

IMMUNITY*

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Abstract

Legal provisions that protect elected politicians from arrest and prosecution have been common throughout history and still exist in most countries today. We study immunity theoretically and empirically. Theory predicts that immunity is a double-edged sword. To test whether immunity is a vice or a virtue, we quantify immunity enjoyed by heads of government, ministers, and legislators in 90 countries. Controlling for standard determinants of corruption, we find that stronger immunity protection is associated with greater corruption. Instrumental variable estimations using exogenous sources of variation of immunity at the time of the first democratic constitution suggest that the effect is likely causal.

KEYWORDS: accountability, corruption, immunity, interest groups

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1 Introduction

In this paper, we study the institution of immunity both theoretically and empirically. Legal provisions that protect elected officials from prosecution and arrest have been common throughout history. They remain in force in most contemporary democracies. Despite their longevity, immunity provisions have been at the center of the debate about corruption in many countries, such as Italy and Greece. In some countries, immunity appears to provide a valuable cover for corrupt activities by officials. The main goal of this study is to explore why societies choose to place their politicians above the law and the implications that this choice may have for governance outcomes.¹

The history of immunity is long and colorful. In ancient Rome, the *tribuni plebis* were considered inviolable so that they could exercise their duties without interference from the nobility. In early modern Europe, protection from arrest for legislative speech was among the first important privileges granted to parliamentarians, codified in the English Privilege of Parliament Act of 1603. During the French Revolution, immunity provisions shielded the democratic representatives of the National Assembly from politically motivated charges initiated by a partisan legal and police system that remained under the control of the *Ancien Régime* (Manow, 2010). Honoré de Mirabeau famously encouraged the National Assembly to defend against *la puissance des baionettes* by declaring the deputies inviolable (Maingot, 2012).

Such immunity provisions have survived the transition to modern democracy. In the modern era, more than 70 percent of democratic countries have some statutory provision that protects elected politicians— to varying degrees—from apprehension, prosecution, or indictment. Despite their historical importance and modern persistence, immunity provisions have not been comprehensively examined. This paper aims to close this gap.

The potential dangers of provisions that obstruct the prosecution of politicians are manifest. In the second book of *Politeia*, Plato relates the myth of Gyges, an ordinary shepherd who found a ring that made him invisible. Gyges used the ring to gain power and influence. Socrates’ interlocutor, Glaucon, asks in analogy, what would happen if we gave such a ring to a just man. Would the impunity to commit crimes while invisible corrupt his character and behavior?² Plato feared the possible temptation:

No man can be imagined to be of such an iron nature that he would stand fast in justice. No man would keep his hands off what was not his own when he could safely take what he liked out of the market. (Plato, Politeia II, 359-360).

¹The term “immunity” may refer to those provisions that either protect politicians’ freedom of speech or protect politicians from criminal arrest and prosecution. The legal literature terms the former “non-accountability” protection and the latter “inviolability” protection. We limit our study to inviolability protection and use the term “immunity” to refer exclusively to laws that provide inviolability protection.

²In the field of political theory, Wigley (2003) first pointed to the parallels between Plato’s treatment and immunity protection for politicians.

Some existing research supports Plato’s longstanding suspicion that human behavior changes when the threat of legal consequences is remote or nonexistent. For instance, Fisman and Miguel (2007) examine the effect of diplomatic immunity on parking violations in New York City and document a sharp decrease in such violations shortly after New York City police began punishing violators by removing their license plates. In Plato’s native Greece, immunity protections have recently been blamed for the mismanagement of public funds in a number of cases.³ Former Italian Prime Minister Silvio Berlusconi skillfully navigated his country’s immunity laws to avoid criminal prosecution for nearly a decade.⁴

Despite its prevalence and its potential effects on governance and political outcomes—through policies or even through who chooses to run for office—the institution of immunity is understudied. In this paper we provide a first complete and systematic coding of immunity protection in 90 democratic countries. We do so by consulting written constitutions, founding documents, statutes, legislative rules of procedure, and case law from each country. Immunity provisions may apply to three different groups of politicians: legislators, ministers, and heads of government. We find that the primary differences between various immunity regimes fall into three categories: (1) the procedure required to lift immunity, which can be more or less burdensome; (2) the duration of immunity protection, which can coincide with the term in office or extend beyond it; and (3) the scope of purported criminal activities covered and the prosecutorial action prohibited by immunity. We develop an immunity score that aggregates eighteen variables that represent the strength of a given country’s immunity regime. To our knowledge, our effort represents the first detailed and systematic quantification of the strength of immunity protection, which is an important prerequisite for further research about the effects of this institution.⁵

To study the effects of immunity we employ a model in which, an official—politician or bureaucrat—can leverage his or her immunity to receive bribes and engage in other corrupt behavior without the risk of legal consequences. Simultaneously, immunity protects officials from false charges or politically motivated campaigns arising from their refusal to cater to interest groups. Whether immunity is a vice or a virtue depends on whether stronger immunity is relatively more valuable to corrupt politicians or to honest ones. This relative value of immunity depends, in turn, on the efficacy of crime detection and the quality of the judicial system. Dal Bó et al. (2006) studied the role of violence and of bribes as modes to impose influence

³The most conspicuous instance of the alleged malfeasance involved €100 million in pay-to-play bribery payments to fifteen Greek ministers. See Donadio and Kitsantonis (2012), among others.

⁴Our mention of malfeasance charges in Greece and Italy is by no means exhaustive. For example, Mexican legislator-elect Julio César Godoy Toscano, who disappeared in 2009 after being charged with money laundering and having ties to one of Mexico’s most powerful drug cartels, hatched an even more overt plan to exploit immunity. After 15 months spent hiding from police, Godoy Toscano managed to slip through police checkpoints and steal into the Mexican Chamber of Deputies, where he took his oath of office and, protected by immunity, revealed himself to the public. See D.R. (2010). In a similarly conspicuous case, Salvadoran prosecutors could do nothing when Congressman Jose Francisco Merino shot and wounded a police officer during a drunken rampage in San Salvador. Darling (2000) provides further details.

⁵The Comparative Constitutions Project, Elkins et al. (2007), asks and documents in a yes-or-no question immunity of heads of state, heads of government, and legislators in contemporary and historical constitutions. Hoppe (2011), Maingot (2012), McGee (2001), Van der Hulst (2000), Myttenaere (1998), and Geesteranus (1996) do collect information on immunity provisions in a number of jurisdictions, but focus primarily on immunity protections afforded to parliamentarians. Maingot (2012) and Van der Hulst (2000) undertake a partial attempt to document immunity regimes outside of Europe.

on politicians. In that framework they also examine the role of immunity and point out that where detection and justice are effective and operate free from external interference, corrupt politicians benefit relatively more from stronger immunity than do honest politicians; in such systems, immunity is not particularly useful for honest politicians, as false accusations and smear campaigns are ordinarily uncovered. Hence, immunity has differential effects that depend on the degree of judicial independence.⁶

In this paper we push the analysis further to better understand under which circumstances immunity matters for corruption. We find that the extent to which immunity encourages corruption depends not only on the quality of the judiciary, but also on the relative benefits from catering to the electorate versus succumbing to pressure groups. We show that when the quality of the judiciary is strong and the benefits from being corrupt outweigh the ones from catering to the electorate, higher immunity encourages corruption. When the quality of the judiciary is weak and the benefits from catering to the electorate outweigh the ones from corruption, higher immunity encourages honesty and reduces corruption. We also identify two circumstances where immunity is inconsequential for the level of corruption: In the first case politicians always cater to the electorate because it is more rewarding compared to succumbing to pressure groups and the judiciary is strong so that false accusations are ineffective. In the second case, politicians are always corrupt because pressure groups are very strong and can offer large rewards such as bribes and campaign financing while the judiciary is weak making punishment for corruption unlikely.

These theoretical insights throw a new light on the history of the institution of immunity. More specifically, they help rationalize the emergence of immunity in early democracies and hint to its possible effects in today's mature democracies. In early democracies—for instance at the time of the democratic transition in Europe during the French revolution—the courts and police were often still controlled by the monarchy. At the same time, the democratic revolutionaries were idealists and had a strong desire to cater to the people they represented. Under such circumstances, immunity shields politicians from pressure groups and enables them to cater to the electorate rather than to succumb to pressure groups. Put differently, immunity aligns politician's behavior with the desires of the electorate. One could conclude that immunity is also beneficial in today's democracies that have weak legal systems, f.i., in Latin America. However, the model highlights the crucial interaction between the rule of law and the strength of pressure groups. We show that in a country where the rule of law is weak *and* the pressure groups are strong (making the benefits that a politician enjoys from serving such groups greater compared to catering to the electorate) immunity does not matter since regardless of its level, politicians succumb to groups' pressures to bend rules and engage in corruption. The benefits are simply too large and the danger of punishment small since courts and police can be bribed. Ultimately, then whether immunity is a vice or a virtue in the modern world depends on a variety of factors

⁶The essential differences are first, that in our model the decision of whether or not to be corrupt is discrete, whereas bribes can take a continuum of values in their model. Also in our model bribes are not used simultaneously with threats or smears. Smears are used only when politicians refuse to cater to pressure groups.

and highlights the importance of empirical analysis.

Using our new measure of immunity we study the effects of immunity on corruption and on other measures of governance. Our empirical investigations provide evidence that stronger immunity protection is associated with greater corruption and weaker governance. We control for standard determinants of corruption, such as income, legal origin, electoral rules, and trade openness. Culture is often seen as an important determinant of corruption, but it is also one that is notoriously difficult to quantify. Thanks to the work of Fisman and Miguel (2007) on parking violations of United Nations diplomats in New York, we dispose of a measure for differences in behavior when law enforcement is absent. Following Fisman and Miguel (2007), we interpret these differences as a proxy for cultural attitudes towards law abiding behavior and include this measure of culture in our empirical exercises. We find that the relationship between immunity and corruption is somewhat more pronounced in countries with *strong* legal systems (systems with *high* levels of judicial independence). In countries with *weak* legal institutions, as is typically the case in early stages of the democratic transition process, the effects of immunity protection tend to be more ambiguous. In light of the theoretical model, this suggests that in countries where the rule of law is weak, pressure groups are also strong and hence there is an ambiguous relationship between immunity and corruption. Taking into consideration the concerns over the efficacy of corruption measurement voiced by Treisman (2007), we establish these effects using both perception-based and incidence-based measures of corruption as well as other measures of public mismanagement.

Although the OLS estimates show that there is a relationship between immunity and corruption outcomes, it remains unclear whether immunity has a causal impact on corruption. An alternative explanation for the relationship could be that societies that corrupt societies select into high immunity regimes. We use the strength of immunity protection in the first democratic constitution as an instrument for current immunity rules. We construct the historical immunity scores using the same methodology employed for the contemporary coding. We show that these early immunity provisions persisted over time and explain a large share of the variation in today's immunity rules. IV estimations commend the conclusion that the effect of immunity provisions on corruption is likely causal. Immunity of politicians may be a useful device to protect democratically elected politicians in nascent democracies, and this is its historical origin. In mature democracies, immunity becomes a cause of corruption and weak governance. Thus, in line with the empirical findings of Fisman and Miguel (2007), who document that once New York city find a way to circumvent the imputability implies by diplomatic immunity parking violations significantly dropped, we expect that weakening politicians' immunity could help tackle corruption.

We are not the first to study the economic effects of political institutions. A recent influential book by Acemoglu and Robinson (2012) investigates the impact of formal and informal institutions on power relations and prosperity. The seminal book by North (1990) highlights the link between institutions and

transaction costs. Persson and Tabellini (2003) examine the economic effects of constitutions and focus on electoral rules⁷ and form of government.⁸ Besley and Persson (2011) examine the causes of the clustering of state institutions, violence and income. Following these studies, we focus on formal rules rather than their implementation, which is hard to measure and compare across countries. The abstraction from differences in implementation, to the extent they exist, introduces measurement error and hence attenuation bias. This stacks the cards against the hypothesis that differences in immunity matter for governance.

Our analysis comports with the broader literature that examines the accountability of politicians. An extensive body of political economy literature, beginning with Barro (1973) and further developed by Ferejohn (1986), analyzes how re-election influences the behavior of politicians. Maskin and Tirole (2004) show that accountable policymakers are more likely to pander to the electorate and overlook minority interests.⁹ Another branch of the literature investigates configurations where branches of government are accountable to one another—e.g., regulators or judges that are accountable to a directly elected legislature.¹⁰ Acemoglu et al. (2012) consider the effect of checks and balances in a weakly institutionalized regime where bribery of politicians is a serious concern.

We proceed by briefly describing the history of immunity provisions in Section 2. In Section 3, we examine theoretically how immunity affects corruption and governance. Section 4 outlines the key dimensions of politicians’ immunity provisions. Section 4.2 describes our method of coding the current and historical differences in immunity protection across countries, presents a number of key stylized facts, and documents the historical persistence of immunity. In Section 5, we study the relationship between immunity and corruption empirically. Section 6 concludes.

2 History of Immunity Provisions

The first modern protections for parliamentarians originated in England. The idea that legislators’ speech in Parliament should be legally protected evolved from struggles between the English Parliament and the King. In Parliament in 1397, Sir Thomas Haxey rebuked King Richard II’s prodigal habits. When the

⁷Electoral rules determine how votes in a given district or constituency translate into seats in the legislature. There is a large body of literature examining the effects that different electoral rules have on economic policy. Lizzeri and Persico (2001) argue that in majoritarian systems, where the candidate with the highest vote share wins the only seat, there is greater incentive to target spending on a small and concentrated groups of voters. There is also substantial literature on the effects of electoral rules on corruption, or “rent extraction,” by elected officials. For instance, Myerson (1993) argues that the greater competition induced by proportional systems and larger electoral districts reduces the incentive for rent extraction.

⁸“Form of government” is generally characterized as either “presidential” or “parliamentary.” In a parliamentary system, the executive must hold the confidence of a majority of the legislature at all times. In effect, any member of a parliamentary coalition can veto any policy proposal (see Huber, 1996; Diermeier and Feddersen, 1998). Persson et al. (2000) argue that the ability to construct ad hoc coalitions leads to more-targeted spending in a presidential system than in a parliamentary system, at the expense of broad spending programs. They also claim that the lack of a residual claimant in a presidential system results in a lower overall level of government spending and taxation. Persson and Tabellini (2004) investigate these claims empirically and find robust evidence that presidential systems result in smaller government.

⁹Smart and Sturm (2006) and Alt et al. (2011) examine the relationship between term length and politicians’ behavior.

¹⁰Hanssen (2004) considers the degree of accountability of judges who are appointed by elected politicians. Stephenson and Nzelibe (2010) argue that electoral accountability and institutions that provide checks and balances cannot be considered in isolation because the checks-and-balances regime will have an effect on voter behavior.

incensed monarch discovered Haxey's name, he orchestrated the parliamentarian's treason conviction and subsequent death sentence. While the intercession of the Archbishop of Canterbury saved Haxey's life, Parliament was, nevertheless, concerned with the case's implication for legislative independence in England; following Richard II's overthrow in 1399, Parliament forced his successor to annul the judgment against Haxey and restore his estate (Chafetz, 2007, p. 69). Haxey's Case (1397) was the first in a number of assertions of legislators' right to freedom from liability for speech uttered in Parliament (Chafetz, 2007, p. 69).¹¹

Statutory limits on general criminal liability of legislators date to the struggles between revolutionaries and the *Ancien Régime* during the French Revolution, when the first comprehensive immunity provisions offering limitations on criminal prosecution unrelated to speech were introduced. The struggle between democratizing forces and the *Ancien Régime* was waged for more than two decades after the Revolution of 1789. Despite the successes of the revolutionary armies, the nobility retained considerable influence over the police corps, the judiciary, and the clergy.

Under these circumstances, immunity served the important function of protecting nascent democratic institutions against infringements by a still-powerful monarch. Elements of the French judiciary remained in the hands of the *Ancien Régime* in the early years of the Revolution, and proponents of democracy feared the infamous *lettres de cachet* as a legal pretext for arrest. In this context of considerable insecurity, Honoré de Mirabeau proclaimed the inviolability of members of the self-constituted National Assembly on June 23, 1789. The provisions in Articles 7 and 8 of the Constitution of 1791 consequently exceeded English freedom-of-speech protections and restricted the liability of members of the legislature for criminal activities perpetrated in a personal capacity.

The process of impeaching and removing executive branch members as a prerequisite to prosecution in presidential systems developed independently during the drafting of the United States Constitution. The framers of the document made a conscious decision to place the authority to remove the president and authorize his legal prosecution in the hands of the legislature. Similar to their concerned French contemporaries, the American framers feared that placing the president under the direct jurisdiction of the judiciary without legislative consent would allow politically motivated charges to interfere with the functioning of the executive branch of government.¹² In contrast to the approaches to politicians' criminal responsibility in France and the United States, England did not incorporate such protections for elected officials and relied, instead, on

¹¹Parliamentarians ultimately codified freedom-of-speech protection into the English Bill of Rights three centuries later: "The freedom of speech and debates and proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament." The English Parliament's assertion was subsequently adopted in a number of democratizing jurisdictions and was spread throughout the world through English colonial rule. The principle was later expanded to protect other public officials from recrimination for words spoken or votes taken in their official capacity. This protection—which the literature refers to as non-liability protection—is now "not only relatively homogenous but also a highly stable principle throughout the world," (Van der Hulst, 2000, p. 66). Generally, non-liability protection may not be waived, and in some jurisdictions the protection extends beyond speech uttered in Parliament to include written work, debates, or other forms of expression that may or may not be disseminated beyond the confines of the legislature.

¹²See Alexander Hamilton, *The Federalist*, Number 65 (1788).

the conventional judicial process to discipline these actors in criminal cases.

Following the French and American Revolutions, variations on these approaches to immunity emerged and spread throughout the world. The result is a patchwork of diverse immunity regimes throughout the modern world that we document in Section 4 and in Section 4.2.

3 The Two Faces of Immunity

In this section, we introduce a model that seeks to shed light on the interaction of immunity and governance. We also reinterpret the model to discuss the optimal level of immunity chosen by constitutional designers as a function of the maturity of a democracy. While simple—its main purpose is to guide the empirical exercise—the model sheds light on immunity’s prevalence in early constitutions and suggests that its role may have fundamentally changed as democratic institutions have become more firmly established.¹³

We begin by assuming that the utility of an elected official depends on the policies he chooses and on whether or not he is involved in illegal activities $c \in \{0, 1\}$. Illegal activities ($c = 1$) may serve old elites or interest groups at the expense of the electorate. The relative costs and benefits of these activities depend on the degree to which politicians are likely to be held legally responsible for their illegal actions, which, in turn, is determined by the strength of immunity protection that politicians enjoy, denoted by q , and the degree to which the judiciary is institutionally independent β ,¹⁴ as follows:

$$U(c = 0) \equiv U_0 = a_0 - \gamma_0(1 - q)(1 - \beta)$$

$$U(c = 1) \equiv U_1 = a_1 - \gamma_1(1 - q)\beta,$$

where a_0, a_1 and $\gamma_0, \gamma_1 > 0$ are positive constants. The parameter a_0 captures benefits from choosing the right policies and serving the electorate, while a_1 captures benefits from catering to interest groups, who may offer campaign financing, bribes, positive publicity or other forms of support.¹⁵ The parameter γ_0 captures the costs from facing a smear campaign (legal costs, losing office, the inability to be re-elected, reputation costs and the like). How likely it is that these costs are incurred by an honest politician—one who refuses to cater to interest groups and chooses $c = 0$ —depends on the level of immunity q as well as on the quality of judiciary β . The expected costs $\gamma_0(1 - q)(1 - \beta)$ are high when β is low and/or when q is low. The parameter γ_1 captures the severity of penalties for corruption. The expected costs of corruption $\gamma_1(1 - q)\beta$ are high when the rule of law β is high and immunity q is low.

¹³In an online Appendix, we analyze the interaction of immunity and the quality of the judicial system in a dynamic model of *electoral competition* based on the model of Maskin and Tirole (2004). That model has the advantage of highlighting precisely how politicians, who are primarily concerned with re-election, can leverage their immunity. However, since the empirically testable implications of that richer model largely coincide with ones of this simpler model inspired by Dal Bó et al. (2006), we opted for the simplest framework that illustrates how immunity works and refer the interested reader to the Appendix for the richer model.

¹⁴The parameter β could also capture the degree to which the judiciary is susceptible to corruption.

¹⁵Since these benefits do not depend on the level of immunity protection that an official enjoys we opt to model in this reduced form fashion. The more elaborate dynamic electoral model we develop in Reddy et al. (2014) provides more details about the precise form of these benefits.

The interaction of the level of immunity with the quality of the judicial system determines the relative costs and benefits of engaging in illegal activities that cater to elites at the expense of the electorate: A politician chooses not to be corrupt and to cater to the electorate when $U_0 - U_1 > 0$, which holds if

$$a_0 - a_1 - [\gamma_0(1 - \beta) - \gamma_1\beta] > -q[\gamma_0(1 - \beta) - \gamma_1\beta]. \quad (3.1)$$

Let $A \equiv [\gamma_0(1 - \beta) - \gamma_1\beta]$. Depending on whether A is positive or negative there are two cases to consider:

If $A > 0$, which is equivalent to $\frac{\gamma_0}{\gamma_0 + \gamma_1} > \beta$, then (3.1) reduces to:

$$U_0 - U_1 > 0 \Leftrightarrow q > 1 - \frac{(a_0 - a_1)}{A}. \quad (3.2)$$

If $A < 0$, which is equivalent to $\frac{\gamma_0}{\gamma_0 + \gamma_1} < \beta$, then (3.1) reduces to:

$$U_0 - U_1 > 0 \Leftrightarrow q < 1 - \frac{(a_0 - a_1)}{A}. \quad (3.3)$$

Inequalities (3.2) and (3.3) suggest that whether a politician chooses honesty over corruption depends on the interaction between the quality of judiciary β , immunity q , but also on the difference $a_0 - a_1$, which reflects the strength of interest groups. Thus, to better understand these relationships, we analyze the interaction of immunity and the quality of judiciary with the benefits of catering to the electorate and the direct benefits of corruption, the difference $a_0 - a_1$:

Case 1: Benefits from corruption outweigh benefits from honesty: $a_0 < a_1$

Case 1.1: Weak judiciary ($\frac{\gamma_0}{\gamma_0 + \gamma_1} > \beta$): When $a_0 < a_1$, and $\frac{\gamma_0}{\gamma_0 + \gamma_1} > \beta$, (3.2) is never satisfied since $q \in [0, 1]$, whereas the RHS of (3.2) is strictly greater than 1. This suggests that when the quality of the judiciary is low and the benefits from being corrupt outweigh the ones from catering to the electorate, politicians always choose to be corrupt regardless of the level of immunity protection.

