would not endorse reform attempts that would undermine the structural principles of the 1991 Constitution, such as the separation of powers and the system of checks and balances.¹⁰⁴

The dissenting camp was made up of two of the three justices nominated by Uribe. Thus, the vote breakdown of this case is akin to that regarding personal consumption of drugs discussed in Part V(A) *supra*. Like that early key case, here the justices who favored the sitting executive’s position had been nominated by that same president.

And just like in the Justice and Peace Law case, here the Executive-nominated justices who voted against the status quo were already in their posts prior to when the incumbent took office – in other words, they were nominated by a different president. This further substantiates the theory that Justices who are nominated by the Executive might be constrained in their actions while the nominating President is still in power, but that they are freer to vote independently once their nominator’s term of office ends.

VI) The Court under the current president:

President Juan Manuel Santos took office in August 2010. He had previously served as Defense Minister under Uribe,¹⁰⁵ and had the strong support of the former president during his campaign.¹⁰⁶ However, President Santos has proven to be more moderate than generally expected (moderation which Uribe has openly criticized¹⁰⁷) and overall has a stronger human rights record than his predecessor.¹⁰⁸ Because to date Santos has not had the opportunity to nominate anyone to the Constitutional Court, deciphering a pattern with respect to case law and relative independence presents greater difficulties than under previous presidents. Should Santos have the opportunity to nominate justices before he leaves office, this issue would warrant further study, especially if he is re-elected

¹⁰⁴ Corte Constitucional de Colombia, Comunicado No. 9, Feb. 26, 2010, available at <http://www.corteconstitucional.gov.co/comunicados/No.%2009%20Comunicado%2026%20de%20febrero%20de%202010.php> (press release regarding Sentencia C-141/10, *supra* note 102). See Ximena Marinero, *Colombia constitutional court strikes down Uribe third term referendum law*, JURIST, Feb. 27, 2010, <http://jurist.org/paperchase/2010/02/colombia-constitutional-court-strikes.php>.

¹⁰⁵ BEITTEL, *supra* note 23, at 6.

¹⁰⁶ *Santos v. Uribe*, THE ECONOMIST, Apr. 7, 2012, available at <http://www.economist.com/node/21552204?zid=305&ah=417bd5664dc76da5d98af4f7a640fd8a>.

¹⁰⁷ Interview with Paula Avila Guillen, *supra* note 72. See THE ECONOMIST, *supra* note 106.

¹⁰⁸ BEITTEL, *supra* note 23, at 7.

in May 2014.¹⁰⁹

Santos' role in the composition of the Constitutional Court is already a controversial matter due to his support of a justice who recently took office amidst a storm of controversy. Alberto Rojas Ríos was nominated by the Council of State¹¹⁰ and elected by the Senate, despite allegations of corruption. Accusations against him ranged from defrauding a widow and tax evasion, to bribing senators for votes.¹¹¹ President Santos was criticized for his support of Rojas Ríos, and the issue garnered much attention in Colombia.¹¹² If this controversy remains firmly in popular memory, it can be expected that any *ternas* submitted by Santos in the future will come under particularly close scrutiny.

VI) Conclusion

The preceding analysis of judicial selection for the Colombian Constitutional Court, along with an examination of the behavior of justices in controversial cases, together seem to indicate that Constitutional Court justices enjoy at least a fair degree of independence from the political branches. The rules for appointing justices to the Colombian Constitutional Court have certain elements promoting judicial autonomy (i.e. nomination by the Council of

¹⁰⁹ See Helen Murphy, *Colombia congress vote almost assures Santos lead in presidential ballot*, REUTERS, March 10, 2014, available at <http://www.reuters.com/article/2014/03/10/us-colombia-election-congress-idUSBREA290VU20140310>. See generally Brian M. Faughnan & John Hudak, *Presidential Pandering: How Elections Determine the Exercise of Executive Power in the U.S. and Colombia*, in 53 ISSUES IN GOVERNANCE STUD. (2012), available at <http://www.brookings.edu/~media/research/files/papers/2012/11/02%20us%20columbia%20elections%20hudak/2%20us%20colombia%20election%20hudak.pdf>.

¹¹⁰ *Alberto Rojas Ríos, nuevo Magistrado de la Corte Constitucional*, REVISTA GOBIERNO, Apr. 11, 2013, available at <http://www.revistagobierno.com/portal/index.php/politica/actualidad/13913-alberto-rojas-rios-nuevo-magistrado-de-la-corte-constitucional>. One other justice, also nominated by the Consejo de Estado, has taken power since Santos became president. See *Luis Guillermo Guerrero se posesionó como nuevo magistrado de la Corte Constitucional*, EL COLOMBIANO, Sept.4, 2012, available at http://www.elcolombiano.com/BancoConocimiento/L/luis_guillermo_guerrero_se_posesiono_como_nuevo_magistrado_de_la_corte_constitucional/luis_guillermo_guerrero_se_posesiono_como_nuevo_magistrado_de_la_corte_constitucional.asp.