Case 1.2: Strong judiciary ($\frac{\gamma_0}{\gamma_0 + \gamma_1} < \beta$): Now when $a_0 < a_1$, and the quality of the judiciary is above a threshold, $\frac{\gamma_0}{\gamma_0 + \gamma_1} < \beta$, then (3.3) implies that $U_0 > U_1$ when immunity is low enough (below $1 - \frac{(a_0 - a_1)}{A}$), whereas corruption becomes optimal if immunity exceeds this threshold. Hence, when the quality of the judiciary is strong and the benefits from being corrupt outweigh the ones from catering to the electorate, politicians choose to be honest when immunity protection is below a threshold given by the RHS of (3.3).

Case 2: Benefits from honesty outweigh benefits from corruption: $a_0 > a_1$

Case 2.1: Weak judiciary ($\frac{\gamma_0}{\gamma_0 + \gamma_1} > \beta$): When $a_0 > a_1$, and $\frac{\gamma_0}{\gamma_0 + \gamma_1} > \beta$, (3.2) implies, that $U_0 > U_1$ when immunity is high enough (above $1 - \frac{(a_0 - a_1)}{A}$), whereas corruption becomes optimal if immunity is below this threshold.

Case 2.2: Strong judiciary ($\frac{\gamma_0}{\gamma_0 + \gamma_1} < \beta$): Now when $a_0 > a_1$, and the quality of the judiciary is above a threshold, $\frac{\gamma_0}{\gamma_0 + \gamma_1} < \beta$, then (3.3) implies that $U_0 > U_1$ always holds regardless of the level of immunity.

Then, when the judiciary is strong and the benefits from catering to the electorate are high, honesty prevails regardless of the level of immunity.

This analysis suggests that whether or not higher immunity encourages corruption depends on the quality of the judiciary and the relative benefits from catering to the electorate (a_0) versus the ones from catering to interest groups (a_1). When the quality of the judiciary is strong and the benefits from being corrupt outweigh the ones from catering to the electorate, higher immunity encourages corruption whereas when the quality of the judiciary is weak and the benefits from catering to the electorate outweigh the ones from corruption, higher immunity encourages honesty and reduces corruption. When the judiciary is strong and catering to the electorate is more rewarding compared to succumbing to pressure groups, politicians always cater to the electorate and the level of immunity is inconsequential. Analogously, when the judiciary is weak and succumbing to pressure groups is more rewarding compared to catering to electorate, politicians always choose to be corrupt and the level of immunity is again inconsequential.

We now employ these findings to shed light to the optimal level of immunity protection for constitutional designers who want to set the rules so as to incentivize politicians to cater to the electorate rather than to succumb to interest group pressures. Consider two different points in time: The first point occurs at a society's transition to democracy, around the time the first democratic constitution is written. The second point occurs later, when the society's democratic institutions have matured and are stable.

Date 1: When democracy is still in its infancy, immunity safeguards democratic institutions. At the historical point when a society is transitioning to democracy, it is likely that β is low because the judiciary might still be controlled by the old elite and not by democratizing forces: The old elites may try to influence democratically elected officials by prosecuting them and by running smear campaigns against them if they do not cater to the elites' wishes. At the same time, it is likely that $a_0 > a_1$ since democratizing forces feel very strongly about serving the electorate. Hence, we are in case 2.1 and framers designing a constitution that seeks to incentivize elected officials to be honest and to serve the majority, optimally choose a high level of immunity protection q .

Date 2: When democracy is mature, immunity encourages corruption. How does immunity affect the behavior of an elected official when democratic institutions are mature and the judiciary is independent and free of the control of old elites, i.e., when β is high? If at the same time interest groups are strong and can offer large bribes or significant re-election support, that is when $a_1 > a_0$, then we are in case 1.2 where higher immunity encourages corruption. Under these circumstances constitutional designers representing the electorate would rationally choose a low degree of immunity q .

To summarize, in a world where β was initially low and catering to the electorate relatively more rewarding vis-a-vis corruption, constitutional drafters optimally chose high immunity protection q . However, this choice may backfire as democracy matures and the judiciary becomes independent, that is when β increases while

interest groups get more influential and can offer significant bribes and electorate support. Then, immunity facilitates corrupt behavior and induces bad governance as well as policy choices that serve interest groups rather than the majority of voters.

4 Immunity Provisions in Contemporary Democracies

This section describes how immunity provisions differ across jurisdictions. There is substantial variation in the strength and structure of immunity regimes in democratic countries. At one end of the spectrum lie countries with no immunity protection, such as the United Kingdom; while members of Parliament and British ministers may speak and vote without the threat of legal retaliation, no procedural obstacles impede or limit the criminal prosecution of these politicians. At the other end lie countries with strong immunity regimes, such as Paraguay. The Constitution of Paraguay stipulates that any arrest or prosecution of a member of the legislature must be authorized by a two-thirds majority vote in the relevant legislative chamber. Should prosecutors wish to take action against a minister or the president, the lower house of the legislature must first impeach the politician by a vote of two-thirds, followed by a two-thirds majority vote for removal in the Paraguayan Senate. It is within the Senate's sole purview to determine whether the removed politician should be referred to a competent court, which only then may proceed with criminal prosecution. Additionally, Paraguayan law grants former presidents life-long procedural protections from prosecution.

Most contemporary democracies employ immunity regimes that lie somewhere between the two extremes of the United Kingdom and Paraguay. France approximates a mid-point between the two. French legislators enjoy immunity from criminal prosecution for the duration of their mandate, but this immunity may be waived with the consent of a legislative committee. While French ministers do not enjoy immunity from criminal prosecution, the President of France must be removed from office before being prosecuted, a process that requires the consent of supermajorities in both houses of the legislature.

The differences among the approaches to immunity in the United Kingdom, Paraguay, and France evince significant cross-jurisdictional variation in the strength and nature of immunity regimes throughout the modern democratic world. Our measure of immunity is designed to capture these differences in a comprehensive manner.

4.1 Dimensions of Immunity

We study the immunity protections afforded to legislators, ministers, and chief executives and derive an aggregate measure of immunity protection that incorporates the strength of immunity protections that each group of politicians enjoys. A broad measure that incorporates the immunity protections of all three groups has two distinct advantages. First, wider coverage better captures the interplay among different

political actors. It is not always possible to identify the extent to which immunity provisions for one set of political actors may influence the effective immunity enjoyed by another, distinct set of political actors. For example, since executive branch members in some countries often enter the legislature after leaving office, the likelihood of malfeasant behavior among members of the executive branch may depend somewhat on the strength of the country's legislative immunity regime. Second, governance indices do not measure the performance of each individual branch of government, but, rather, assess the broader public sector. A comprehensive coding of immunity protections that includes legislators, ministers, and chief executives most adequately measures the degree to which a society has chosen to place its politicians above the law and, therefore, best corresponds to aggregative measures of governance.

In addition to coverage for different kinds of politicians, the key differences between different countries' immunity regimes present themselves along the following lines: (1) the procedure required to lift immunity, which can be more or less burdensome; (2) the duration of immunity protection, which can coincide with the length of an officeholder's term or extend beyond it; and (3) the scope of activities covered and the legal actions prohibited by immunity.

Procedure: Protection from criminal prosecution, where it exists, may generally be waived if some procedural requirement is fulfilled. Jurisdictions with strong immunity protection employ a number of burdensome procedural obstacles that must be overcome before a politician can be prosecuted. These obstacles are few and undemanding in jurisdictions with weak immunity protections. In the overwhelming majority of jurisdictions that offer their legislators immunity, this protection may be waived if either a supermajority or a simple majority of legislators in the relevant legislative house votes to remove the legislator's immunity. In jurisdictions where immunity protection is not as robust, the procedure for waiving immunity requires the consent of only a legislative committee, the cabinet, the chief executive, or an appellate court judge. The immunity of ministers and chief executives is lifted in the same way as that of legislators, though the assent of majorities in two legislative houses is occasionally required to authorize prosecution in countries with bicameral legislatures.

Duration: Immunity provisions may also differ from one another with respect to the time during which they apply. Immunity in most jurisdictions expires at the end of a politician's term of office. Other jurisdictions, however, continue to protect politicians from prosecution after their term of office has expired. Such is the case with former presidents of Paraguay, who enjoy the same immunity as legislators for the remainders of their lifetimes.

Scope: Immunity provisions in different jurisdictions provide politicians with varying degrees of coverage, which may affect immunity in two ways. First, immunity provisions may explicitly limit the application of immunity to certain crimes, such as those with some relation to a politician's official duties. The Greek ministerial immunity provision is an example of such laws:

No prosecution against, no questioning or preliminary questioning of [present or former members of the Government] . . . for acts carried out by commission or omission in the discharge of their duties shall be permitted, before Parliament has decided on the matter. (Constitution of Greece, Article 86, Section 2)

Alternatively, these provisions may extend further and protect against prosecution for the commission of common crimes wholly unrelated to a politician’s official duties, such as the legislative immunity clause in the Constitution of El Salvador:

From the day of their election until the end of the period for which they have been selected, deputies may not be judged for serious crimes that they commit except for those cases in which the Legislative Assembly declares in advance that there are grounds for prosecution....¹⁶ (Constitution of El Salvador, Article 238)

Such laws have protected politicians from prosecution for crimes unrelated to their official duties—even for crimes as serious as homicide.

Second, the range of prosecutorial activities that immunity proscribes differs from one jurisdiction to another. Some jurisdictions prohibit only the arrest and detention of a legislator, while others explicitly prevent the opening of judicial proceedings, as well. Ministers and chief executives who have immunity may generally not be arrested, detained, or prosecuted without the fulfillment of the appropriate procedural requirement.

4.2 Quantifying Immunity Regimes

We use an eighteen-variable rubric, summarized in Table 1, to score immunity provisions and compare their strength across different countries. The first six variables apply to legislators, the second six to ministers, and the last six to chief executives. In all cases, a value of 1 indicates that the protection is provided by law, while a value of 0 indicates that no such protection from criminal liability exists.

Questions 1-3 measure the differences in the procedural requirement necessary to waive legislative immunity. The questions differentiate among the various procedural mechanisms for lifting immunity. A country in which a legislative committee or an appellate court judge may lift a legislator’s immunity, for example, would receive an affirmative answer to question 1 only; a country in which immunity may be lifted only by a supermajority vote in the relevant legislative house would receive an affirmative answer to Questions 1, 2, and 3. Question 4 addresses the duration of legislative immunity and distinguishes between regimes in which legislative immunity expires at the end of the legislative term and those in which it continues to apply beyond the term of office. Questions 5 and 6 refer to the scope of legislative immunity: Question 5 examines the types of crimes covered by immunity protection, and Question 6 indicates whether immunity also protects legislators from the opening of judicial proceedings in addition to arrest.

¹⁶Translation is the authors’ own.

Table 1: Immunity Coding

No.	Dimension of Immunity	Countries	Countries by Region
LEGISLATIVE IMMUNITY			
1	Detention requires some authorization	60	Afr.[5]/Asi.[8]/Eur.[33]/N.Am.[7]/S.Am.[7]
2	Simple majority vote in legislative house	50	Afr.[3]/Asi.[6]/Eur.[29]/N.Am.[6]/S.Am.[6]
3	Supermajority vote in legislative house	7	Afr.[0]/Asi.[0]/Eur.[3]/N.Am.[1]/S.Am.[3]
4	Immunity continues to apply after term in office expires	4	Afr.[0]/Asi.[0]/Eur.[3]/N.Am.[1]/S.Am.[0]
5	Immunity protects common crimes	53	Afr.[4]/Asi.[7]/Eur.[30]/N.Am.[6]/S.Am.[6]
6	Immunity protects against judicial proceedings	46	Afr.[4]/Asi.[5]/Eur.[26]/N.Am.[5]/S.Am.[6]
MINISTERIAL IMMUNITY			
7	Prosecution requires some authorization	48	Afr.[2]/Asi.[5]/Eur.[27]/N.Am.[6]/S.Am.[8]
8	Simple majority vote in at least one legislative house	38	Afr.[2]/Asi.[2]/Eur.[20]/N.Am.[6]/S.Am.[8]
9	Supermajority vote in at least one legislative house	11	Afr.[1]/Asi.[1]/Eur.[1]/N.Am.[4]/S.Am.[4]
10	Assent of two legislative houses	7	Afr.[0]/Asi.[1]/Eur.[0]/N.Am.[1]/S.Am.[5]
11	Immunity continues to apply after term in office expires	7	Afr.[0]/Asi.[0]/Eur.[5]/N.Am.[0]/S.Am.[2]
12	Immunity protects against common crimes	40	Afr.[2]/Asi.[5]/Eur.[21]/N.Am.[5]/S.Am.[7]
CHIEF EXECUTIVE IMMUNITY			
13	Prosecution requires some authorization	65	Afr.[10]/Asi.[7]/Eur.[31]/N.Am.[8]/S.Am.[9]
14	Simple majority vote in at least one legislative house	57	Afr.[10]/Asi.[5]/Eur.[25]/N.Am.[8]/S.Am.[9]
15	Supermajority vote in at least one legislative house	31	Afr.[8]/Asi.[5]/Eur.[4]/N.Am.[6]/S.Am.[8]
16	Assent of two legislative houses	14	Afr.[2]/Asi.[1]/Eur.[2]/N.Am.[3]/S.Am.[6]
17	Immunity continues to apply after term in office expires	14	Afr.[4]/Asi.[1]/Eur.[5]/N.Am.[1]/S.Am.[3]
18	Immunity protects against common crimes	58	Afr.[10]/Asi.[7]/Eur.[25]/N.Am.[7]/S.Am.[9]

The ways in which we quantify the strength of ministerial and chief executive immunity provisions are identical to each other, as immunity provisions applicable to ministers behave in the same way as those that apply to chief executives. Questions 7-10, as well as questions 13-16, code the essential differences in the procedural difficulty of waiving immunity provisions for these executive branch members. As procedural requirements for waiving executive branch immunity may involve the assent of two legislative houses, there is one supplementary procedural question for ministers and chief executives that does not exist for legislators. Questions 11 and 17 code immunity provisions that extend beyond the term of office. Questions 12 and 18 measure the scope of ministerial and chief executive immunity by inquiring about the types of crimes protected by immunity. With respect to immunity provisions applicable to ministers and chief executives, we do not include a question measuring whether judicial proceedings may be instituted; such proceedings are generally barred and subject to the same procedural constraints that apply to arrest in the countries in our sample that provide protections against the arrest of ministers and chief executives.

In Appendix B we provide a detailed account of how we constructed our immunity coding and fully illustrate the procedure for three countries. Appendix C lists all the relevant sources (articles in the constitution and other) that we used to construct the contemporary and the historical coding for each of the 90 countries in our sample.

4.3 Data Sources and Country Sample

In order to compile data on immunity in each country, we began by examining each country’s written constitution, seeking the relevant immunity provisions. For countries without written constitutions and for those in which constitutional language was vague or deferred to legislation, we consulted founding documents, case law, statutes, and legislative rules of procedure. For situations in which the nature of the immunity regime remained unavailable or unclear, we consulted the “PARLINE” database of the Inter-Parliamentary Union, as well as the existing literature summarizing immunity provisions, specifically Hoppe (2011), Maingot (2012), McGee (2001), Van der Hulst (2000), Myttenaere (1998), and Geesteranus (1996).

We limited our immunity scoring to democratic countries. As Wigley (2003, 2009), Koçan and Wigley (2005), and Dal Bó et al. (2006) suggest, immunity provisions may function differently in authoritarian or semi-authoritarian contexts, where a proper division of powers does not exist and, as a consequence, legal protection against prosecution is less likely to afford ministers or parliamentarians with meaningful protection in practice. Consequently, we coded immunity provisions for only those nations with a score of 5.00 or higher on the Economist Intelligence Unit’s 2012 “Democracy Index.” As the Democracy Index scores countries on a 0.00-10.00 scale—wherein a higher number indicates greater commitment to democracy—our selection covers all countries that meet at least half of the criteria identified by the Economist Intelligence Unit as indicative of democratic government. However, because the Economist Intelligence Unit relies heavily on public-opinion surveys to calculate its Democracy Index, we removed from our sample any country with an average score of greater than 4.00 on the 2013 Freedom House “Freedom in the World” Index. The Freedom in the World Index—a 1.00-7.00 scale, wherein a lower number indicates more democratic institutions—relies more heavily on objective standard-based analysis. These classifications correspond closely to alternative regime classifications such as those in the Polity IV database.

The countries that meet these criteria constitute a diverse sample in a number of respects. Geographically, 12 countries are in Africa, 17 in Asia and Oceania, 39 in Europe, and 22 in the Americas. Economically, 34 countries qualify as advanced economies according to the International Monetary Fund. Legally, 21 employ common-law systems, 65 civil-law systems, and 4 mixed systems. Politically, 41 employ presidential or semi-presidential systems, while 49 are parliamentary democracies.

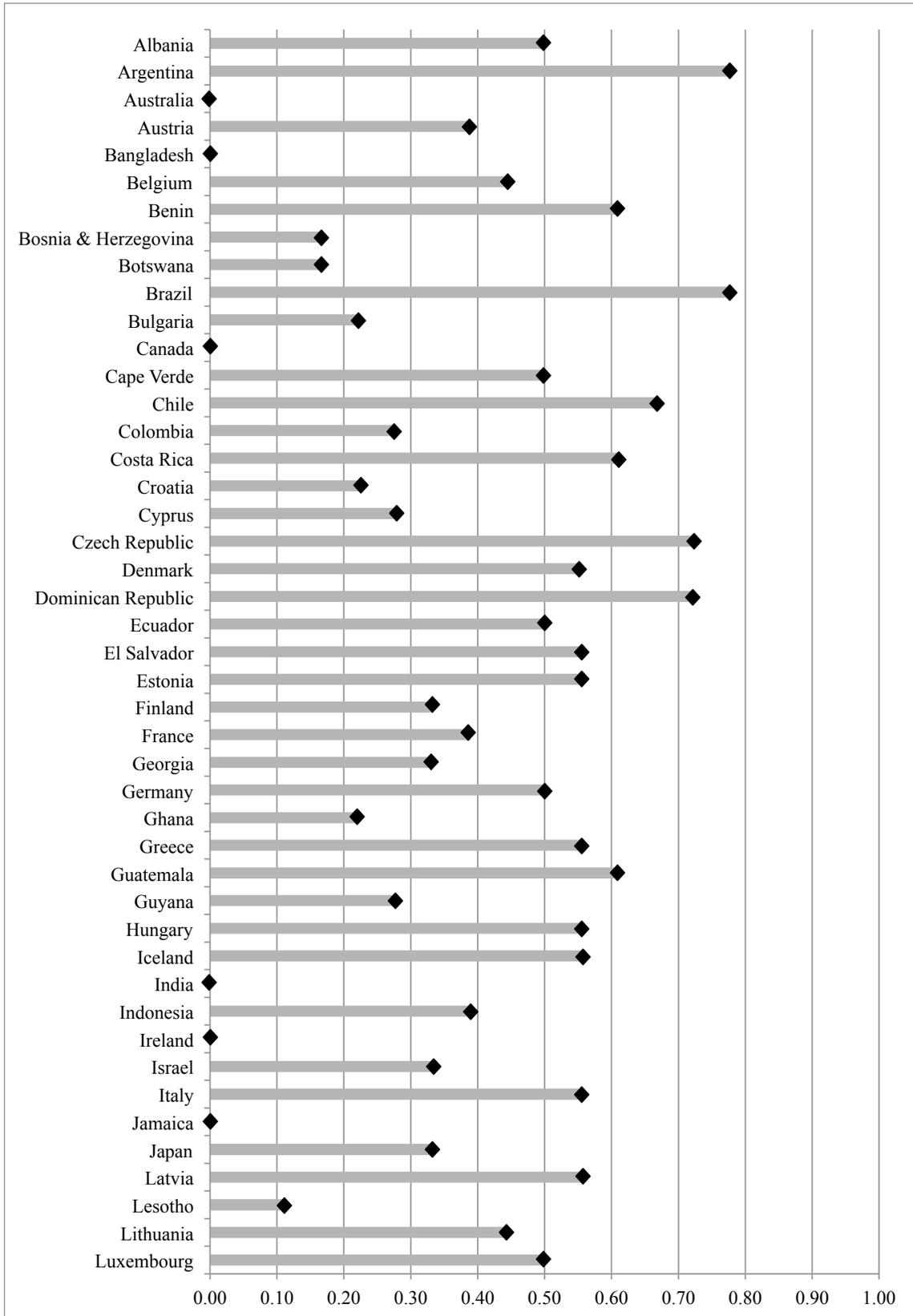
4.4 Immunity Scores

The immunity index resulting from our scoring reveals considerable cross-jurisdictional variation in the strength of provisions that limit politicians’ judicial control. The mean score across 90 countries is 0.38, with a maximum of 0.89 and a standard deviation of 0.24. The immunity scores are not closely correlated to either income (correlation coefficient: -0.05) or to the level of democracy (correlation coefficient: 0.04). The coefficients are insignificant by a wide margin in both cases.

Figure 4.1 and Figure 4.2 demonstrate the large geographic variation in immunity provisions in the jurisdictions studied. Latin American countries generally have the strongest immunity protection, followed by Southern and Eastern European countries. Many Latin American countries were early adopters of relatively strong legislative immunity provisions in the French tradition. Further influenced by the presidential democracy developed in the United States, these countries adopted the United States' approach to presidential immunity. The combination of both systems resulted in strong immunity regimes throughout South and Central America. By contrast, countries that were influenced by the English parliamentary tradition generally have the weakest immunity protection; most have a score of 0. Immunity regimes are, thus, another channel through which colonial rule and legal traditions continue to shape the modern world.

The remaining countries generally lie somewhere between the two extremes. The United States, for instance, has comparatively low levels of legislative and ministerial immunity protection, but a very high presidential immunity score. It is also noteworthy that Southern and Eastern European countries tend to have more generous immunity provisions than their Northern and Western European neighbors. Overall, our immunity scoring, which represents the first effort to systematically measure the differences in immunity protections across jurisdictions, reveals substantial variation in immunity regimes across countries. Table 4.1 depicts the current immunity score. We discuss the historical one in Section 5.5.

Figure 4.1: Contemporary Immunity Scores Across Democracies



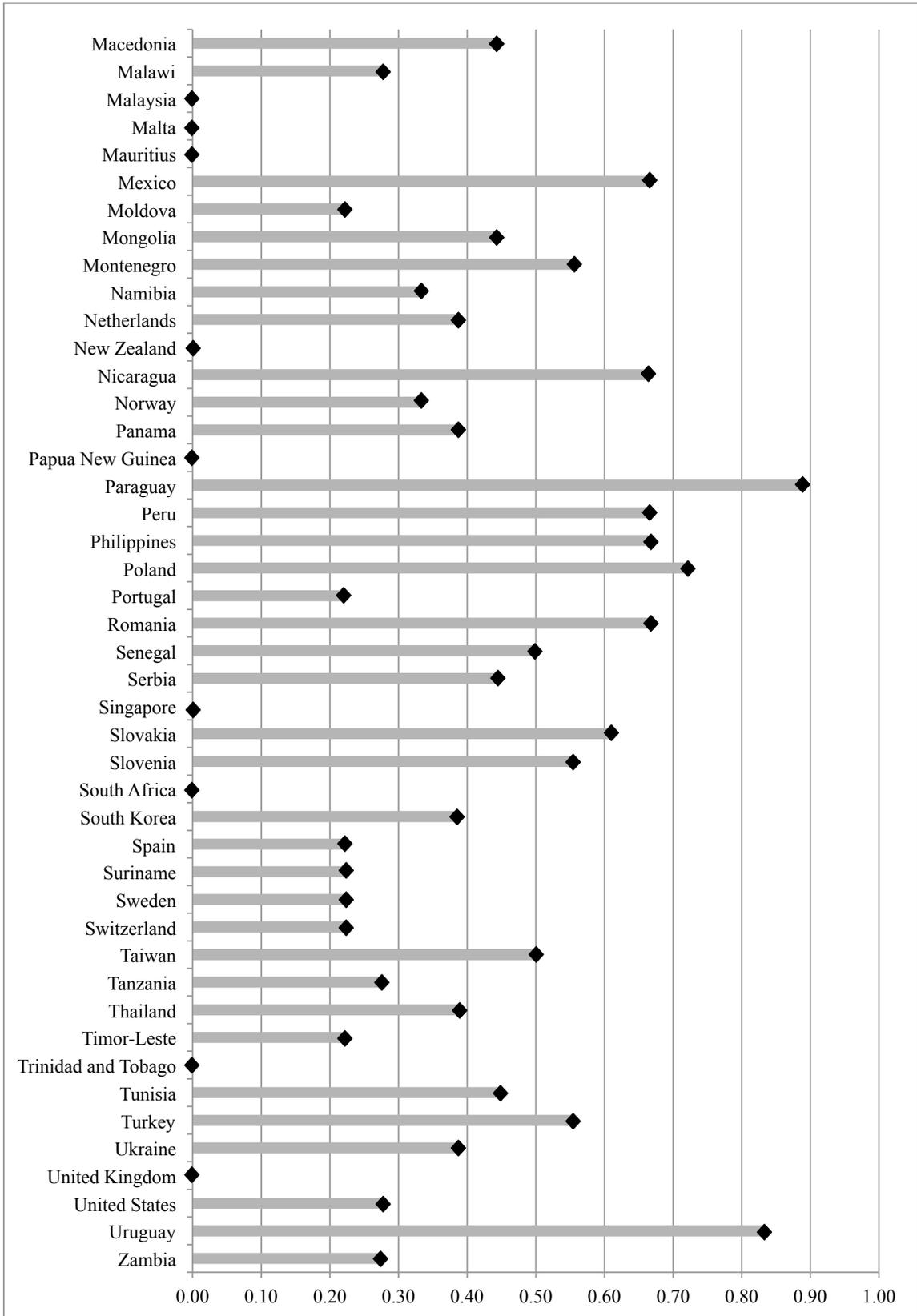


Figure 4.2: IMMUNITY INDEX SCORES IN 90 DEMOCRACIES



5 The Empirics of Immunity and Corruption

We now turn to the empirical evidence for the effects of immunity on governance outcomes. The focus is on corruption as the most pervasive and arguably best-documented form of abuse of public office. Our empirical efforts complement two strands in the recent literature. First, we study how constitutional rules shape economic outcomes. This approach follows in the footsteps of important research in comparative political economy by Persson and Tabellini (2003), who study the effects of constitutional rules on economic policy and performance in great detail. Second, a considerable body of empirical literature has investigated the determinants of cross-country differences in corruption.¹⁷ The existing literature has already considered a variety of explanatory variables, but to our knowledge the role of immunity rules has not been studied.

We proceed in two steps. We first present OLS estimations demonstrating that, controlling for a wide range of determinants of corruption cited in the literature, a higher level of immunity protection is associated with more corruption. Moreover, we also test evidence that the effect of immunity on corruption is less pronounced in countries where the legal system is weak and judges are not independent from external influence. We find strong evidence that immunity and corruption are closely linked, and some evidence that these effects are less pronounced in societies with weak legal system, as the model suggests.

Although the OLS estimates point to a close relationship between immunity and corruption outcomes, it remains unclear whether immunity's impact on corruption is causal. In a second step, we turn to instrumental variable estimation and show that these effects are likely causal. We instrument current immunity rules with immunity rules at the time of the first democratic constitution. The instrumental variables results confirm the OLS estimates and show a positive and significant effect of historical immunity provisions on corruption today.

5.1 Outcome Variable and Basic Correlations

Corruption can be defined broadly as the “misuse of public office for private gain” (Rose-Ackerman, 1999) or as an “an act in which the power of public office is used for personal gain in a manner that contravenes the rules of the game” (Jain, 2001). In practice, such misuse of public office occurs in many different ways. Corruption covers a wide spectrum of activities, from extorting bribes for building permits or utility access to large-scale schemes through which political elites plunder state resources for personal gain. Thus, it comes as no surprise that measuring corruption has been a topic of much debate in the empirical literature (Treisman, 2007). Given the emphasis of this paper on the effects of immunity for politicians, we concern ourselves with *systemic* corruption on a high political level rather than on *petty* incidences of bribery.

With respect to the measurement of corruption, we namely rely on the efforts of organizations such as the World Bank's Control of Corruption Index from the World Governance Indicators and the Corruption

¹⁷Detailed surveys can be found in Lambsdorff (2006) and Treisman (2007).

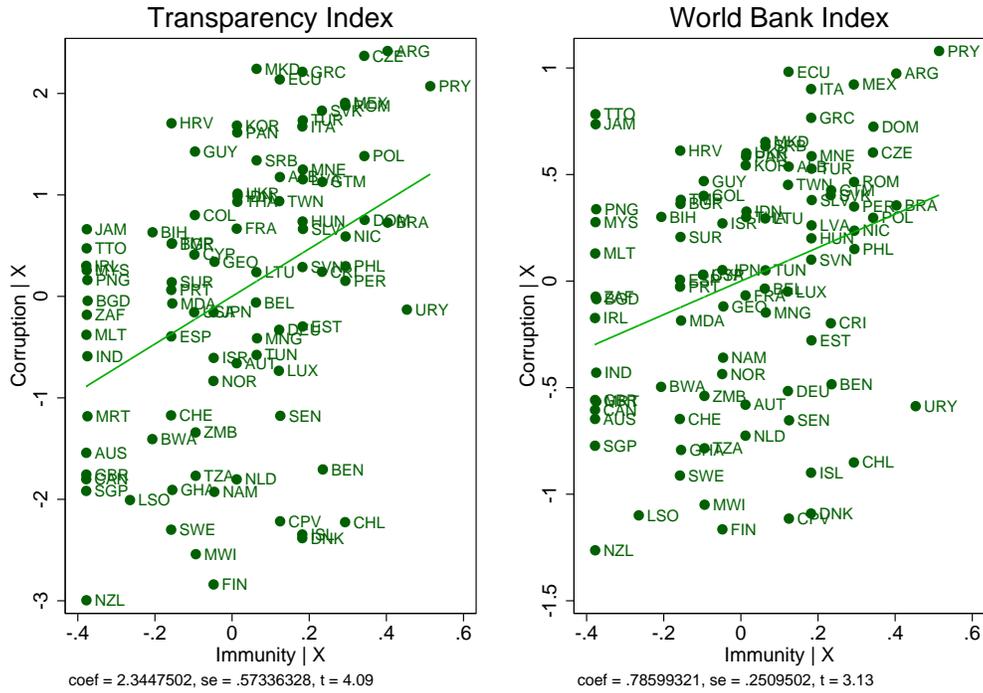
Perceptions Index provided by Transparency International. Both institutions produce quantitative indices of cross-country differences in corruption based on survey data. Treisman (2007) points to the differences between perception- and incidence-based indicators of corruption.¹⁸ We demonstrate the robustness of our findings using incidence-based corruption indicators as well as a variety of different corruption indicators, such as the quality of governance index contained in the International Country Risk Guide (ICRG) and various other corruption measures (“diversion of public funds;” “irregular payments and bribes”) provided by the World Economic Forum (WEF). Throughout the following analysis, higher values for the dependent variables indicate more corruption. Whenever the ordering was inverse, we inverted the scoring accordingly for ease of interpretation of the results.

In Figure 5.1, we begin by examining the relationship between immunity and corruption. The two partial correlation plots display the relationship between the strength of immunity and the level of corruption, controlling for GDP per capita. We use both the “Control of Corruption” indicator from the Transparency International “Corruption Perceptions Index” and the World Bank.¹⁹ Both measures yield very similar results. Visually, the impression is clear: across the 90 countries in our sample, countries with more immunity protection for politicians also tend to have more corruption when controlling for differences in per capita income.

¹⁸For a discussion of the relative strengths and weaknesses of perception and incidence based indicators, see Treisman (2007).

¹⁹These measures are both negative numbers. In the graphs below we change the sign, so a higher number means more corruption.

Figure 5.1: Partial Correlation of Immunity Protection (X) & Indices of Corruption (Y)



Notes: Partial correlation between corruption on immunity, controlling for GDP per capita. See text.

5.2 Control Variables

We further examine this relationship by controlling for other country characteristics that are also potentially important for corruption. In the literature on the determinants of corruption a large number of explanatory variables has been considered. There is consensus that higher income countries have lower levels of corruption, and our regressions control for GDP per capita. Additional explanatory variables can be broadly grouped into (1) political, legal and institutional factors; (2) demographic and geographic factors; and (3) economic factors. In our empirical analysis, we will consider the following control variables:

- Political, legal and institutional factors. *Electoral rules*: The seminal work by Persson and Tabellini (2003) points to the important effects of different electoral systems on economic outcomes, including corruption. We control for these effects through a dummy variable for majoritarian electoral systems. *Legal systems*: Common law countries tend to have lower aggregate immunity protection, on average, although differences exist between parliamentary and presidential common law countries. To disentangle the effects of immunity rules from other differences relating to legal origin, we add controls for English and French legal origin (La Porta et al., 2008). We also run separate regressions for the subsamples of countries with English and French legal origins. *Presidential regime*: Factors related

to the form of government are often seen as important influences on the behavior of politicians and voters (Panizza, 2001; Persson et al., 2003). *Democracy*: The de facto degree of democracy and hence electoral accountability may be negatively related to corruption (Treisman, 2007). We use the Polity II democracy score to control for the degree of democratic accountability. We also used Freedom’s House index of press freedom to control for the importance of independent media to expose corrupt politicians. We also tested the impact of federalism as suggested by Treisman (2000)

- Economic structure. *Trade openness*: The impact of trade openness on corruption is explored by Gurgur and Shah (2005), Brunetti and Weder (2003), Persson et al. (2003), Fisman and Gatti (2002) and Bonaglia et al. (2001). We control for trade openness using the sum of imports and exports over GDP from the World Bank Development Indicators. *Raw material dependence*: High dependence on raw material exports is often associated with higher levels of corruption, as studied by Herzfeld and Weiss (2003), Tavares (2003), and Bonaglia et al. (2001). We use a proxy for dependence on raw material exports by looking at the share of oil exports in total exports.
- Cultural factors. *Culture*: Culture is often seen as an important determinant of corruption, but it is also one that is notoriously difficult to quantify. Thanks to the work of Fisman and Miguel (2007) on parking violations of United Nations diplomats in New York, we dispose of a measure for differences in behavior when law enforcement is absent. Until 2002, diplomatic immunity protected diplomats from enforcement actions. Following Fisman and Miguel (2007), we interpret the variation in parking violation when penalties were non-enforceable as a proxy for different cultural attitudes towards to law-abiding behavior. As immunity provisions (even historical ones discussed later) might reflect underlying cultural norms, the inclusion of the Fisman and Miguel (2007) index enables us to test directly if immunity has an independent effect on corruption or merely proxies deeper cultural norms that also determine institutional choices. *Fractionalization*: in robustness checks we also consider the degree of ethnic and linguistic fractionalization as they have been found to correlate positively with corruption and poor governance outcomes, as studied by Lederman et al. (2005), Suphachalasai (2005), Alesina et al. (2003), Herzfeld and Weiss (2003), Treisman (2000), La Porta et al. (1999), Easterly and Levine (1997), and Mauro (1995). *Religion*: Whether religious beliefs, especially Protestant values, are associated with corruption remains a debated issue from an empirical point of view. As part of our robustness tests, we also control for the share of protestants in the population, following Brunetti and Weder (2003), Chowdhury (2004), Lederman et al. (2005), Suphachalasai (2005), and Freille et al. (2007).

The summary statistics of the variables used in the regression analysis and their sources are shown in Table 2.

Table 2: Summary statistics

Variable	Mean	Std. Dev.	Min.	Max.	N	Source
Immunity index	0.377	0.237	0	0.89	90	see text
Historical immunity	0.429	0.266	0	0.830	82	see text
Corruption (TI)	-4.866	2.337	-9.700	-1.2	90	Transparency Intl.
Corruption (WB)	-0.377	1.022	-2.47	1.19	90	World Bank
Bribes paid (log)	1.878	0.939	0	3.784	55	Treisman 2007
ICRG quality of governance	-0.611	0.206	-1	-0.259	81	ICRG
Corruption (ICRG)	-3.205	1.225	-6	-1.2	66	ICRG
Government effectiveness - estimate	0.491	0.982	-0.985	2.25	90	World Bank
Real GDP per capita (log)	8.947	1.095	6.326	10.924	90	WEO Database
Presidential system	0.4	0.493	0	1	90	Persson and Tabellini 2003
Democracy	2.113	0.248	0.981	2.303	90	Polity IV Database
Majoritarian election	0.211	0.41	0	1	90	Norris 2009
English legal origin	0.278	0.45	0	1	90	La Porta et al. 1999
French legal origin	0.467	0.502	0	1	90	La Porta et al. 1999
Rule of law	0.337	0.959	-1.272	1.988	90	World Bank
Population (log)	16.025	1.643	12.567	20.802	90	World Bank
Oil export share (log)	0.86	1.615	-2.303	4.107	90	WDI
Trade openness (log)	4.350	0.541	2.61	5.909	90	WDI
Latitude	0.356	0.201	0.014	0.722	90	La Porta et al. 1999
Protestant share	0.162	0.251	0	0.978	86	La Porta et al. 1999
Ethnic fractionalization	0.374	0.228	0.002	0.787	87	Alesina et al. 2003
Press freedom	-31.778	17.199	-78	-8	90	Freedom House
Fisman-Miguel Index	12.62346	20.87374	0	119	81	Fisman and Miguel 2007

5.3 Ordinary Least Squares Regressions

In this section, the primary goal is to determine whether our model’s predictions for a relationship between immunity provisions and governance outcomes in modern democracies finds support in the data. To estimate the link, we regress corruption measures on the immunity scores described above, while controlling for other potential determinants of corruption. We begin by estimating the following reduced form cross-sectional regression:

$$C_i = \alpha + \beta I_i + \gamma \mathbf{X}_i + \epsilon_i \quad (5.1)$$

where C_i is our corruption measure, I_i the level of immunity protection, and the coefficient β is the main object of study, with the goal of investigating whether differences in immunity regimes are informative for corruption outcomes. We control for the other possible factors in the form of additional variables in the vector \mathbf{X} . For now, the error term ϵ_i is assumed to be well behaved. We report robust standard errors throughout. While we have calculated immunity scores for **90** democracies, some control variables are not available for all countries, resulting in slightly smaller sample sizes in some regressions.

Table 3 presents our benchmark estimates using the corruption indices compiled by Transparency International (TI) and the World Bank (WB).

Table 3: Benchmark estimates

	(1)	(2)	(3)	(4)	(5)	(6)
	TI	TI	TI	WB	WB	WB
Immunity	2.345*** (0.530)	2.458*** (0.841)	3.166*** (0.874)	0.786*** (0.260)	0.835** (0.390)	1.163*** (0.356)
Real GDP per capita (log)	-1.722*** (0.135)	-2.001*** (0.146)	-2.219*** (0.167)	-0.766*** (0.0583)	-0.841*** (0.0644)	-0.921*** (0.0822)
English legal origin		0.202 (0.462)	0.912* (0.522)		0.218 (0.207)	0.480** (0.230)
French legal origin		0.482 (0.347)	0.505 (0.360)		0.334** (0.143)	0.281* (0.150)
Majoritarian Election		-0.372 (0.354)	-0.158 (0.330)		-0.135 (0.157)	-0.0281 (0.152)
Presidential system		-0.699** (0.333)	-1.014*** (0.359)		-0.215 (0.130)	-0.367** (0.145)
Democracy		0.101 (0.582)	-0.794 (0.546)		-0.0367 (0.278)	-0.402 (0.266)
Trade openness (log)		-0.0557 (0.242)	0.0511 (0.269)		-0.0323 (0.111)	0.0211 (0.129)
Oil export share (log)		0.313*** (0.0805)	0.229** (0.0961)		0.134*** (0.0388)	0.108** (0.0424)
Fisman-Miguel index			0.00238 (0.00433)			0.00297 (0.00194)
Regional fixed effects	No	No	Yes	No	No	Yes
Observations	90	90	81	90	90	81
Adjusted R^2	0.700	0.738	0.802	0.699	0.739	0.802

Standard errors in parentheses

TI = Transparency International, WB = World Bank

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

The table is constructed as follows. We first control for the income level only, and then subsequently add economic, political, cultural and geographic controls. Regressing corruption levels on our immunity score and real income yields a highly significant positive association between the two. None of the additional control variables in regressions (2) and (3) materially alter this picture. Immunity and corruption remain closely correlated and the effect grows with additional controls. The choice of the indicator of corruption, be it Transparency International's Corruption Index (1-3) or the World Bank (4-6) has little impact. Moreover, our results are well aligned with the empirical corruption literature. In most of the empirical literature on the determinants of corruption, a high share of commodity exports tends to be associated with more opportunities for corruption and rent-seeking, while trade openness dampens it. We find some evidence that majoritarian election systems and presidential regimes have lower corruption, but the effects are not very robust. The main insight from the first set of regressions in Table 3 is that none of the additional control variables affect the association between immunity protection and corruption in a meaningful way. Stronger immunity protection, as measured by our immunity score, goes hand in hand with more corruption after controlling for a standard set of variables associated with corruption outcomes.

5.3.1 Robustness

We test the robustness of our results in Table 4 by using an alternative outcome variable, the incidence-based corruption indicator proposed by Treisman (2007) (BP). The incidence-based measure may help overcome some of the shortcomings of perception-based corruption measures. We also use the Quality of Government indicator from the International Country Risk Guide (ICRG). The latter includes, compared to other corruption measures, a wider range of governance dimensions such as the quality of public administration and law enforcement. Lastly, we also construct the first principal component of all available corruption measures and use it as a dependent variable in regressions (5) and (6). Neither the specific corruption indicator chosen nor the different country samples that are a result of the varying coverage of the different corruption indicators affect the relation between immunity and corruption. In a number of further robustness tests reported in Table 9 in the Appendix, we extend the checks by adding additional controls such as ethnic fractionalization, press freedom and the share of protestants in the population. In all cases, the results correspond closely to the benchmark results discussed above.

Table 4: Alternative outcome variables

	(1)	(2)	(3)	(4)	(5)	(6)
	BP	BP	ICRQ	ICRQ	PC	PC
Immunity	1.022*** (0.369)	1.931*** (0.592)	0.200*** (0.0544)	0.241*** (0.0738)	1.494*** (0.551)	2.566*** (0.901)
Real GDP per capita (log)	-0.619*** (0.0826)	-0.728*** (0.146)	-0.154*** (0.0140)	-0.149*** (0.0180)	-2.095*** (0.159)	-1.850*** (0.209)
English legal origin		0.347 (0.318)		0.0656* (0.0387)		1.008 (0.610)
French legal origin		-0.0302 (0.292)		0.0941*** (0.0347)		0.341 (0.418)
Majoritarian Election		0.0108 (0.217)		0.0168 (0.0397)		0.0200 (0.326)
Presidential system		-0.282 (0.406)		-0.0877** (0.0379)		-0.477 (0.340)
Democracy		-0.426 (0.638)		-0.00795 (0.0681)		-2.565** (1.010)
Trade openness (log)		0.415* (0.228)		0.00167 (0.0252)		-0.00243 (0.364)
Oil export share (log)		0.175** (0.0726)		0.0242** (0.00969)		0.122 (0.101)
Fisman-Miguel index		-0.00366 (0.00392)		0.00117*** (0.000432)		0.0108** (0.00516)
Regional fixed effects	No	Yes	No	Yes	No	Yes
Observations	55	50	81	74	66	59
Adjusted R^2	0.529	0.560	0.695	0.782	0.760	0.786

Standard errors in parentheses

BP = Bribes Paid by Treisman, ICRQ = ICRQ Quality of Governance, PC = First principal component of 5 corruption measures

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

5.4 Immunity and the Rule of Law

Immunity may have differential effects on governance outcomes depending on the independence and quality of law enforcement agencies, including the judiciary, prosecution, and police. Our theoretical model implies that more generous immunity provisions are likely to have more pernicious effects on corruption in mature democracies with well established legal independence, but not necessarily in countries at early stages of the democratic transition process, where old elites may try to influence the democratic transition. In this case, the corruption-inducing effect of immunity protection is counterbalanced by the protection it gives to honest democratic politicians. We should therefore expect the negative effect of immunity rules to be less pronounced in countries in which police forces and judges fail to maintain high professional standards, and malicious prosecution, smear campaigns, and extralegal intimidation are not only more likely, but are also less likely to be detected and corrected in favor of an honest politician.