¹¹¹ See *Demandan elección del magistrado Alberto Rojas Ríos*, EL PAIS, May 24, 2013, available at <http://www.elpais.com.co/elpais/colombia/noticias/demandan-eleccion-magistrado-alberto-rojas-rios>; Juan Sebastián Jiménez, *Los pecados de Rojas Rios*, EL ESPECTADOR, Apr. 30, 2013, available at <http://www.elespectador.com/noticias/judicial/articulo-419432-los-pecados-de-rojas-rios>; María Elvira Samper, *Vergüenza: un magistrado en la picota*, EL ESPECTADOR, May 4, 2013, available at <http://www.elespectador.com/opinion/columna-420109-vergueenza-un-magistrado-picota>.

¹¹² Interview with Paula Avila Guillen, *supra* note 72; see EL PAIS, *supra* note 111.

State and the Supreme Court) and others promoting democratic action and judicial accountability (i.e. nomination by the President and election by the Senate). In addition to the nomination and election process, factors such as term limits imposed on justices and the prominence of public law scholars on the bench are also likely to affect the Court's independence.

As key case law examples have shown, strong review of the political branches is possible in a region where judicial activism is far from the traditional norm, although justices nominated by a president might be somewhat constrained during that president's term. While the selection process on the whole seems to foster independence, it by no means guarantees it, especially considering the Executive branch's powerful role in government and the relatively recent legal change allowing for two consecutive presidential terms. Therefore, Colombians will likely continue to discuss how to reconcile the values of judicial independence and accountability with the political realities and challenges facing their nation.

Bibliographic Primer on Columbian and Latin American Constitutional Law

Resources of Interest to Law Librarians and Information Professionals

Websites:

- <http://www.americasquarterly.org/current> - Americas Quarterly Magazine (English). Includes good current events and background articles. Also has a blog with comments.
- <http://colombiareports.com/> - English-language resource for Colombian news. Basic background articles with good illustrations and author contact information.
- http://dplf.org/es/publication_finder -DPLF (The Due Process of Law Foundation) is an NGO focused on the rule of law and human rights in Latin America. This links to their publications. Currently available in Spanish, but English translations are forthcoming. Includes detailed papers (in PDF) with thorough source citations. Also: http://dplf.org/sites/default/files/aportes_17_web.pdf (specific publication Ms. Nylund refers to in Footnote 10 of her article).
- <http://english.corteconstitucional.gov.co/> - A database of major decisions of the Colombian Constitutional Court in English. Appears to be a work in progress. English language sources of judicial decisions are rare in Latin American countries, so this is a unique resource.
- Eleccion Visible - <http://www.eleccionvisible.com/index.php/corteconstitucional> Provides historical information regarding the selection processes for the Columbian Constitutional Court and other government institutions (in Spanish).

Print resources

- UNIVERSITY OF MIAMI INTER-AMERICAN LAW REVIEW. – This journal tends to cover a lot of on-point legal issues for Columbia and all of Latin America. Articles in English; includes relevant symposia on Latin American constitutional law, including discrete constitutional issues. Book reviews are very helpful for collection development decisions.

- J. Merryman, et al., *Judicial Review*, in *The Civil Law Tradition: Europe, Latin America, and East Asia* (1994).
- David Landau, *Political Institutions and Judicial Role in Comparative Constitutional Law*, 51 HARV. INT'L L.J. 319, (2010). Includes comparative analyses of constitutional courts or courts adjudicating constitutional matters in Colombia, Hungary, South Africa, and the United States of America.
- Juan Fernando Silva Henao, *Evolución y Origen del Concepto de “Estado Social” Incorporado en la Constitución Política Colombiana de 1991*, Vol. 7 No. 14 REVISTA RATIO JURIS 141 (2012), available at <http://www.unaula.edu.co/sites/default/files/EVOLUCI%C3%93N%20Y%20ORIGEN%20DEL%20CONCEPTO%20DE.pdf>.
- JUNE S. BEITTEL, CONG. RESEARCH SERV., RL32250, COLOMBIA: BACKGROUND, U.S. RELATIONS, AND CONGRESSIONAL INTEREST 21 (2012). Please note: as with so many Congressional Research Service (CRS) publications, please check for continuing updates.

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