However, the theoretical model also points to some ambiguity: First, while it is true that immunity becomes relatively more valuable for honest politicians when the legal system is weak, the likelihood that corrupt politicians get caught by the law also decreases. Second, in countries with weak legal systems interest groups may be powerful and can offer significant support in terms of bribes and campaign financing. With respect to the model this would imply that $a_1 > a_0$ which puts us in Case 1.1 in which the level of immunity can be inconsequential. Another possible channel is that the honesty level of politicians is endogenous and depends of the level of immunity protection as well as on the quality of the judiciary.²⁰

In this section, we look at the evidence for a differential effect of immunity in countries with weak/strong legal systems. We use the World Bank’s Governance Indicator for the quality of the rule of law—which inquires into formal judicial independence, enforcement of court orders, the reliability of and trust in police services—as a measure of the quality and de facto independence of law enforcement.²¹ We have also corroborated the analysis with the only alternative indicator we are aware of, namely the rule of law index compiled by Freedom House.

In Table 5, we estimate the association between immunity and corruption in countries with good and bad legal systems. The results of the regressions provide some support for the idea that immunity does less harm when the legal system is bad, but the evidence is not unambiguous. The first two regressions include an interaction term between immunity and the rule of law. The coefficient has the expected sign, but is

²⁰The model in Reddy et al. (2014) allows for differences in politician’s innate honesty level, so for each set of parameters there is a fraction of politicians who choose to be corrupt. There we also discuss the issue that politician’s types can be endogenous to the level of the immunity protection.

²¹Although the variable measures some facets of the rule of law that are not directly related to formal understandings of law enforcement independence—such as the extent to which persons and property are protected from criminality—we use the variable because it addresses a wide variety of legal mechanisms that a government could use to pressure an individual politician to take or refrain from a particular course of action. Hayo and Voigt (2007) and Melton and Ginsb 12) find that, public confidence in law enforcement processes explains some of the gap between de jure and de facto judicial independence. In addition, this variable is employed by a large number of influential studies: La Porta et al. (2004), Haggard and Tiede (2011), Gourinchas et al. (2012), Antràs and Chor (2013).

significant at the 95% level only in the first regression and turns (marginally) insignificant when we add further controls. Including our full set of control variables, the coefficient stays positive but is no longer significant. In regressions (3) to (6), we look at different subsamples of countries with good (bad) rule of law environments. We use different cut-offs along the distribution of the rule of law variables. In (3) and (4) we split the sample along the median, in (5) and (6) we only classify countries in the bottom tercile as weak rule of law systems. We find some evidence that the negative effects of immunity are stronger in good legal environments as evidences by the higher and more precisely estimated coefficients. The explanatory power of the model is also considerably lower in the weak rule of law sample.

Table 5: Immunity and the Rule of Law: Interactions and Sample Split

	(1)	(2)	(3)	(4)	(5)	(6)
			weak <50	strong >50	weak <33	strong >33
Immunity	0.195** (0.0949)	0.295** (0.126)	0.646 (0.792)	2.038 (1.315)	-0.146 (0.872)	2.046** (1.005)
Immunity x Rule of Law	0.195** (0.0915)	0.105 (0.0989)				
Rule of Law	-2.126*** (0.0947)	-1.917*** (0.199)				
Real GDP per capita (log)		-0.502*** (0.182)	-0.646** (0.241)	-2.186*** (0.350)	-0.523* (0.258)	-1.935*** (0.155)
English legal origin		0.0819 (0.343)	0.0267 (0.413)	-0.0685 (0.627)	-0.134 (0.408)	-0.122 (0.542)
French legal origin		0.0287 (0.263)	0.147 (0.307)	0.216 (0.528)	0.135 (0.281)	0.205 (0.417)
Democracy		0.876* (0.447)	0.336 (0.759)	-0.228 (1.325)	0.641 (0.734)	0.389 (0.681)
Trade openness (log)		0.266 (0.168)	0.0426 (0.283)	0.0568 (0.385)	0.212 (0.245)	0.0918 (0.267)
Oil export share (log)		0.0571 (0.0604)	0.116 (0.0927)	0.170 (0.126)	0.0288 (0.0679)	0.360*** (0.113)
Observations	90	90	45	45	30	60
Adjusted R^2	0.881	0.894	0.045	0.525	-0.038	0.652

Standard errors in parentheses

Dependent variable is the immunity index from Transparency International.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

5.5 Instrumental Variables Regressions

Our analysis has demonstrated a conditional correlation between immunity protection and corruption that was robust to various additional checks. Yet we cannot be sure that the link is causal. In this section, we turn to instrumental variable regressions to show that these effects are likely causal. Our strategy is as follows. As above, we are interested in the relationship between corruption outcomes and political immunity

given by:

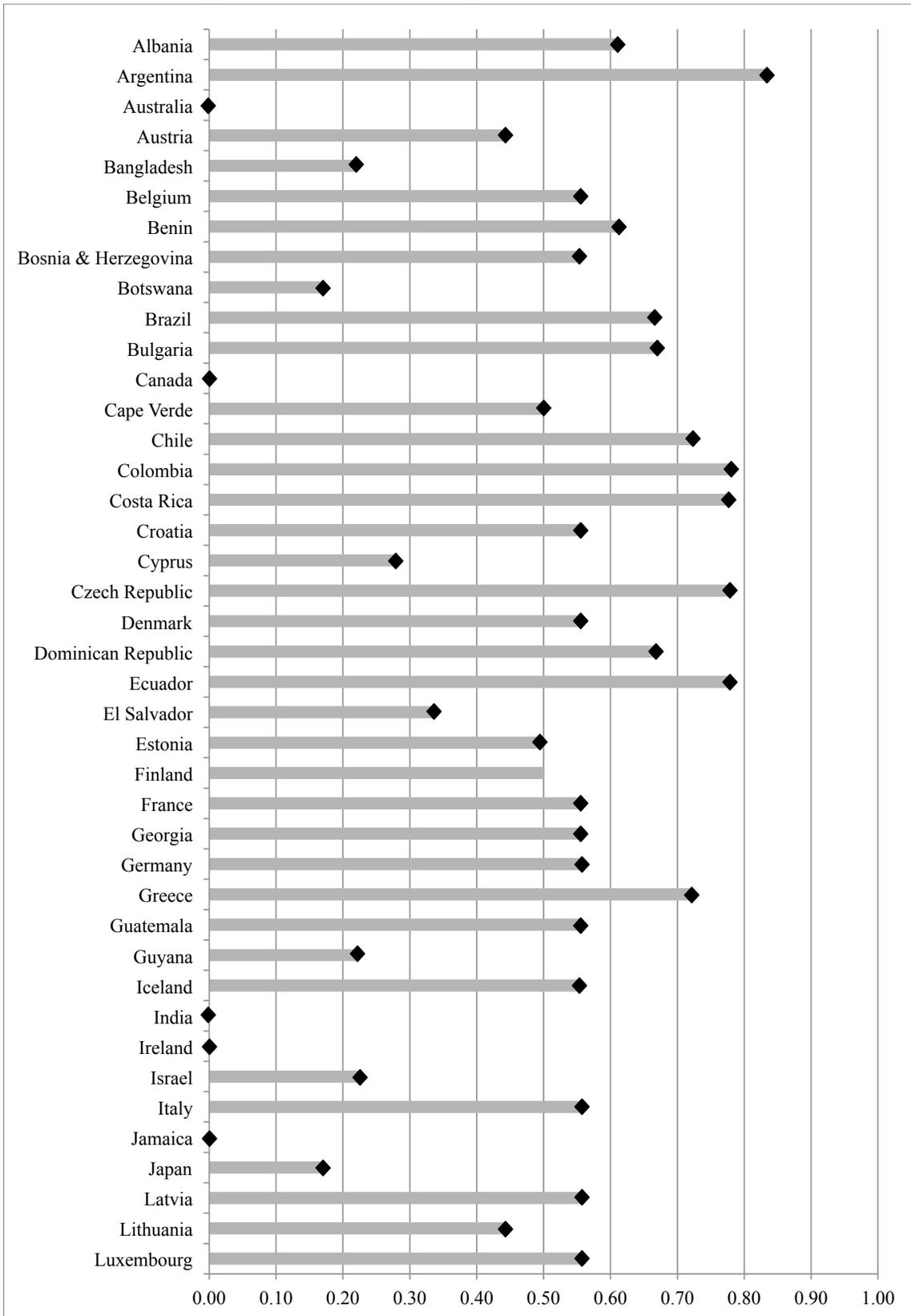
$$C_i = \alpha + \beta_C I_i + \gamma_C \mathbf{X}_i + \epsilon_{C_i}. \quad (5.2)$$

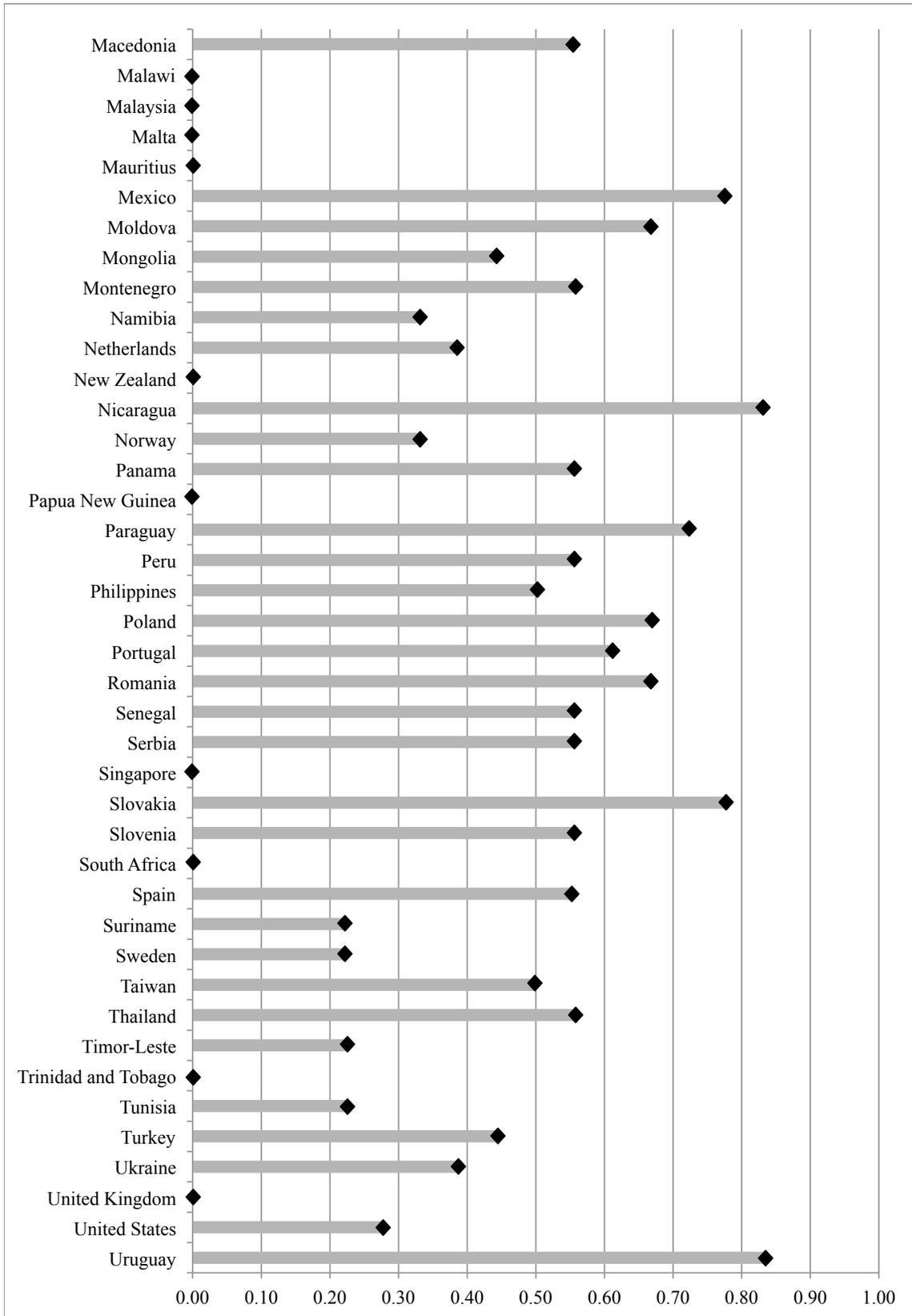
In a first step, we show that current immunity regimes are closely correlated to historical immunity rules at the time of a country's first democratic constitution H_i . If historical immunity provisions are correlated with current immunity, but uncorrelated with other country characteristics, they constitute a valid instrument. The crucial assumption here is that early institutional choices at the time of the first democratic constitution reflected historical contingencies at the time that persist over time and are uncorrelated with the error term. While it seems implausible that specific immunity provisions dating back to the 18th and 19th centuries would impact current corruption through other channels than institutional persistence, a potential objection could be that even early immunity provisions could be a function of deep cultural parameters. Put differently, more corrupt societies could have already chosen more generous early immunity provisions centuries ago. However, thanks to the Fisman and Miguel (2007) dataset we can explicitly control for such presumably deep cultural parameters of corruption and exclude that they are causing the immunity-corruption nexus. Moreover, our IV strategy comes with the added benefit of yielding potentially consistent estimates even though immunity may be measured with error. We propose to use the historical immunity regime H_i to instrument for the current regime I_i :

$$I_i = \alpha + \beta_I H_i + \gamma_I \mathbf{X}_i + \epsilon'_{I_i}. \quad (5.3)$$

Relying on historical constitutions and legal documents, we generate the scores by quantifying the strength of the immunity regime in each country in the year of the first democratic constitution, typically in the 19th century. Table 12 in the Appendix shows the years of the first democratic constitution that we identified and then used for the coding of historical immunity rules. We code historical immunity using the same methodology as for the coding of current immunity, we namely, apply the same 18-question scoring rubric. Historical immunity for Ghana, Hungary, Indonesia, Lesotho, South Korea, Switzerland, Tanzania, and Zambia was based on statutory law. For these countries, we were not able to locate the applicable historical statutory law in order to measure the strength of the relevant historical immunity regimes and had to omit them from the historical sample. The resulting historical immunity scores are shown in Figure 5.2.

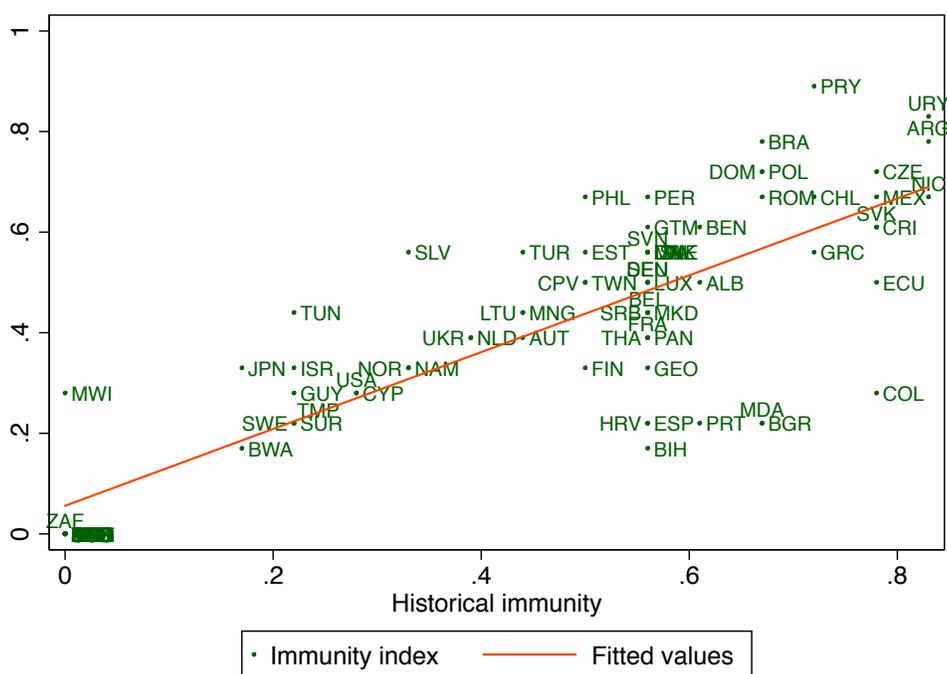
Figure 5.2: Historical Immunity Scores Across Democracies





In Figure 5.3 we plot the historical immunity scores against the current level of immunity protection of politicians. The graph shows that immunity regimes are highly persistent over time. In the Americas, for instance, the mean age of immunity provisions is approximately 150 years. Since 1900, we count only four substantial changes to immunity regimes in the Western Hemisphere. In the few countries that made substantial revisions, these changes typically followed constitutional revisions made under authoritarian regimes and were subsequently repealed when the authoritarian leaders were ousted from power. In 1980, for example, General Pinochet orchestrated a revision of the Chilean Constitution that included lifelong immunity for former presidents, a change that was swiftly repealed when the country returned to democratic rule. This persistence is present in our entire sample: The correlation between the historical and current immunity scores coefficient is 0.83 and statistically highly significant. Modern immunity provisions seem to follow the historical choices made early on in a country’s democratic history.

Figure 5.3: Current and Historical Immunity Regime



Notes: See text.

5.5.1 Instrumental Variable Estimations

Instrumental variable estimations using historical immunity rules at the time of the first democratic transition as an instrument for current immunity are reported in Table 6. The first column reports the baseline estimates without control variables. Then we then add further controls for income level and legal origins, as well as other controls.

Table 6: Two stage least squares estimates

	(1)	(2)	(3)	(4)	(5)	(6)
Immunity	3.222** (1.276)	3.056*** (0.682)	3.842*** (0.948)	3.119*** (0.918)	3.628*** (1.058)	4.568*** (1.330)
Real GDP per capita (log)		-1.839*** (0.159)	-1.802*** (0.162)	-2.084*** (0.140)	-2.076*** (0.143)	-2.057*** (0.169)
English legal origin			0.690 (0.474)	1.068** (0.482)	1.372** (0.540)	1.817*** (0.696)
French legal origin			0.271 (0.373)	0.508 (0.346)	0.530 (0.350)	0.383 (0.366)
Oil export share (log)					0.206** (0.100)	0.227** (0.113)
Trade openness (log)					-0.148 (0.242)	-0.0216 (0.305)
Democracy					-1.020 (0.651)	-1.182* (0.698)
Fisman-Miguel index						0.00749 (0.00473)
Regional fixed effects	No	No	No	Yes	Yes	Yes
Kleibergen-Paap F-Statistic	218.3	217.7	78.63	92.99	73.97	34.10
Observations	82	82	82	82	82	74
Adjusted R^2	0.048	0.697	0.677	0.677	0.698	0.704

Standard errors in parentheses

IV estimates of the relationship between immunity and governance using historical immunity as an instrument.

Dependent variable is the corruption index from Transparency International.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Column (1) displays our benchmark estimate of the impact of immunity on corruption. The IV estimations strengthen the case for a causal relationship between immunity provisions and corruption outcomes. In column (1) the immunity variable is highly significant with a standard error of 1.28. The immunity variable also remains positive and statistically significant in all other specifications. Moreover, the magnitude in the IV estimates is slightly larger than in the OLS specifications. Measurement error might have attenuated the coefficient estimates in the OLS regressions presented earlier. We also report the Kleibergen-Paap test statistic to identify weak instruments. The IV estimates surpass the critical value of 16 developed by Stock and Yogo (2005) for the first stage F-statistic. In light of the result, the instrument appears sufficiently strong.

Of considerable interest are the estimations in column (6) where we control for cultural influences on corruption. We rely on the work by Fisman and Miguel (2007) on variation on parking violations by diplomats in New York City before the city started to enforce parking violation. We do indeed find evidence that

more parking violations are associated with more corruption (although the effect is marginally not statistically significant in some regressions). Yet reassuringly, the impact of immunity provisions on corruption is unaffected if we control for cultural factors as the association between immunity and corruption remains strong.

In Table 7, we report the same set of instrumental variable estimations using historical immunity as an instrument for current immunity. Yet this time, we use the World Bank Corruption Index as our outcome variable. As before, the choice of the dependent variable appears to make little difference. The IV regressions in Table 7 confirm the positive relationship between immunity and corruption that we found earlier in the OLS estimates. As in Table 6, the estimates are highly significant and the coefficients typically larger than in the OLS estimates suggesting that those may represent a lower-bound estimate of the strength of the relationship due to attenuation bias in OLS. Moreover, the Fisman and Miguel (2007) index turns statistically significant adding evidence that cultural factors play an important role and linking our results to those of Fisman and Miguel (2007). In the appendix, we obtain very similar findings using the first principal component of various corruption indicators as the dependent variable.

Table 7: Two stage least squares estimates

	(1)	(2)	(3)	(4)	(5)	(6)
Immunity	0.992* (0.572)	0.918*** (0.318)	1.176*** (0.418)	0.837** (0.408)	1.046** (0.495)	1.321** (0.572)
Real GDP per capita (log)		-0.824*** (0.0669)	-0.792*** (0.0654)	-0.878*** (0.0646)	-0.876*** (0.0673)	-0.880*** (0.0792)
English legal origin			0.355* (0.194)	0.409** (0.197)	0.531** (0.243)	0.692** (0.301)
French legal origin			0.268* (0.149)	0.300** (0.142)	0.311** (0.143)	0.249* (0.147)
Oil export share (log)					0.0864** (0.0425)	0.0992** (0.0455)
Trade openness (log)					-0.0494 (0.107)	0.00864 (0.127)
Democracy					-0.414 (0.286)	-0.436 (0.278)
Fisman-Miguel index						0.00454** (0.00188)
Regional fixed effects	No	No	No	Yes	Yes	Yes
Kleibergen-Paap F-Statistic	218.3	217.7	78.63	92.99	73.97	34.10
Observations	82	82	82	82	82	74
Adjusted R^2	0.025	0.706	0.704	0.665	0.688	0.721

Standard errors in parentheses

IV estimates of the relationship between immunity and governance using historical immunity as an instrument.

Dependent variable is the World Bank corruption index from the World Governance Indicators.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

5.5.2 Further Checks

A number of additional robustness checks are presented in this section. These additional tests add more nuance to the overall results, but do not significantly alter the effect of immunity provisions on corruption outcomes.

First, a potential concern could be that the variation in our instrument–immunity provisions at the time of the first democratic constitution–is to some extent driven by different legal histories and colonial ties making it difficult to disentangle the effects of legal origin and immunity provisions in the cross-section. Our immunity coding reported above also shows that the level of immunity protection varies between countries of English and French legal descent. We include controls for legal origins in the regressions, but a more direct test simply consists in estimating the immunity–corruption relation separately for subsamples of countries of English and other legal origin. This is the first set of results we report in Table 8.

Second, we address a potential regional bias of our findings. Our country sample is Europe-heavy as nearly half of our countries are European. We therefore run separate instrumental variable regressions

for subsamples consisting of European and non-European economies. It will turn out that the immunity–corruption nexus holds across both subsamples.

Regressions (1) - (4) in table 8 show that the immunity–corruption nexus is strong both in the English legal system subsample as well as in countries of non-English legal origin. Immunity leads to more corruption in both country groups. The effect is somewhat stronger and more precisely estimated in countries of non-English legal origin, but also in the English law sample the IV estimates are significant at the 90% confidence level. That the coefficients are less precisely estimated is hardly surprising as the English law subsample is considerably smaller.

Looking at potential regional differences, we find little evidence that the immunity effect on corruption is driven by European or non-European countries. Both for the European and non-European subsamples the IV estimation show a significant effect of immunity on corruption, controlling for institutional, economic and cultural factors. It is noteworthy that the coefficients are larger in the European subsample, as shown in columns (5) and (6) of Table 8. It is equally important to note that, as before, we include the Fisman and Miguel (2007) index in columns (6) and (8) to control for cultural factors. The effect of immunity provisions remains statistically significant throughout. In the appendix, we also show that equally strong results are obtained using the first principal component of the corruption indicators as the dependent variable.

Overall, the IV results for the sample splits confirm the positive effects of immunity on corruption estimated earlier by OLS and strengthen a causal interpretation of the immunity–corruption nexus. Moreover, the relationship is equally present in subsamples defined along colonial and regional lines. Coming back to our original research question, the evidence we uncovered here appears to support Plato’s longstanding suspicion that human behavior changes when the fear of legal accountability is absent. When New York City found a way to circumvent diplomatic immunity to enforce parking rules, violations dropped significantly. Painting on a larger canvas, our findings suggest that reducing politicians’ immunity would help reduce aggregate corruption levels.

Table 8: Two stage least squares estimates

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	English law	English law	Other law	Other law	Europe	Europe	Non-Europe	Non-Europe
Immunity	1.125* (0.637)	1.253* (0.700)	1.247** (0.533)	2.296*** (0.716)	1.518** (0.710)	3.042*** (0.611)	0.854* (0.479)	1.627** (0.721)
Real GDP per capita	-0.786*** (0.114)	-0.859*** (0.105)	-0.842*** (0.0819)	-0.881*** (0.0927)	-1.055*** (0.0933)	-0.737*** (0.143)	-0.684*** (0.0908)	-0.883*** (0.102)
Oil export share (log)		0.114** (0.0495)		0.111** (0.0526)		0.0312 (0.0532)		0.181*** (0.0623)
Trade openness (log)		0.244 (0.174)		-0.136 (0.185)		-0.0594 (0.173)		0.0996 (0.151)
Democracy		0.385 (0.645)		-1.154*** (0.289)		-1.703** (0.732)		0.0829 (0.296)
Fisman-Miguel index		0.0169** (0.00721)		0.00530** (0.00210)		0.00769** (0.00348)		-0.00770 (0.00469)
English legal origin					0.649** (0.297)	1.220*** (0.292)	0.0322 (0.189)	0.0946 (0.378)
French legal origin					0.443*** (0.147)	0.408*** (0.154)	0.0137 (0.162)	-0.328 (0.430)
Regional fixed effects	No	Yes	No	Yes	No	No	No	No
Kleibergen-Paap F-Statistic	40.06	40.28	51.14	12.60	50.05	23.88	47.06	12.64
Observations	21	20	61	54	37	34	45	40
Adjusted R^2	0.736	0.726	0.665	0.655	0.807	0.749	0.586	0.670

Standard errors in parentheses

IV estimates of the relationship between immunity and governance using historical immunity as an instrument.

Dependent variable is the World Bank corruption index from the World Governance Indicators.

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

6 Conclusions

This paper examines legal provisions that shield politicians from criminal prosecution. We show that such provisions, which we refer to as immunity, are a double-edged sword. Immunity may improve governance because it protects honest politicians from false charges and politically motivated prosecution, in particular early on in a country's democratization process. This explains why immunity has proven to be such a prevalent and persistent institution throughout the course of history. However, immunity simultaneously provides politicians with legal protection for unlawful activities.

To investigate the implications of the model empirically, we undertake the first systematic effort to quantify the strength of immunity protection enjoyed by elected officials in democracies around the world, both today and in history. We consult written constitutions, founding documents, legislative acts, case law, statutes, and legislative rules of procedure in 90 countries on all six settled continents. The resulting immunity scores comprise eighteen variables that measure the relative protection of politicians. The scoring reveals significant cross-jurisdictional diversity in the strength of immunity. We then use the resulting immunity scores to study the empirical connection between immunity and corruption.

Controlling for standard determinants of corruption, OLS estimations show that immunity is associated with greater corruption and that this correlation is robust to the inclusion of a large number of controls often associated with corruption. Moreover, our instrumental variable estimations suggest that the effect is likely causal. Immunity for politicians may be a useful device to protect democratically elected politicians in nascent democracies. In mature democracies, however, it is a cause of corruption, public mismanagement and weak governance. These in turn take a potentially large toll on economic development (Mauro 1995).

Given that little attention has been devoted to this important dimension of accountability, we hope that future studies will build on our work and investigate the institution of immunity in modern democracies in greater detail.

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A Appendix Tables

Table 9: Additional control variables

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	TI	WB	TI	WB	TI	WB	TI	WB
Immunity	2.036** (0.808)	0.654* (0.358)	2.240** (0.860)	0.744* (0.389)	2.355*** (0.666)	0.794** (0.336)	2.903*** (0.564)	1.079*** (0.271)
Real GDP per capita (log)	-1.948*** (0.170)	-0.822*** (0.0806)	-1.870*** (0.167)	-0.768*** (0.0854)	-1.975*** (0.181)	-0.799*** (0.0951)	-2.160*** (0.197)	-0.875*** (0.108)
Democracy	0.627 (0.979)	0.0977 (0.413)	1.285 (1.028)	0.405 (0.406)	1.094 (0.892)	0.332 (0.383)	1.055 (0.815)	0.272 (0.377)
Presidential system	-0.351 (0.342)	-0.117 (0.135)	-0.413 (0.362)	-0.128 (0.143)	-0.802** (0.336)	-0.287* (0.148)	-1.355*** (0.341)	-0.496*** (0.154)
Majoritarian Election	-0.262 (0.373)	-0.0868 (0.163)	-0.0861 (0.362)	0.00961 (0.153)	-0.129 (0.329)	0.00130 (0.148)	-0.0436 (0.323)	0.0359 (0.149)
English legal origin	0.370 (0.499)	0.238 (0.206)	0.276 (0.526)	0.181 (0.216)	0.0789 (0.449)	0.0951 (0.198)	0.300 (0.422)	0.226 (0.203)
French legal origin	0.263 (0.330)	0.223 (0.140)	0.129 (0.345)	0.147 (0.149)	-0.460 (0.295)	-0.0801 (0.137)	-0.284 (0.294)	-0.0342 (0.140)
Oil export share (log)	0.195** (0.0928)	0.0851* (0.0429)	0.248** (0.102)	0.107** (0.0463)	0.346*** (0.0889)	0.137*** (0.0422)	0.377*** (0.0921)	0.155*** (0.0417)
Trade openness (log)	-0.102 (0.236)	-0.0419 (0.111)	0.0865 (0.242)	0.0418 (0.116)	0.106 (0.226)	0.0425 (0.109)	0.220 (0.243)	0.0693 (0.121)
Press freedom	0.0271* (0.0137)	0.00935 (0.00595)	0.0364** (0.0141)	0.0137** (0.00595)	0.0187 (0.0129)	0.00777 (0.00596)	0.0162 (0.0116)	0.00671 (0.00551)
Ethnic fractionalization			0.135 (0.545)	0.192 (0.257)	-0.346 (0.522)	0.0228 (0.253)	-0.0878 (0.565)	0.0989 (0.276)
Protestant share					-2.808*** (0.463)	-1.006*** (0.218)	-3.005*** (0.536)	-1.047*** (0.255)
Fisman-Miguel index							-0.00655 (0.00393)	-0.000387 (0.00193)
Regional fixed effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Observations	90	90	87	87	86	86	78	78
Adjusted R^2	0.775	0.767	0.776	0.773	0.836	0.812	0.869	0.845

Standard errors in parentheses

WB = World Bank, TI = Transparency International

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Table 10: Two stage least squares estimates

	(1)	(2)	(3)	(4)	(5)	(6)
Immunity	1.661** (0.777)	1.559*** (0.418)	1.976*** (0.563)	1.522*** (0.543)	1.821*** (0.650)	2.295*** (0.771)
Real GDP per capita (log)		-1.126*** (0.0931)	-1.093*** (0.0927)	-1.238*** (0.0854)	-1.234*** (0.0877)	-1.231*** (0.104)
English legal origin			0.454* (0.270)	0.606** (0.273)	0.782** (0.324)	1.028** (0.408)
French legal origin			0.267 (0.214)	0.361* (0.200)	0.375* (0.202)	0.288 (0.210)
Oil export share (log)					0.122** (0.0587)	0.137** (0.0643)
Trade openness (log)					-0.0789 (0.144)	-0.000569 (0.177)
Democracy					-0.595 (0.385)	-0.659* (0.390)
Fisman-Miguel index						0.00540** (0.00267)
Regional fixed effects	No	No	No	Yes	Yes	Yes
Kleibergen-Paap F-Statistic	218.3	217.7	78.63	92.99	73.97	34.10
Observations	82	82	82	82	82	74
Adjusted R^2	0.036	0.710	0.698	0.680	0.703	0.724

Standard errors in parentheses

IV estimates of the relationship between immunity and governance using historical immunity as an instrument.

Dependent variable is the first principal component of corruption measures

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Table 11: Two stage least squares estimates

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	English law	English law	Other law	Other law	Europe	Europe	Non-Europe	Non-Europe
Immunity	1.628* (0.964)	1.324 (0.889)	2.134*** (0.703)	3.976*** (1.078)	2.716** (1.058)	5.154*** (0.958)	1.373** (0.636)	2.377** (1.008)
Real GDP per capita (log)	-1.087*** (0.157)	-1.224*** (0.113)	-1.144*** (0.115)	-1.222*** (0.138)	-1.489*** (0.124)	-0.973*** (0.219)	-0.956*** (0.125)	-1.225*** (0.134)
Oil export share (log)		0.122** (0.0591)		0.168** (0.0769)		0.0150 (0.0894)		0.249*** (0.0878)
Trade openness (log)		0.485** (0.196)		-0.178 (0.285)		-0.0725 (0.264)		0.131 (0.212)
Democracy		0.848 (0.812)		-1.676*** (0.503)		-2.766** (1.100)		0.144 (0.409)
Fisman-Miguel index		0.0300*** (0.00898)		0.00616* (0.00346)		0.00961* (0.00565)		-0.00985 (0.00680)
English legal origin					1.100** (0.464)	1.952*** (0.473)	0.0427 (0.267)	0.125 (0.521)
French legal origin					0.536** (0.211)	0.484** (0.232)	0.00930 (0.228)	-0.438 (0.602)
Regional fixed effects	No	Yes	No	Yes	No	No	No	No
Kleibergen-Paap F-Statistic	40.06	40.28	51.14	12.60	50.05	23.88	47.06	12.64
Observations	21	20	61	54	37	34	45	40
Adjusted R^2	0.751	0.790	0.653	0.610	0.790	0.688	0.617	0.690

Standard errors in parentheses

IV estimates of the relationship between immunity and governance using historical immunity as an instrument.

Dependent variable is the first principal component of corruption measures

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

B Online Appendix: Guide to Coding

B.1 Overview

This document provides an explanation of the way in which we assign numeric values to different immunity regimes. The document begins by providing a brief overview of cross-jurisdictional variation in immunity regimes before turning to the coding rubric, an explication of the assumptions made, and illustrations of how immunity provisions in three countries – the United Kingdom, Paraguay, and France – would be coded under this system.

We seek to quantify the strength of protection from criminal prosecution – immunity – afforded to politicians in ninety democracies in the present and past. We measure the contemporary strength of immunity in each country in order to analyze whether immunity correlates with poor governance outcomes, namely corruption. We measure the historical strength of immunity in each country to measure whether immunity regimes remain stable over time. We measure the level of protection by examining constitutions, founding documents, statutory law, case law, legislative rules of procedure, and secondary legal literature for each country in our study. We use our analysis to construct a score based on an eighteen-variable rubric that comprises six variables each for legislators, ministers, and chief executives.

B.2 Cross-jurisdictional variation

A casual reading of different constitutions and statutory law reveals substantial differences in the immunity regimes of democratic countries. On one side of the spectrum are countries without immunity protection, such as the United Kingdom; while members of Parliament and British ministers may speak and vote without the threat of legal retaliation, there exist no procedural obstacles that otherwise impede or limit the criminal prosecution of these political actors.

At the other extreme are countries with strong immunity regimes, such as Paraguay. The Constitution of Paraguay stipulates that any arrest or prosecution of a member of the legislature must be authorized by a two-thirds majority vote in the legislative chamber to which the legislator belongs. Should prosecutors wish to take action against a minister or the president, the lower house of the legislature must first impeach the politician by a vote of two-thirds, followed by a two-thirds majority vote for removal in the Paraguayan Senate. It is within the sole purview of the Senate to determine whether the removed politician should be referred to a competent court, which may only then hear a criminal prosecution. Additionally, Paraguayan law grants former presidents special legal status under which they retain the procedural protections from prosecution afforded to Paraguayan legislators for the remainder of their lifetimes.

Most contemporary democracies employ immunity regimes that lie somewhere between the two extremes of the United Kingdom and Paraguay. France approximates the delineation of a middle way. French legislators enjoy immunity from criminal prosecution for the duration of their mandate, but this immunity may be waived with the consent of a legislative committee. French ministers do not enjoy immunity from criminal prosecution. The President of France must be removed from office before being prosecuted, a process that requires the consent of supermajorities in both houses of the legislature.

These differences among the approaches to immunity in the United Kingdom, Paraguay, and France evince significant cross-jurisdictional variation in the strength and nature of immunity regimes that exists throughout the modern democratic world.

B.3 Immunity of Legislators, ministers and chief executives

We study the immunity protections afforded to legislators, ministers, and chief executives. While some countries protect only legislators from criminal prosecution, others protect only members of the executive branch. Others still protect all politicians. We derive an aggregate measure of immunity protection that incorporates the strength of immunity protections enjoyed by each group of politicians.

A broad measure that incorporates the immunity protections of all three groups enjoys two distinct advantages. First, a wider coverage of immunity provisions better captures the interplay among different

Table 12: Historical constitution dates and regime duration

Country	Dem. constitution	Country	Dem. constitution
Albania	1928	Spain	1931
Argentina	1853	Suriname	1987
Australia	1901	Sweden	1809
Austria	1920	Taiwan	1991
Bangladesh	1956	Thailand	1932
Belgium	1831	Timor Leste	2002
Benin	1990	Trinidad	1976
Bosnia	1921	Tunisia	1959
Botswana	1970	Turkey	1921
Brazil	1891	Ukraine	1996
Bulgaria	1879	United Kingdom	1721
Canada	1867	United States	1789
Cape Verde	1992	Uruguay	1830
Chile	1833		
Colombia	1821		
Costa Rica	1869		
Croatia	1921		
Czech Republic	1920		
Denmark	1849		
Dominican Rep.	1844		
Ecuador	1821		
El Salvador	1823		
Estonia	1920		
Finland	1928		
France	1791		
Georgia	1921		
Germany	1919		
Greece	1822		
Guyana	1970		
Iceland	1944		
India	1950		
Ireland	1922		
Israel	1968		
Italy	1948		
Jamaica	1962		
Japan	1889		
Latvia	1922		
Lithuania	1922		
Luxembourg	1868		
Malawi	1964		
Malaysia	1957		
Malta	1964		
Mauritius	1968		
Mexico	1824		
Moldova	1923		
Mongolia	1992		
Montenegro	1921		
Namibia	1990		
Netherlands	1848		
New Zealand	1949		
Nicaragua	1858		
Norway	1814		
Panama	1904		
Papua New Guinea	1975		
Paraguay	1870		
Peru	1823		
Philippines	1899		
Poland	1921		
Portugal	1911		
Romania	1923		
Senegal	1959		
Serbia	1921		
Singapore	1963		
Slovakia	1920		
Slovenia	1921		
South Africa	1961		

political actors. It is not always possible to identify the extent to which immunity provisions that insulate one set of political actors from prosecution may also affect the effective immunity enjoyed by another, distinct set of political actors. The likelihood of malfeasant behavior among members of the executive branch may, for example, depend to some degree on the strength of that country's legislative immunity regime because in some countries, executive branch members often serve as legislators after leaving office. Second, governance indices do not measure the performance of each individual branch of government, but rather throughout the broader public sector. A comprehensive coding of immunity protections that includes legislators, ministers, and chief executives most adequately measures the degree to which a given society has chosen to place its politicians above the law and therefore best corresponds to aggregative measures of governance quality.

In addition to the coverage of different kinds of politicians, the key differences between different countries' immunity regimes present themselves along the following lines: (1) the procedure required to lift immunity, which can be more or less burdensome; (2) the duration of immunity protection, which can coincide with the political office or extend beyond it; (3) the scope of activities covered and the legal actions prohibited by immunity. We discuss each in turn.

1. **Procedure:** Protection from criminal prosecution, where it exists, may generally be waived if some procedural requirement is fulfilled. Jurisdictions with strong immunity protection employ a number of burdensome procedural obstacles that must be overcome before a politician may be prosecuted. These obstacles are few and undemanding in jurisdictions with weak immunity protections. In the overwhelming majority of jurisdictions that protect their legislators with immunity, this protection may be waived if either a supermajority or a simple majority of legislators in legislative houses to which the legislator in question belongs votes to remove the suspected legislator's immunity. In other jurisdictions in which immunity protection is not as robust, the procedure for waiving immunity requires the consent of only a legislative committee, the cabinet, the chief executive, or the chief justice of an appellate court. The immunity of ministers and chief executives is lifted in the same way as that of legislators, though the assent of majorities in two legislative houses is occasionally required to authorize prosecution in countries with bicameral legislatures.
2. **Duration:** Immunity provisions may also differ from one another with respect to the time during which they apply. Immunity in most jurisdictions expires at the end of a politician's term in office. Other jurisdictions, however, continue to protect politicians from prosecution after their term in office has expired, as is the case of former presidents in Paraguay, who enjoy the same immunity as legislators for the remainders of their lifetime.
3. **Scope:** Immunity provisions in different jurisdictions provide politicians with varying degrees of coverage, which may affect immunity in two ways. First, immunity provisions may limit the application of immunity to certain crimes, such as those with some relation to a politician's official duties. The Greek ministerial immunity provision is representative of such laws: 'No prosecution against, nor questioning or preliminary questioning of present or former members of the Government]... for acts carried out by commission or omission in the discharge of their duties shall be permitted, before Parliament has decided on this matter.'²² The law has been interpreted to provide ministers with protection for public-corruption crimes.²³ Alternatively, these provisions may extend further and protect against prosecution for the commission of common crimes wholly unrelated to a politician's official duties, such as the legislative immunity clause in the Constitution of El Salvador: '...deputies may not be judged for serious crimes that they commit except for those cases in which the Legislative Assembly declares in advance that there are grounds for prosecution...' ²⁴ Politicians have been protected under such laws for crimes as unrelated to official duties as homicide.²⁵ Second, the range of prosecutorial activities that immunity provisions proscribe differs from one jurisdiction to another. Some jurisdictions prohibit only the arrest and detention of a legislator, while others prevent the opening of judicial proceedings, as well. Ministers and chief executives who have immunity may generally not be arrested, detained, or prosecuted without the fulfillment of the appropriate procedural requirement.

²²GREECE CONST. art. 86, §2.

²³See, e.g., Rachel Donadio, *Distrust of Government Impedes Reform in Greece*, N.Y. TIMES, June 26, 2011, at A14, available at <http://www.nytimes.com/2011/06/26/world/europe/26greece.html> (describing effort to prosecute Akis Tsochatzopolous).

²⁴EL SALVADOR CONST. art. 238. Translation is authors' own.

²⁵See, e.g., Juanita Darling, *Salvadoran Legislator's Immunity Upheld*, L.A. TIMES, Nov. 25, 2000, <http://articles.latimes.com/2000/nov/25/news/mn-57064>.

B.4 Components of the Immunity Index

We use an eighteen-variable rubric to score immunity provisions and compare their strength across different countries. The first six variables apply to legislators, the second six to ministers, and the third six to chief executives. In all cases, a value of '1' indicates that the protection is provided by the law, while a value of '0' indicates that no such protection from criminal liability exists.

Questions 1-3 measure the differences in the procedural requirement necessary to waive legislative immunity. Question 4 addresses the duration of legislative immunity protection and distinguishes between regimes in which legislative immunity expires at the end of the legislative term and those in which legislative immunity continues to apply after the term in office has concluded. Questions 5 and 6 refer to the scope of legislative immunity. Question 5 examines the types of crimes covered by immunity protection, and question 6 indicates whether immunity also protects legislators from the opening of judicial proceedings or core investigative activities, such as property and documents searches and seizures.

The ways in which we quantify the strength of ministerial and chief executive immunity provisions are identical to one another, as immunity provisions applicable to ministers behave in the same way as those that apply to chief executives. Questions 7-10, as well as questions 13-16, code the essential differences in the procedural difficulty of waiving immunity provisions for these executive branch members. Procedural requirements for waiving executive branch immunity may involve the assent of two legislative houses. Consequently, there exists one supplementary procedural question for ministers and chief executives that does not exist for legislators. Questions 11 and 17 code immunity provisions that extend beyond the term in office. Questions 12 and 18 measure the scope of ministerial and chief executive immunity by inquiring about the types of crimes protected by immunity.

<i>Category</i>	<i>Question</i>
<p>LEGISLATIVE IMMUNITY Procedure</p> <p>Duration</p> <p>Scope</p>	<ol style="list-style-type: none"> 1. Is there a procedural impediment that restricts the detention of a legislator on criminal charges? 2. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the detention of a legislator on criminal charges? 3. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the detention of a legislator on criminal charges? 4. Do immunity provisions continue to protect legislators after their term in office expires? 5. Do immunity provisions protect legislators from prosecution for the commission of common crimes unrelated to official duties? 6. Do immunity provisions protect legislators from judicial proceedings or core investigative activities?
<p>MINISTERIAL IMMUNITY Procedure</p> <p>Duration</p> <p>Scope</p>	<ol style="list-style-type: none"> 7. Is there a procedural impediment that restricts the prosecution of a minister on criminal charges? 8. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the prosecution of a minister on criminal charges? 9. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the prosecution of a minister on criminal charges? 10. Is the assent of legislators in two legislative houses necessary to authorize the prosecution of a minister on criminal charges? 11. Do criminal immunity provisions continue to apply protect ministers after their term in office expires? 12. Do criminal immunity provisions protect ministers from prosecution for the commission of common crimes unrelated to their official duties?
<p>CHIEF EXECUTIVE IMMUNITY Procedure</p> <p>Duration</p> <p>Scope</p>	<ol style="list-style-type: none"> 13. Is there a procedural impediment that restricts the prosecution of the chief executive on criminal charges? 14. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the prosecution of the chief executive on criminal charges? 15. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the prosecution of the chief executive on criminal charges? 16. Is the assent of legislators in two legislative houses necessary to authorize the prosecution of the chief executive on criminal charges? 17. Do criminal immunity provisions continue to apply protect the chief executive after his/her term in office expires? 18. Do criminal immunity provisions protect the chief executive from prosecution for the commission of common crimes unrelated to his/her official duties?

B.5 Rules for Coding

The large number of countries that we study necessitates some basic rules for coding, without which empirical comparison of law in different jurisdictions would not be possible. This section describes the rules and assumptions that we made while coding immunity provisions in our ninety-country sample.

Generally Applicable Rules

Immunity of Politicians Defined

We measure immunity from criminal prosecution. For legislators, we measure immunity from criminal prosecution for acts unrelated to a legislator's speech, oral or written, in parliament. Any provision that endows officials with immunity from civil suit is not reflected in our empirical scheme.

Lack of Statutory Guidance

Where legislation, case law, parliamentary rules of procedure, secondary literature, or other relevant sources do not suggest otherwise, no mention of immunity from criminal prosecution in a constitution or governing document suggests that there no special procedural obstacles to prosecuting a politician exist.

Unspecified Majorities

When an immunity provision requires the consent of some political body but no majority is defined, we consider consent to imply a simple majority of the body's members unless case law or legislation suggests otherwise.

Immunity Conditioned on Penalties

Some jurisdictions afford politicians immunity from prosecution for criminal activities that carry a penalty of incarceration that is fewer than a stipulated number of years; a politician involved in criminal activity that carries a penalty of incarceration greater than or equal to the stipulated number of years no longer enjoys immunity from criminal prosecution for that act. As the penalties for various public corruption offenses is found primarily in criminal codes and sentencing guidelines, the retrieval of which was not possible for some jurisdictions, we consider public corruption to be an offense for which the punishment will involve more than three years in detention.

Rules Applicable to Legislative Immunity

Crimes Committed in Flagrate Delicto

Nearly all legislative immunity clauses have exceptions for cases in which a legislator is caught in flagrate delicto (caught in the act of committing an offense). As this exception is as limited as it is ubiquitous, we ignore it for the purposes of measuring immunity.

Differences Among Houses

Where the rules governing immunity protection differed among the two houses of a bicameral legislature, as in Germany, we consider only the rules applicable to the lower legislative house because of the dominant role of the lower house in those jurisdictions.

Judicial Proceedings

Where a legislative immunity clause mentions protection from arrest but does not mention protection from the opening of judicial proceedings, we assume *expressio unius est exclusio alterius* and conclude that there is no protection from the opening of judicial proceedings.

Parliamentary Sessions

Some countries provide legislative immunity only while the legislature is in session. We consider all such countries as providing criminal immunity to their legislators unless the constitution clearly indicates that immunity applies only within the physical bounds of the parliament building and, where applicable, when legislators are traveling to or from the parliament building.

Rules Applicable to Ministerial Immunity

Members of the Government and Parliamentary Immunity

When there is no explicit mention of ministerial immunity, parliamentary immunity may apply if ministers who are members of parliament continue to exercise the parliamentary mandate. To correct for this potential problem, we must infer that in parliamentary systems where there is no mention of ministerial immunity, unless case law or some constitutional provision suggest that members of parliament lose their parliamentary mandate upon becoming members of the government, members of the government enjoy the immunity protection of members of the parliament when members of the government are generally selected from the parliamentary membership.

Rules Applicable to Chief Executive Immunity

Chief Executive Definition

The chief executive in each country refers to the president in presidential and semi-presidential systems, and the prime minister or equivalent in parliamentary systems.

Rules Applicable to Historical Constitutions

Constitutional Selection

We measure the level of immunity in historical constitutions in order to gauge the stability of immunity regimes over time. In order to avoid capturing the level of immunity afforded to monarchs or unelected legislatures, which would interfere with the validity of our historical instrument by skewing immunity scores, we assess the level of immunity in the earliest available democratic constitution, which we define as the document or practices that governed a country when both the executive and legislative branches of government were democratically elected. Where early documents were unavailable or unclear, we turned to next available democratic constitution. For these reasons, for some countries, the constitution or founding document that we analyzed may not be the earliest written governing document.

Historical Constitutions & Geographic Boundaries

In order to take into consideration changes in national boundaries, where a country was previously part of a larger democratic entity, we analyze the historical constitution of the larger democratic entity. For this reason, multiple countries may share the same historical constitution. For example, we consider the 1920 Constitution of Czechoslovakia to be the historical constitution for the Czech Republic and Slovak Republic. As colonized countries were often not accorded full representation, colonized countries do not assume historical constitution of the democratic colonizing country.

Retroactivity of Case Law

In some countries that have been governed by the same constitution for a lengthy period of time, a constitutional issue may have been interpreted only recently. Where case law has interpreted a provision of a constitution that is in force today, and that provision, without any lexical changes, was controlling in the first democratic constitution, we must presume that the modern interpretation would have been controlling had the case law come before the judiciary in the historical period.

B.6 Coding Illustration: Three Case studies

In order to demonstrate how our system of coding functions, we provide examples of coding from the United Kingdom, France, and Paraguay.

United Kingdom

The United Kingdom is a constitutional monarchy with a parliamentary system. The British approach of providing politicians with no immunity from criminal prosecution has spread throughout the world – it is found largely in common law countries – and is also used in Australia, Canada, India, Jamaica, Malaysia, Malta, Mauritius, New Zealand, Papua New Guinea, South Africa, and Trinidad and Tobago. The Constitution of the United Kingdom does not exist as a single document and instead comprises a number of

traditions, judicial cases, and legislative acts that date to the Glorious Revolution. While we do consult statutes, we rely heavily on secondary sources for information on impediments to the criminal prosecution of British politicians.

Contemporary Legislative Immunity

Relevant Provisions/Sources

- An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown, 1689, 1 W. & M., sess. 2, cl. 2 (Eng.): '[T]he freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.'
- An Act for the Further Preventing Delays of Justice by Reason of Privilege of Parliament, 1770, 10 Geo. 3, ch. 50, cl. 1-2 (Eng.): 'After 24 June, 1770, Suits may be prosecuted in Courts of Record, Equity, or Admiralty, and Courts having Cognizance of Causes Matrimonial and Testamentary, against Peers, and Members of the House of Commons, and their Servants, &c. Any person or persons shall and may at any time commence and prosecute any action or suit in any court of record or court of equity or of admiralty, and in all causes matrimonial and testamentary, in any court having cognizance of causes matrimonial and testamentary, against any peer or lord of Parliament of Great Britain, or against any of the knights, citizens, and burgesses, and the commissioners for shires and burghs of the House of Commons of Great Britain for the time being, or against their or any of their menial or any other servants, or any other person intitled to the privilege of Parliament of Great Britain; and no such action, suit, or any other process or proceeding thereupon shall at any time be impeached, stayed, or delayed by or under colour or pretence of any privilege of Parliament. But the Persons of Members of the House of Commons not to be arrested or imprisoned. Provided nevertheless, that nothing in this Act shall extend to subject the person of any of the knights, citizens, and burgesses, or the commissioners of shires and burghs of the House of Commons of Great Britain for the time being, to be arrested or imprisoned upon any such suit or proceedings.'
- 2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION, ch. 4 (1914): '[The rule of law] means, again, equality before the law, or the equal subjection of all classes to the ordinary law of the land administered by the ordinary Law Courts; the 'rule of law' in this sense excludes the idea of any exemption of officials or others from the duty of obedience to the law which governs other citizens or from the jurisdiction of the ordinary tribunals.'
- Interparliamentary Union, United Kingdom: House of Commons, <http://www.ipu.org/parline-e/reports/2335.htm> (last visited Jan. 21, 2013): '[Parliamentary privilege] applies only to civil proceedings, covers all offences, but protects MPs only from arrest and imprisonment...'
- Case of Richard John Bingham, 7th Earl of Lucan (1974).

Analysis

While British legislators enjoy immunity from civil arrest, they do not enjoy any protection related to criminal proceedings.

Contemporary Ministerial Immunity

Relevant Provisions

- 2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION, ch. 4 (1914): '[The rule of law] means, again, equality before the law, or the equal subjection of all classes to the ordinary law of the land administered by the ordinary Law Courts; the 'rule of law' in this sense excludes the idea of any exemption of officials or others from the duty of obedience to the law which governs other citizens or from the jurisdiction of the ordinary tribunals.'
- Case of Chris Hune (2012).

Analysis

We found no case or provision granting immunity to ministers for crimes they have committed. As Chris

Hune was charged with perverting the course of justice while he served as Secretary of State for Energy and Climate Change, we conclude that there is no ministerial immunity in the United Kingdom.

Contemporary Chief Executive Immunity

Relevant Provisions

- 2 ALBERT VENN DICEY, *INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION*, ch. 4 (1914): '[The rule of law] means, again, equality before the law, or the equal subjection of all classes to the ordinary law of the land administered by the ordinary Law Courts; the 'rule of law' in this sense excludes the idea of any exemption of officials or others from the duty of obedience to the law which governs other citizens or from the jurisdiction of the ordinary tribunals.'
- Case of Chris Hune (2012).

Analysis

We found no case or provision granting immunity to ministers or the prime minister for crimes they have committed. As Chris Hune was charged with perverting the course of justice while he served as Secretary of State for Energy and Climate Change, we conclude that there is no immunity from criminal prosecution for the British prime minister.

PARAGUAY

Paraguay is a presidential system with a bicameral legislature. The Paraguayan Constitution has a strong legislative immunity regime and is similar in language, form, and strength to immunity regimes of Argentina, Chile, the Philippines, Peru, and Uruguay. While we used the Spanish language version of the Constitution of Paraguay from the Political Database of the Americas, Edmund A. Walsh School of Foreign Service, Georgetown University, available at <http://pdba.georgetown.edu/constitutions/paraguay/paraguay.html> (last visited January 14, 2013), we quote an English translation from Dr. Axel Tschentscher, International Constitutional Law Project, University of Bern, available at http://www.servat.unibe.ch/icl/pa00000_.html (last visited January 14, 2013) for the purposes of illustration.

Contemporary Legislative Immunity

Relevant Provisions

- PARAGUAY CONST. art. 225: '(1) No charge may be pressed in court against a member of Congress for the opinions he may have expressed in discharging his duties. No senator or deputy may be arrested from the day of his election until the end of his term, unless he is caught in flagrante delicto in relation to a crime meriting a prison sentence. In this case, the official intervening will place the legislator under house arrest and report the arrest to the respective chamber and to a competent judge immediately, to whom he will submit the case files as soon as possible. (2) If a court of law orders a pretrial inquest against a senator or a deputy, the presiding judge will send a copy of the case files to the respective chamber, which will examine the merits of the inquest and, by a two-thirds majority vote, will decide whether the senator or deputy involved should be stripped of his immunity in order to stand trial. If the chamber votes against the legislator, it will suspend his immunity so that he may be brought to trial.'

Analysis

The provision explicitly states that Paraguayan legislators enjoy immunity from arrest and may not be subject to judicial proceedings that proceed beyond a pretrial inquest. A two-thirds supermajority vote is required to subject a legislator to detention and trial. As the provision does not make any mention of immunity for former legislators, we conclude that such protection does not exist.

Contemporary Ministerial Immunity

Relevant Provisions

- PARAGUAY CONST. art. 225: '(1) The president of the Republic, the vice president, cabinet ministers, justices of the Supreme Court of Justice, the attorney general, the public defender, the comptroller

and the deputy comptroller general of the Republic, and members of the Superior Electoral Court may be forced to undergo impeachment proceedings for malfeasance in office, for crimes committed in office, or for common crimes. (2) The Chamber of Deputies, by a two-thirds majority, will press the respective charges. The Senate, by a two-thirds absolute majority, will conduct a public trial of those charged by the Chamber of Deputies and, if appropriate, will declare them guilty for the sole purpose of removing them from office. In cases in which it appears that common crimes have been committed, the files on the respective impeachment proceedings will be referred to a competent court.'

Analysis

As this provision describes a process of bringing charges against a minister, we assume *expressio unius est exclusio alterius* and conclude that there is no other way of prosecuting a minister in Paraguay. Under this provision, a two-thirds majority vote in both houses is necessary to suspend the minister from office and refer him/her to a competent court. This provision explicitly addresses common crimes and crimes committed in office. As former ministers are not mentioned, we assume that they do not enjoy immunity protection.

Contemporary Chief Executive Immunity

Relevant Provisions

- PARAGUAY CONST. art. 225: '(1) The president of the Republic, the vice president, cabinet ministers, justices of the Supreme Court of Justice, the attorney general, the public defender, the comptroller and the deputy comptroller general of the Republic, and members of the Superior Electoral Court may be forced to undergo impeachment proceedings for malfeasance in office, for crimes committed in office, or for common crimes. (2) The Chamber of Deputies, by a two-thirds majority, will press the respective charges. The Senate, by a two-thirds absolute majority, will conduct a public trial of those charged by the Chamber of Deputies and, if appropriate, will declare them guilty for the sole purpose of removing them from office. In cases in which it appears that common crimes have been committed, the files on the respective impeachment proceedings will be referred to a competent court.'
- PARAGUAY CONST. tit. V, art. 14: 'The office of senator for life will be held by the citizen holding the office of president of the Republic at the time of the approval of this Constitution, but it will not be extended to any previous president.'

Analysis

As article 225 describes a process of bringing charges against a sitting president, we assume *expressio unius est exclusio alterius* and conclude that there is no other way of prosecuting a president in Paraguay. Under article 225, a two-thirds majority vote in both houses is necessary to suspend the president from office and refer him/her to a competent court. Article 225 explicitly addresses common crimes and crimes committed in office. Title V, article 14 gives former presidents the immunity of a senator.

FRANCE

France is a semi-presidential system with a unicameral legislature. It exemplifies a moderate immunity regime that is similar in strength and form to those of Indonesia, Panama, and South Korea. A translation of the Constitution was accessed from the website of the French National Assembly, available at <http://www.assemblee-nationale.fr/english/8ab.asp> (last visited January 21, 2013).

Contemporary Legislative Immunity

Relevant Provisions

- FRANCE CONST. art. 26: 'No Member of Parliament shall be arrested for a serious crime or other major offence, nor shall he be subjected to any other custodial or semi-custodial measure, without the authorization of the Bureau of the House of which he is a member. Such authorization shall not be required in the case of a serious crime or other major offence committed *flagrante delicto* or when a conviction has become final.'

Analysis

French legislators enjoy immunity from criminal prosecution, which may be waived by the Bureau of the National Assembly or Senate. As the respective Bureau is a legislative committee, the assent of a majority of legislators the relevant house is not necessary for the prosecution of a member to proceed. Article 26 explicitly applies to all major offenses, not only those committed in the course of official duties. While a legislator may not be arrested or held in custody, article 26 does not prohibit the opening of judicial proceedings against a member of the legislature.

Contemporary Ministerial Immunity

Relevant Provisions

- FRANCE CONST. tit. X, art. 68-1: 'Members of the Government shall be criminally liable for acts performed in the holding of their office and classified as serious crimes or other major offences at the time they were committed.'

Analysis

As title X, article 68-1 explicitly authorizes the prosecution of ministers for major crimes committed in the course of their duties – and, implicitly, for all crimes committed outside the scope of their duties – without any procedural impediment, ministers do not enjoy immunity from criminal prosecution in France.

Contemporary Chief Executive Immunity

Relevant Provisions

- FRANCE CONST. tit. IX, art. 67: 'Throughout his term of office the President shall not be required to testify before any French Court of law or Administrative authority and shall not be the object of any civil proceedings, nor of any preferring of charges, prosecution or investigatory measures. All limitation periods shall be suspended for the duration of said term of office. All actions and proceedings thus stayed may be reactivated or brought against the President one month after the end of his term of office.'
- FRANCE CONST. tit. IX, art. 68: 'The President of the Republic shall not be removed from office during the term thereof on any grounds other than a breach of his duties patently incompatible with his continuing in office. Such removal from office shall be proclaimed by Parliament sitting as the High Court. The proposal to convene the High Court adopted by one or other of the Houses of Parliament shall be immediately transmitted to the other House which shall make its decision known within fifteen days of receipt thereof. The High Court shall be presided over by the President of the National Assembly. It shall give its ruling as to the removal from office of the President, by secret ballot, within one month. Its decision shall have immediate effect. Rulings given hereunder shall require a majority of two thirds of the members of the House involved or of the High Court. No proxy voting shall be allowed. Only votes in favour of the removal from office or the convening of the High Court shall be counted.'

Analysis

Under article 67, the President of France may not be charged with any crime while he/she is still in office. Under article 68, in order to remove the President, both houses of the legislature must assent by a two-thirds majority vote.

Scoring Rubric for United Kingdom, Paraguay, and France:

<i>Question</i>	<i>United King.</i>	<i>France</i>	<i>Paraguay</i>
1. Is there a procedural impediment that restricts the detention of a legislator on criminal charges?	[0]	[1]	[1]
2. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the detention of a legislator on criminal charges?	[0]	[0]	[1]
3. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the detention of a legislator on criminal charges?	[0]	[0]	[1]
4. Do immunity provisions continue to protect legislators after their term in office expires?	[0]	[0]	[0]
5. Do immunity provisions protect legislators from prosecution for the commission of common crimes unrelated to official duties?	[0]	[1]	[1]
6. Do immunity provisions protect legislators from judicial proceedings?	[0]	[0]	[1]
7. Is there a procedural impediment that restricts the prosecution of a minister on criminal charges?	[0]	[0]	[1]
8. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the prosecution of a minister on criminal charges?	[0]	[0]	[1]
9. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the prosecution of a minister on criminal charges?	[0]	[0]	[1]
10. Is the assent of legislators in two legislative houses necessary to authorize the prosecution of a minister on criminal charges?	[0]	[0]	[1]
11. Do criminal immunity provisions continue to protect ministers after their term in office expires?	[0]	[0]	[0]
12. Do criminal immunity provisions protect ministers from prosecution for the commission of common crimes unrelated to their official duties?	[0]	[0]	[1]
13. Is there a procedural impediment that restricts the prosecution of a chief executive on criminal charges?	[0]	[1]	[1]
14. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the prosecution of a chief executive on criminal charges?	[0]	[1]	[1]
15. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the prosecution of a chief executive on criminal charges?	[0]	[1]	[1]

<i>Question</i>	<i>United King.</i>	<i>France</i>	<i>Paraguay</i>
16. Is the assent of legislators in two legislative houses necessary to authorize the prosecution of a chief executive on criminal charges?	[0]	[1]	[1]
17. Do criminal immunity provisions continue to apply protect the chief executive after his/her term in office expires?	[0]	[0]	[1]
18. Do criminal immunity provisions protect the chief executive from prosecution for the commission of common crimes unrelated to his/her official duties?	[0]	[1]	[1]
<i>Immunity Score</i>	0.00	0.39	0.89

C Online Appendix: Sources of Criminal Immunity Provisions in 90 Democratic Countries

ALBANIA (ALB)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

ALB. CONST. art. 103.

ALB. CONST. art 73.

Legislative

ALB. CONST. art 73.

Ministerial

ALB. CONST. art. 103.

ALB. CONST. art. 73.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

ALB. CONST. of 1928 art. 48 (1931).

ALB. CONST. of 1928 art. 99 (1931).

ALB. CONST. of 1928 art. 115 (1931).

Legislative

ALB. CONST. of 1928 art. 26 (1931).

Ministerial

ALB. CONST. of 1928 art. 48 (1931).

ALB. CONST. of 1928 art. 115 (1931).

ARGENTINA (ARG)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

ARG. CONST. art. 53.

ARG. CONST. art. 59.

ARG. CONST. art. 60.

Legislative

ARG. CONST. art. 69.

ARG. CONST. art. 70.

Ministerial

ARG. CONST. art. 53.

ARG. CONST. art. 59.

ARG. CONST. art. 60.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

ARG. CONST. of 1853 art. 45.

ARG. CONST. of 1853 art. 51.

Legislative

ARG. CONST. of 1853 art. 61.

ARG. CONST. of 1853 art. 62.

Ministerial

ARG. CONST. of 1853 art. 45.

ARG. CONST. of 1853 art. 51.

AUSTRALIA (AUS)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

RACHEL MACREADIE & GREG GARDINER, RESEARCH SERV., PARLIAMENT OF VICT., AN INTRODUCTION TO PARLIAMENTARY PRIVILEGE (2010).

Legislative

RACHEL MACREADIE & GREG GARDINER, RESEARCH SERV., PARLIAMENT

OF VICT., AN INTRODUCTION TO PARLIAMENTARY PRIVILEGE (2010).

Ministerial

RACHEL MACREADIE & GREG GARDINER, RESEARCH SERV., PARLIAMENT OF VICT., AN INTRODUCTION TO PARLIAMENTARY PRIVILEGE (2010).

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

RACHEL MACREADIE & GREG GARDINER, RESEARCH SERV., PARLIAMENT OF VICT., AN INTRODUCTION TO PARLIAMENTARY PRIVILEGE (2010).

Legislative

RACHEL MACREADIE & GREG GARDINER, RESEARCH SERV., PARLIAMENT OF VICT., AN INTRODUCTION TO PARLIAMENTARY PRIVILEGE (2010).

Ministerial

RACHEL MACREADIE & GREG GARDINER, RESEARCH SERV., PARLIAMENT OF VICT., AN INTRODUCTION TO PARLIAMENTARY PRIVILEGE (2010).

AUSTRIA (AUT)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

AUSTRIA CONST. art. 76.

AUSTRIA CONST. art. 142.

AUSTRIA CONST. art. 143.

Legislative

AUSTRIA CONST. art. 57.

Ministerial

AUSTRIA CONST. art. 76.

AUSTRIA CONST. art. 142.

AUSTRIA CONST. art. 143.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

AUSTRIA CONST. of 1920 art. 76.

AUSTRIA CONST. of 1920 art. 142.

AUSTRIA CONST. of 1920 art. 143.

Legislative

AUSTRIA CONST. of 1920 art. 57.

Ministerial

AUSTRIA CONST. of 1920 art. 76.

AUSTRIA CONST. of 1920 art. 142.

AUSTRIA CONST. of 1920 art. 143.

BANGLADESH (BGD)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally BANGL. CONST.

Legislative

See generally BANGL. CONST.

Ministerial

See generally BANGL. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

PAK. CONST. of 1956 art. 213.

Legislative

See generally PAK. CONST. of 1956.

Ministerial

See generally PAK. CONST. of 1956.

BELGIUM (BEL)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

BELG. CONST. art. 103 §1.

Legislative

BELG. CONST. art. 59 §1.

Ministerial

BELG. CONST. art. 103 §1.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

BELG. CONST. of 1831 art. 134.

Legislative

BELG.CONST. of 1831 art. 45.

Ministerial

BELG. CONST. of 1831 art. 134.

BENIN (BEN)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

BENIN CONST. art. 136.

BENIN CONST. art. 137.

Legislative

BENIN CONST. art. 90.

R. PROC. NAT. ASSEMB. OF THE BENIN REP. art. 69 §3 (2013).

R. PROC. NAT. ASSEMB. OF THE BENIN REP. art. 71 (2013).

Ministerial

BENIN CONST. art. 136.

BENIN CONST. art. 137.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

BENIN CONST. of 1990 art. 136.

BENIN CONST. (1990) art. 137.

Legislative

BENIN CONST. (1990) art. 90.

R. Proc. Nat. Assemb. of the Benin Rep., art. 69 §3.

R. Proc. Nat. Assemb. of the Benin Rep., art. 71.

Ministerial

BENIN CONST. art. 136 (1990).

BENIN CONST. art. 137 (1990).

BOSNIA & HERZEGOVINA (BIH)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally BOSN. & HERZ. CONST.

Legislative

BOSN. & HERZ. CONST. art. 3(j).

Ministerial

BOSN. & HERZ. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.

Legislative

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 88.

Ministerial

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.

BOTSWANA (BWA)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

BOTS. CONST. art. 41 §2.

BOTS. CONST. art. 34 §3.

BOTS. CONST. art. 92.

Legislative

Compare BOTS. CONST. art. 90, *with* Aubrey Lute, Moatlhodi Recall: Elders to Intercede?, BOTS. GAZETTE, Nov. 18, 2008.

Ministerial

See generally BOTSWANA CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

BOTS. CONST. art. 41 §2 (1970).

BOTS. CONST. art. 34 §3 (1970).

BOTS. CONST. art. 92 (1970).

Legislative

Compare BOTS. CONST. art. 90 (1970), *with* Aubrey Lute, Moatlhodi Recall: Elders to Intercede?, BOTS. GAZETTE, Nov. 18, 2008.

Ministerial

See generally BOTS. CONST. (1970).

BRAZIL (BRA)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

BRAZ. CONST. art. 86. BRAZ. CONST. art. 52 §14.

Legislative

BRAZ. CONST. art. 53 §1.

FED. RESEARCH DIV., LIBRARY OF CONG., BRAZIL: A COUNTRY STUDY (Rex. A. Hudson ed.,1997) available at <http://countrystudies.us/brazil/87.htm> (last visited August 15, 2012).

Ministerial

BRAZ. CONST. art. 51 §1. BRAZ. CONST. art. 52 §14.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

BRAZ. CONST. of 1891 art. 53.

BRAZ. CONST. of 1891 art. 54.

Legislative

BRAZ. CONST. of 1891 art. 20.

Ministerial

BRAZ. CONST. of 1891 art. 52.

BULGARIA (BGR)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally BULG. CONST.

Legislative

BULG. CONST. art. 70.

Ministerial

See generally BULG. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

BULG. CONST. of 1879 art. 155.

BULG. CONST. of 1879 art. 156.

BULG. CONST. of 1879 art. 157.

Legislative

BULG. CONST. of 1879 art. 95.

BULG. CONST. of 1879 art. 96.

Ministerial

BULG. CONST. of 1879 art. 155.

BULG. CONST. of 1879 art. 156.

BULG. CONST. of 1879 art. 157.

CANADA (CAN)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

ROBERT MARLEAU & CAMILLE MONTPETIT, HOUSE OF COMMONS
PROCEDURE AND PRACTICE: PRIVILEGES AND IMMUNITIES (2000),

available at

<http://www.parl.gc.ca/MarleauMontpetit/DocumentViewer.aspx?Sec=Ch03&Seq=9>

(last visited January 1, 2013).

Legislative

ROBERT MARLEAU & CAMILLE MONTPETIT, HOUSE OF COMMONS
PROCEDURE AND PRACTICE: PRIVILEGES AND IMMUNITIES (2000),

available at

<http://www.parl.gc.ca/MarleauMontpetit/DocumentViewer.aspx?Sec=Ch03&Seq=9>

(last visited January 1, 2013).

Ministerial

ROBERT MARLEAU & CAMILLE MONTPETIT, HOUSE OF COMMONS
PROCEDURE AND PRACTICE: PRIVILEGES AND IMMUNITIES (2000),

available at

<http://www.parl.gc.ca/MarleauMontpetit/DocumentViewer.aspx?Sec=Ch03&Seq=9>

(last visited January 1, 2013).

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

ROBERT MARLEAU & CAMILLE MONTPETIT, HOUSE OF COMMONS
PROCEDURE AND PRACTICE: PRIVILEGES AND IMMUNITIES (2000),

available at

<http://www.parl.gc.ca/MarleauMontpetit/DocumentViewer.aspx?Sec=Ch03&Seq=9>

(last visited January 1, 2013).

Legislative

ROBERT MARLEAU & CAMILLE MONTPETIT, HOUSE OF COMMONS
PROCEDURE AND PRACTICE: PRIVILEGES AND IMMUNITIES (2000),

available at

<http://www.parl.gc.ca/MarleauMontpetit/DocumentViewer.aspx?Sec=Ch03&Seq=9>

(last visited January 1, 2013).

Ministerial

ROBERT MARLEAU & CAMILLE MONTPETIT, HOUSE OF COMMONS
PROCEDURE AND PRACTICE: PRIVILEGES AND IMMUNITIES (2000),

available at

<http://www.parl.gc.ca/MarleauMontpetit/DocumentViewer.aspx?Sec=Ch03&Seq=9>

(last visited January 1, 2013).

CAPE VERDE (CPV)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

CAPE VERDE CONST. art. 211 §1.

Legislative

CAPE VERDE CONST. art. 181 §2.

Ministerial

CAPE VERDE CONST. art. 211 §1.
HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS
Chief Executive

CAPE VERDE CONST. art. 211 §1 (1992).

Legislative

CAPE VERDE CONST. art. 181 §2 (1992).

Ministerial

CAPE VERDE CONST. art. 211 §1 (1992).

CHILE (CHL)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

CHILE CONST. art. 48 §2.

CHILE CONST. art. 49 §1.

Legislative

CHILE CONST. art. 58.

Ministerial

CHILE CONST. art. 48 §2.

CHILE CONST. art. 49 §1.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

CHILE CONST. of 1833 art. 83.

CHILE CONST. of 1833 art. 92.

CHILE CONST. of 1833 art. 93.

CHILE CONST. of 1833 art. 94.

CHILE CONST. of 1833 art. 95.

CHILE CONST. of 1833 art. 96.

CHILE CONST. of 1833 art. 97.

CHILE CONST. of 1833 art. 98.

CHILE CONST. of 1833 art. 100.

Legislative

CHILE CONST. of 1833 art. 15.

CHILE CONST. of 1833 art. 16.

CHILE CONST. of 1833 art. 17.

Ministerial

CHILE CONST. of 1833 art. 38.

CHILE CONST. of 1833 art. 39.

CHILE CONST. of 1833 art. 92.

CHILE CONST. of 1833 art. 93.

CHILE CONST. of 1833 art. 94.

CHILE CONST. of 1833 art. 95.

CHILE CONST. of 1833 art. 96.

CHILE CONST. of 1833 art. 97.

CHILE CONST. of 1833 art. 98.

CHILE CONST. of 1833 art. 100.

COLOMBIA (COL)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

COLOM. CONST. art. 99.

COLOM. CONST. art. 175.

Legislative

See generally COLOM. CONST.

Ministerial

See generally COLOM. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

COLOM. CONST. of 1821 art. 89.

COLOM. CONST. of 1821 art. 97.

Legislative

COLOM. CONST. of 1821 art. 66.

Ministerial

COLOM. CONST. of 1821 art. 89.

COLOM. CONST. of 1821 art. 97.

COSTA RICA (CRI)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

COSTA RICA CONST. art. 121 §9.

COSTA RICA CONST. art. 109.

Legislative

COSTA RICA CONST. art. 110.

Ministerial

COSTA RICA CONST. art. 121 §9.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

COSTA RICA CONST. of 1869 art. 67 §9.

Legislative

COSTA RICA CONST. of 1869 art. 87.

Ministerial

COSTA RICA CONST. of 1869 art. 67 §9.

CROATIA (HRV)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally CROAT. CONST.

Legislative

CROAT. CONST. art. 75 §3.

Ministerial

See generally CROAT. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.

Legislative

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 88.

Ministerial

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.

CYPRUS (CYP)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

CYPRUS CONST. art. 45.

Legislative

CYPRUS CONST. art. 83 §2.

Ministerial

See generally CYPRUS CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

CYPRUS CONST. art. 45 (1960).

Legislative

CYPRUS CONST. art. 83 §2 (1960).

Ministerial

See generally CYPRUS CONST. (1960).

CZECH REPUBLIC (CZE)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive²⁶

CZECH CONST. art. 27 §4.

CZECH CONST. art. 32.

Legislative

CZECH CONST. art. 27 §4.

Ministerial²⁷

CZECH CONST. art. 27 §4.

CZECH CONST. art. 32.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

CZECHOSLOVAKIA CONST. of 1920 §34.

CZECHOSLOVAKIA CONST. of 1920 §67.

Legislative

CZECHOSLOVAKIA CONST. of 1920 §24.

CZECHOSLOVAKIA CONST. of 1920 §25.

Ministerial

CZECHOSLOVAKIA CONST. of 1920 §34.

CZECHOSLOVAKIA CONST. of 1920 §79.

DENMARK (DNK)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive²⁸

DEN. CONST. §57.

Legislative

DEN. CONST. §57.

Ministerial²⁹

DEN. CONST. §57.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

DEN. CONST. of 1849 §71.

Legislative

DEN. CONST. of 1849 §61.

Ministerial

DEN. CONST. of 1849 §71.

DOMINICAN REPUBLIC (DOM)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

DOM. REP. CONST. art. 80 §1.

²⁶ Article 32 of the Constitution of the Czech Republic states 'A Deputy or a Senator who is a member of the Government may not be the Chairman or Vice Chairman of the Chamber of Deputies or the Senate' thereby implying that deputies and senators may simultaneously be members of the government and exercise both powers. CZECH CONST. art. 32.

²⁷ See *supra* note 1.

²⁸ Members of the Danish government are generally selected from the legislature. Section 59 of the Danish Constitution mentions an incompatibility between membership in parliament and membership in the High Court of the Realm, see CONST. DENMARK §59, suggesting that there is no incompatibility between the positions of member of parliament and member of the government.

²⁹ See *supra* note 3.

DOM. REP. CONST. art. 83 §1.

Legislative

DOM. REP. CONST. art. 86.

Ministerial

DOM. REP. CONST. art. 80 §1.

DOM. REP. CONST. art. 83 §1.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

DOM. REP. CONST. of 1844 art. 58 §2.

DOM. REP. CONST. of 1844 art. 67 §5.

DOM. REP. CONST. of 1844 art. 94 §2.

Legislative

DOM. REP. CONST. of 1844 art. 89.

Ministerial

DOM. REP. CONST. of 1844 art. 58 §2.

DOM. REP. CONST. of 1844 art. 67 §5.

DOM. REP. CONST. of 1844 art. 134 §5(1)

ECUADOR (ECU)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

ECUADOR CONST. art. 120(10).

ECUADOR CONST. art. 129.

ECUADOR CONST. art. 130.

Legislative

ECUADOR CONST. art. 128.

Ministerial

ECUADOR CONST. art. 131.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

COLOM. CONST. of 1821 art. 89.

COLOM. CONST. of 1821 art. 97.

Legislative

COLOM. CONST. of 1821 art. 66.

Ministerial

COLOM. CONST. of 1821 art. 89.

COLOM. CONST. of 1821 art. 97.

EL SALVADOR (SLV)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

EL SAL. CONST. art. 236.

Legislative

EL SAL. CONST. art. 238.

Ministerial

EL SAL. CONST. art. 236.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

EL SAL. LEG. DECREE art. 31 (July 24, 1840).

EL SAL. LEG. DECREE art. 50 (July 24, 1840).

EL SAL. LEG. DECREE art. 54 (July 24, 1840).

Legislative

EL SAL. LEG. DECREE art. 18 (July 24, 1840).

Ministerial

See generally EL SAL. LEG. DECREE (July 24, 1840).

ESTONIA (EST)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

EST. CONST. art. 101.

Legislative

EST. CONST. art. 76.

Ministerial

EST. CONST. art. 101.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

EST. CONST. of 1920 §67.

Legislative

EST. CONST. of 1920 §49.

Ministerial

EST. CONST. of 1920 §67.

FINLAND (FIN)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

FIN. CONST. art. 114 §2.

Legislative

FIN. CONST. art. 30 §3.

Ministerial

FIN. CONST. art. 114 §2.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally Ministerial Responsibility Act of 1922, No. 274, Nov. 25, 1922 (Fin.).

Legislative

Parliament Act of 1928 §14, No. 7, Jan. 13, 1928 (Fin.).

Ministerial

See generally Ministerial Responsibility Act of 1922, No. 274, Nov. 25, 1922 (Fin.).

FRANCE (FRA)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

FR. CONST. art. 67.

FR. CONST. art. 68.

Legislative

FR. CONST. art. 26.

France: Assemblée National, Interparliamentary Union,

http://www.ipu.org/parline/reports/2113_D.htm

(last visited Aug. 15, 2012).

Ministerial

FR. CONST. title X, art. 68-1 §1.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

FR. CONST. of 1848 art. 91.

FR. CONST. of 1848 art. 100.

Legislative

FR. CONST. of 1848 art. 37.

Ministerial

FR. CONST. of 1848 art. 91.

GEORGIA (GEO)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

GEOR. CONST. art. 75
GEOR. CONST. art. 63.

Legislative

GEOR. CONST. art. 52.

Ministerial

See generally GEOR. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

GEOR. CONST. art 75.

Legislative

GEOR. CONST. of 1921 art. 48.

Ministerial

GEOR. CONST. art 75.

GERMANY (DEU)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive³⁰

GER. CONST. art. 46.

ROBERT MYTTENAERE, INTERPARLIAMENTARY
COUNCIL, THE IMMUNITIES OF MEMBERS OF PARLIAMENT, SPECIAL
REPORT FOR THE MOSCOW SESSION OF THE INTERPARLIAMENTARY
COUNCIL (1998).

Legislative

GER. CONST. art. 46.

ROBERT MYTTENAERE, INTERPARLIAMENTARY
COUNCIL, THE IMMUNITIES OF MEMBERS OF PARLIAMENT, SPECIAL
REPORT FOR THE MOSCOW SESSION OF THE INTERPARLIAMENTARY
COUNCIL (1998).

Ministerial³¹

GER. CONST. art. 46.

ROBERT MYTTENAERE, THE IMMUNITIES OF MEMBERS OF PARLIAMENT,
SPECIAL REPORT FOR THE MOSCOW SESSION OF THE
INTERPARLIAMENTARY COUNCIL (1998).

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

GER. CONST. of 1919 art. 59.

Legislative

GER. CONST. of 1919 art. 37.

Ministerial

GER. CONST. of 1919 art. 59.

GHANA (GHA)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

GHANA CONST. art. 57(5)-(6).

GHANA CONST. art. 69.

Legislative

See generally GHANA CONST.

Ministerial

³⁰ German Chancellors are ordinarily chosen from the lower house of the legislature (Bundestag). As ministers retain their parliamentary immunity, see Thomas Schmid, Otto Graf Lambsdorff, *der fröhliche Unbequeme*, DIE WELT, Dec. 6, 2009, <http://www.welt.de/politik/article5445790/Otto-Graf-Lambsdorff-der-froehliche-Unbequeme.html> (describing prosecution and immunity of minister Otto Lambsdorff) Chancellors who are also members of the Bundestag also retain immunity.

³¹ German ministers are ordinarily chosen from the lower house of the legislature (Bundestag). Ministers who are parliamentarians retain their parliamentary immunity. See Thomas Schmid, Otto Graf Lambsdorff, *der fröhliche Unbequeme*, DIE WELT, Dec. 6, 2009, <http://www.welt.de/politik/article5445790/Otto-Graf-Lambsdorff-der-froehliche-Unbequeme.html> (describing prosecution and immunity of minister Otto Lambsdorff).

See generally GHANA CONST.

GREECE (GRC)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

GREECE CONST. art. 86.

Legislative

GREECE CONST. art. 62.

Ministerial

GREECE CONST. art. 86.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

GREECE CONST. of 1822 §52.

Legislative

GREECE CONST. of 1822 §50.

Ministerial

GREECE CONST. of 1822 §53.

GUATEMALA (GTM)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

GUAT. CONST. art. 165(h).

Legislative

GUAT. CONST. art. 161.

Ministerial

GUAT. CONST. art. 165(h).

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

GUAT. CONST. of 1825 art. 221.

GUAT. CONST. of 1825 art. 223.

GUAT. CONST. of 1825 art. 226.

Legislative

GUAT. CONST. of 1825 art. 220.

GUAT. CONST. of 1825 art. 222.

GUAT. CONST. of 1825 art. 226.

Ministerial

GUAT. CONST. of 1825 art. 221.

GUAT. CONST. of 1825 art. 225.

GUAT. CONST. of 1825 art. 226.

GUYANA (GUY)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

GUY. CONST. art. 180.

GUY. CONST. art. 182 §§1-3.

Legislative

See generally GUY. CONST.

Ministerial

See generally GUY. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

GUY. CONST. of 1970 art. 180.

GUY. CONST. of 1970 art. 182 §§1-3.

Legislative

See generally GUY. CONST. of 1970.

Ministerial

See generally GUY. CONST. of 1970.

HUNGARY (HUN)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive³²

HUNG. CONST. art. 20 §3.

Hungary: Orszaggyules, Interparliamentary Union, http://www.ipu.org/parline/reports/2141_D.htm (last visited August 15, 2012).

Legislative

HUNG. CONST. Article 20 §3.

Hungary: Orszaggyules, Interparliamentary Union, http://www.ipu.org/parline/reports/2141_D.htm (last visited August 15, 2012).

Ministerial³³

HUNG. CONST. Article 20 §3.

Hungary: Orszaggyules, Interparliamentary Union, http://www.ipu.org/parline/reports/2141_D.htm (last visited August 15, 2012).

ICELAND (ISL)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive³⁴

ICE. CONST. art. 49.

Legislative

ICE. CONST. art. 49.

Ministerial³⁵

ICE. CONST. art. 49.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive³⁶

ICE. CONST. art. 49 (1944).

Legislative

ICE. CONST. art. 49 (1944).

Ministerial³⁷

ICE. CONST. art. 49 (1944).

INDIA (IND)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally INDIA CONST.

Legislative

See generally INDIA CONST.

India: Lok Sabha, Interparliamentary Union, http://www.ipu.org/parline-e/reports/2145_D.htm (last visited August 15, 2012).

Ministerial

See generally INDIA CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

³² *Members of the Hungarian government are generally members of parliament. The parliamentary mandate is not suspended during the time in office. See HUNG. CONST. art. 20 §5.*

³³ *See supra* note 7.

³⁴ *Members of the Icelandic government are generally members of parliament. The parliamentary mandate is not suspended during the time that a member of parliament is exercising the powers of a minister. See ICELAND CONST. art. 51 ('[Ministers] have the right to vote only if they are at the same time Members of Althingi').*

³⁵ *See supra* note 9.

³⁶ *The parliamentary mandate was not suspended during the time that a member of parliament was exercising the powers of a minister. See ICE. CONST. art. 51 (1944) ('[Ministers] have the right to vote only if they are at the same time Members of Althingi').*

³⁷ *See supra* note 11.

See generally INDIA CONST. (1950).
Legislative

See generally INDIA CONST. (1950).
Ministerial

See generally INDIA CONST. (1950).

INDONESIA (IDN)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

INDON. CONST. art. 7(A)(B)(3)-(7)

Legislative

Indonesia: Dewan Perwakilan Rakyat, Interparliamentary Union,
http://www.ipu.org/parline/reports/2147_D.htm
(last visited August 15, 2012).

Ministerial

See generally INDON. CONST.

IRELAND (IRL)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally IR. CONST.

Legislative

See generally IR. CONST.

Ministerial

See generally IR. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally IR. CONST. of 1922.

Legislative

See generally IR. CONST. of 1922.

Ministerial

See generally IR. CONST. of 1922.

ISRAEL (ISR)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

BASIC LAW OF ISR.: THE GOVERNMENT art. 17.

Legislative

Israel: Knesset, Interparliamentary Union,
http://www.ipu.org/parline-e/reports/2155_D.htm
(last visited August 15, 2012).

Arik Bender & Moshe Cohen, Israel Knesset Votes to End Automatic Immunity for
Members, BBC MONITORING INT'L REP., 2005, available at
<http://www.accessmylibrary.com/article-1G1-134584891/israeli-knesset-votes-end.html>
(last visited August 15, 2012).

Ministerial

BASIC LAW OF ISR.: THE GOVERNMENT art. 23.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally BASIC LAW OF ISR.: THE GOVERNMENT (1968).

Legislative

BASIC LAW OF ISR.: THE KNESSET art. 17. (1958).

Ministerial

See generally BASIC LAW OF ISR.: THE GOVERNMENT (1968).

ITALY (ITA)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

IT. CONST. art. 96.

Legislative

IT. CONST. art. 68.

Ministerial

IT. CONST. art. 96.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

IT. CONST. art. 96 (1948).

Legislative

IT. CONST. art. 68 (1948).

Ministerial

IT. CONST. art. 96 (1948).

JAMAICA (JAM)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally JAM. CONST.

Legislative

See generally JAM. CONST. Jamaica: House of Representatives, Interparliamentary Union,
http://www.ipu.org/parline/reports/2159_D.htm
(last visited August 15, 2012).

Ministerial

See generally JAM. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally JAM. CONST. (1962).

Legislative

See generally JAM. CONST. (1962).

Ministerial

See generally JAM.CONST. (1962).

JAPAN (JPN)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally JAPAN CONST.

Legislative

JAPAN CONST. art. 50.

Japan: Shugin, Interparliamentary Union,
http://www.ipu.org/parline-e/reports/2161_D.htm
(last visited August 15, 2012).

Ministerial

JAPAN CONST. art. 75.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally JAPAN CONST. of 1889.

Legislative

JAPAN CONST. of 1889 art. 53.

Ministerial

See generally JAPAN CONST. of 1889.

LATVIA (LVA)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive³⁸

LAT. CONST. art. 29.

LAT. CONST. art. 30.

Latvia: Saeima, Interparliamentary Union,
http://www.ipu.org/parline/reports/2177_D.htm
(last visited August 15, 2012).

Legislative

LAT. CONST. art. 29.

LAT. CONST. art. 30. Latvia: Saeima, Interparliamentary Union,
http://www.ipu.org/parline/reports/2177_D.htm
(last visited August 15, 2012).

Ministerial³⁹

LAT. CONST. art. 29.

LAT. CONST. art. 30. Latvia: Saeima, Interparliamentary Union,
http://www.ipu.org/parline/reports/2177_D.htm
(last visited August 15, 2012).

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive⁴⁰

LAT. CONST. art. 29 (1922).

LAT. CONST. art. 30 (1922).

Legislative

LAT. CONST. art. 29 (1922).

LAT. CONST. art. 30 (1922).

Ministerial⁴¹

LAT. CONST. art. 29 (1922).

LAT. CONST. art. 30 (1922).

LESOTHO (LSO)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally LESOTHO CONST.

Legislative

Lesotho: National Assembly, Interparliamentary Union,
http://www.ipu.org/parline/reports/2181_E.htm
(last visited August 15, 2012).

Ministerial

See generally LESOTHO CONST.

LITHUANIA (LTU)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

LITH. CONST. art. 100.

Legislative

LITH. CONST. art. 62 §2.

Ministerial

LITH. CONST. art. 100.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

³⁸Latvian ministers are generally members of parliament, and the sole incompatibility clause in the Latvian Constitution – which has remained unchanged since 1922 – mentions only the incompatibility of the position of President and any other office. CONST. LAT. art. 38 ('The office of the President shall not be held concurrently with any other office. If the person elected as President is a member of the Parliament, they shall resign their mandate as a member of the Parliament'). The provision suggests that the parliamentary mandate and parliamentary immunity are not suspended when a parliamentarian becomes a member of the government.

³⁹See *supra* note 13.

⁴⁰See *supra* note 13.

⁴¹See *supra* note 13.

LITH. CONST. of 1922 art. 63.
Legislative
LITH. CONST. of 1922 art. 38.
Ministerial
LITH. CONST. of 1922 art. 63.

LUXEMBOURG (LUX)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive
LUX. CONST. art. 116.
Legislative
LUX. CONST. art. 69.

Ministerial
LUX. CONST. art. 116.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive
LUX. CONST. art. 116 (1868).
Legislative
LUX. CONST. art. 69 (1868).
Ministerial
LUX. CONST. art. 116 (1868).

MACEDONIA / FORMER YUGOSLAV REPUBLIC OF MACEDONIA (MKD)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive
MACED. CONST. amend. XXIII.
Legislative
MACED. CONST. art. 64 §3.
Ministerial
MACED. CONST. art. 89 §3.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive
KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.
KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.
Legislative
KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 88.
Ministerial
KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.
KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.

MALAWI (MWI)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive
MALAWI CONST. art. 86.
MALAWI CONST. art. 91(2).
Legislative
See generally MALAWI CONST.
Ministerial
See generally MALAWI CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive
See generally MALAWI CONST. of 1964.
Legislative
See generally MALAWI CONST. of 1964.
Ministerial

See generally MALAWI CONST. of 1964.

MALAYSIA (MYS)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally MALAY. CONST.

Legislative

See generally MALAY. CONST.

Ministerial

See generally MALAY. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally MALAY. CONST. (1957).

Legislative

See generally MALAY. CONST. (1957).

Ministerial

See generally MALAY. CONST. (1957).

MALTA (MLT)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally MALTA CONST.

Legislative

See generally MALTA CONST.

Ministerial

See generally MALTA CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally MALTA CONST. (1964).

Legislative

See generally MALTA CONST. (1964).

Ministerial

See generally MALTA CONST. (1964).

MAURITIUS (MRT)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally MAURITIUS CONST.

Legislative

See generally MAURITIUS CONST.

Ministerial

See generally MAURITIUS CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally MAURITIUS CONST. (1968).

Legislative

See generally MAURITIUS CONST. (1968).

Ministerial

See generally MAURITIUS CONST. (1968).

MEXICO (MEX)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

MEX. CONST. art. 74(V).

MEX. CONST. art. 75(VII).

MEX. CONST. art. 110.

MEX. CONST. art. 111.

Legislative

MEX. CONST. art. 74(V).
MEX. CONST. art. 75(VII).
MEX. CONST. art. 110.
MEX. CONST. art. 111.

Ministerial

MEX. CONST. art. 74(V).
MEX. CONST. art. 75(VII).
MEX. CONST. art. 110.
MEX. CONST. art. 111.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

MEX. CONST. of 1824 art. 38.
MEX. CONST. of 1824 art. 39.
MEX. CONST. of 1824 art. 40.

Legislative

MEX. CONST. of 1824 art. 43.
MEX. CONST. of 1824 art. 44.

Ministerial

MEX. CONST. of 1824 art. 38.
MEX. CONST. of 1824 art. 39.
MEX. CONST. of 1824 art. 40.

MOLDOVA (MDA)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally MOLD. CONST.
Ministers May Remain Parliamentarians for Six Months, MOLDOVA AZI, Oct. 21, 2009,
available at
<http://www.azi.md/ro/print-story/6471>
(last visited August 15, 2012).

Legislative

MOLD. CONST. art. 70 §3.

Ministerial

See generally MOLD. CONST.
Ministers May Remain Parliamentarians for Six Months, MOLDOVA AZI, Oct. 21, 2009,
available at
<http://www.azi.md/ro/print-story/6471>
(last visited August 15, 2012).

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

ROMANIA CONST. of 1923 art. 98.

Legislative

ROMANIA CONST. of 1923 art. 55.

Ministerial

ROMANIA CONST. of 1923 art. 98.

MONGOLIA (MNG)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

MONG. CONST. art. 35 §2.
MONG. CONST. art. 36.

Legislative

MONG. CONST. art. 29 §§2-3.
See Three Mongolians Lose Immunity, ASSOCIATED PRESS, Apr. 11, 1999,

available at

<http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB0QFjAA&url=http%3A%2F%2Fwww.apnewsarchive.com%2F1999%2FThree-Mongolians-Lose-Immunity%2Fid-5e2d0b53928bb4b2b22b22b0e3fe252f&ei=sQPXU93HMoOGyAT10YKADg&usg=AFQjCNG9g5LYz7EGy785yTgOYHG41s79Q&bvm=bv.71778758,d.aWw>
(last visited July 28, 2014).

Ministerial⁴²

MONG. CONST. 42.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

MONG. CONST. art. 35 §2 (1992).

MONG. CONST. art. 36 (1992).

Legislative

MONG. CONST. art. 29 §§2-3 (1992).

Ministerial

MONG. CONST. art. 42 (1992).

MONTENEGRO (MNE)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

MONTENEGRO CONST. art. 86.

Legislative

MONTENEGRO CONST. art. 86.

Ministerial

MONTENEGRO CONST. art. 86.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.

Legislative

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 88.

Ministerial

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.

NAMIBIA (NAM)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

NAMIB. CONST. art. 31 §§(1)(B), (2), (3)(B).

Legislative

Namibia: National Assembly, Interparliamentary Union,

http://www.ipu.org/parline-e/reports/2225_D.htm

(last visited August 15, 2012).

Ministerial

See generally NAMIB. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

NAMIB. CONST. art. 31 §§(1)(B), (2), (3)(B) (1990).

Legislative

See generally NAMIB. CONST. (1990).

Ministerial

See generally NAMIB. CONST. (1990).

⁴² Though article 42 mentions the personal immunity of members of the government, this refers to the personal liability of members of the government for government actions, not criminal immunity.

NETHERLANDS (NLD)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

NETH. CONST. art. 119.

ROEL DE LANGE, NEDERLANDSE VERENIGING VOOR RECHTSVERGELIJKING,
POLITICAL AND CRIMINAL RESPONSIBILITY §6 (2002).

Legislative

NETH. CONST. art. 119.

Ministerial

NETH. CONST. art. 119.

ROEL DE LANGE, NEDERLANDSE VERENIGING VOOR RECHTSVERGELIJKING,
POLITICAL AND CRIMINAL RESPONSIBILITY §6 (2002).

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

NETH. CONST. art. 159 (1848).

Legislative

NETH. CONST. art. 159 (1848).

Ministerial

NETH. CONST. art. 159 (1848).

NEW ZEALAND (NZL)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF
THE CONSTITUTION, ch. 4 (1914).

Legislative

PARLIAMENT OF N.Z., PARLIAMENTARY PRIVILEGE (2007),
available at

[http://www.parliament.nz/en-NZ/AboutParl/HowPWorks/Privilege/0/9/b/
09b66aa4ad2e4004952ce22b60df47b2.htm](http://www.parliament.nz/en-NZ/AboutParl/HowPWorks/Privilege/0/9/b/09b66aa4ad2e4004952ce22b60df47b2.htm)

(last visited August 15, 2012).

Ministerial

2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF
THE CONSTITUTION, ch. 4 (1914).

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF
THE CONSTITUTION, ch. 4 (1914).

Legislative

PARLIAMENT OF N.Z., PARLIAMENTARY PRIVILEGE (2007),
available at

[http://www.parliament.nz/en-NZ/AboutParl/HowPWorks/Privilege/0/9/b/
09b66aa4ad2e4004952ce22b60df47b2.htm](http://www.parliament.nz/en-NZ/AboutParl/HowPWorks/Privilege/0/9/b/09b66aa4ad2e4004952ce22b60df47b2.htm)

(last visited August 15, 2012).

Ministerial

2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF
THE CONSTITUTION, ch. 4 (1914).

NICARAGUA (NIC)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

NICAR. CONST. art. 130.

NICAR. CONST. art. 138(4).

Ley No. 83, 21 Mar. 1990, Le de Inmunidad [Immunities Law], LA GACETA, DIARIO
OFICIAL [L.G.], 27 Mar. 1990 (Nicar.).

Legislative

NICAR. CONST. art. 130.

NICAR. CONST. art. 138(4).

NICAR. CONST. art. 139.

Ley No. 83, 21 Mar. 1990, Le de Inmunidad [Immunities Law], LA GACETA, DIARIO OFICIAL [L.G.], 27 Mar. 1990 (Nicar.).

Ministerial

NICAR. CONST. art. 130.

NICAR. CONST. art. 138(4).

Ley No. 83, 21 Mar. 1990, Le de Inmunidad [Immunities Law], LA GACETA, DIARIO OFICIAL [L.G.], 27 Mar. 1990 (Nicar.).

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

NICAR. CONST. of 1858 art. 41(7).

NICAR. CONST. of 1858 art. 68.

NICAR. CONST. of 1858 art. 72.

Legislative

NICAR. CONST. of 1858 art. 41(7).

NICAR. CONST. of 1858 art. 69.

NICAR. CONST. of 1858 art. 70.

NICAR. CONST. of 1858 art. 71.

NICAR. CONST. of 1858 art. 72.

Ministerial

NICAR. CONST. of 1858 art. 41(7).

NICAR. CONST. of 1858 art. 69.

NICAR. CONST. of 1858 art. 70.

NICAR. CONST. of 1858 art. 71.

NICAR. CONST. of 1858 art. 72.

NORWAY (NOR)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

NOR. CONST. §86.

NOR. CONST. §87.

Legislative

NOR. CONST. §66.

Ministerial

NOR. CONST. §86.

NOR. CONST. §87.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

NOR. CONST. §87 (1814).

NOR. CONST. §88 (1814).

Legislative

NOR. CONST. §66 (1814).

Ministerial

NOR. CONST. §87 (1814).

NOR. CONST. §88 (1814).

PANAMA (PAN)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

PAN. CONST. art. 160.

PAN. CONST. art. 191.

Legislative

PAN. CONST. art. 155.

Ministerial

J. MARK PAYNE, DANIEL ZOVATTO G., & MERCEDES MATEO DÍAZ,
LA POLÍTICA IMPORTA: DEMOCRACIA Y DESAROLLO EN AMÉRICA LATINA 107 (2006).
HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

PAN. CONST. of 1904 art. 66.

PAN. CONST. of 1904 art. 78.

Legislative

PAN. CONST. of 1904 art. 60.

Ministerial

PAN. CONST. of 1904 art. 66.

PAPUA NEW GUINEA (PNG)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally PAPUA N.G. CONST.

Legislative

See generally PAPUA N.G. CONST.

Ministerial

See generally PAPUA N.G. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally PAPUA N.G. CONST. (1975).

Legislative

See generally PAPUA N.G. CONST. (1975).

Ministerial

See generally PAPUA N.G. CONST. (1975).

PARAGUAY (PRY)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

PARA. CONST. art. 225 §2

PARA. CONST. title V, art. 14.

Legislative

PARA. CONST. art. 191.

Ministerial

PARA. CONST. art. 225 §2.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

PARA. CONST. of 1870 art. 50.

PARA. CONST. of 1870 art. 56.

Legislative

PARA. CONST. of 1870 art. 64.

Ministerial

PARA. CONST. of 1870 art. 50.

PARA. CONST. of 1870 art. 56.

PERU (PER)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

PERU CONST. art. 99.

PERU CONST. art. 117.

J. MARK PAYNE, DANIEL ZOVATTO G., & MERCEDES MATEO DÍAZ, LA POLÍTICA IMPORTA:
DEMOCRACIA Y DESAROLLO EN AMÉRICA LATINA 207 (2006).

Abraham Lama, Fujimori Loses Majority, Risks Impeachment, INTER PRESS SERVICE, Nov. 17, 2012,
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Legislative

PERU CONST. art. 93.

Ministerial

PERU CONST. art. 99.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

PERU CONST. of 1823 art. 90(5).

Legislative

PERU CONST. of 1823 art. 59.

Ministerial

PERU CONST. of 1823 art. 90(5).

PHILIPPINES (PHL)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

PHIL. CONST. art. 11 §3(3)-(7).

Legislative

PHIL. CONST. art. 6 §§11,16.

Ministerial

PHIL. CONST. art. 11 §3(3)-(7).

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

PHIL. CONST. of 1899 art. 44.

Legislative

PHIL. CONST. of 1899 art. 46.

Ministerial

PHIL. CONST. of 1899 art. 44.

POLAND (POL)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

POL. CONST. art. 156 §2.

Legislative

POL. CONST. art. 105 §§2-5.

MARC VAN DER HULST, INTERPARLIAMENTARY UNION, THE PARLIAMENTARY MANDATE:
A GLOBAL COMPARATIVE STUDY 92 (2000).

Ministerial

POL. CONST. art. 156 §2.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

POLAND CONST. of 1921 art. 51.

Legislative

POLAND CONST. of 1921 art. 21.

Ministerial

POLAND CONST. of 1921 art. 59.

PORTUGAL (PRT)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

PORT. CONST. art. 199.

Legislative

PORT. CONST. art. 160 §3.

Ministerial

PORT. CONST. art. 199.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

PORT. CONST. of 1911 art. 64.

Legislative

PORT. CONST. of 1911 art. 17. PORT. CONST. of 1911 art. 18.

Ministerial

PORT. CONST. of 1911 art. 65.

ROMANIA (ROM)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

ROM. CONST. art. 84 §§2-3.

Legislative

ROM. CONST. art. 69.

MARC VAN DER HULST, INTERPARLIAMENTARY UNION, THE PARLIAMENTARY MANDATE:
A GLOBAL COMPARATIVE STUDY 92 (2000).

Ministerial

ROM. CONST. art. 108 §2.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

ROM. CONST. of 1923 art. 98.

Legislative

ROM. CONST. of 1923 art. 55.

Ministerial

ROM. CONST. of 1923 art. 98.

SENEGAL (SEN)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

SEN. CONST. art. 101.

Legislative

SEN. CONST. art 61.

Ministerial

SEN. CONST. art 101.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

MALI FED. CONST. of 1959 art. 18.

Legislative

MALI FED. CONST. of 1959 art. 39.

Ministerial

MALI FED. CONST. of 1959 art. 18.

SERBIA (SRB)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

SERB. CONST. art. 134 §2.

Legislative

SERB. CONST. art. 103.

Ministerial

SERB. CONST. art. 134 §2.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.

Legislative

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 88.

Ministerial

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.

SINGAPORE (SRB)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally SING. CONST.

Legislative

See generally SING. CONST.

Ministerial

See generally SING. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally SING. CONST. of 1963.

Legislative

See generally SING. CONST. of 1963.

Ministerial

See generally SING. CONST. of 1963.

SLOVAKIA / SLOVAK REPUBLIC (SVK)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive⁴³

SLOVK CONST. art. 78 §2.

Legislative

SLOVK. CONST. art. 78 §2.

Ministerial⁴⁴

SLOVK. CONST. art. 78 §2.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

CZECHOSLOVAKIA CONST. of 1920 §34.

CZECHOSLOVAKIA CONST. of 1920 §67.

Legislative

CZECHOSLOVAKIA CONST. of 1920 §24.

CZECHOSLOVAKIA CONST. of 1920 §25.

Ministerial

CZECHOSLOVAKIA CONST. of 1920 §34.

CZECHOSLOVAKIA CONST. of 1920 §79.

SLOVENIA (SVN)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

SLOVN. CONST. art. 119.

Legislative

SLOVN. CONST. art. 83 §2.

SLOVN. CONST. art. 100 §2.

Ministerial

SLOVN. CONST. art. 119.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.

Legislative

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 88.

Ministerial

⁴³Members of the Slovak government are generally members of parliament. A member of parliament does not lose his parliamentary mandate when taking a position as a member of the government. *See* SLOVK. CONST. art. 77 §2.

⁴⁴*See supra* note 18.

KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 91.
KINGDOM OF SERBS, CROATS & SLOVENES CONST. of 1921 art. 92.

SOUTH AFRICA (ZAF)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

S. AFR. CONST. §89.⁴⁵

Legislative

S. AFR. CONST. §58.

Ministerial

S. AFR. CONST. §58.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally REPUBLIC OF S. AFR. CONSTITUTION ACT OF 1961.

Legislative

See generally REPUBLIC OF S. AFR. CONSTITUTION ACT OF 1961.

Ministerial

See generally REPUBLIC OF S. AFR. CONSTITUTION ACT OF 1961.

SOUTH KOREA / REPUBLIC OF KOREA (KOR)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

S. KOREA CONST. art. 65.

S. KOREA CONST. art. 84.

Legislative

S. KOREA CONST. §44.

Ministerial

See generally S. KOREA CONST.

SPAIN (ESP)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

SPAIN CONST. art. 102 §2.

Legislative

SPAIN CONST. art. 71 §2.

Ministerial

SPAIN CONST. art. 102 §2.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

SPAIN CONST. of 1931 art. 85.

Legislative

SPAIN CONST. of 1931 art. 56.

Ministerial

SPAIN CONST. of 1931 art. 92.

SURINAME (SUR)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally SURIN. CONST.⁴⁶

Legislative

⁴⁵Section 89 of the Constitution of South Africa has not been interpreted to apply as a bar to criminal prosecution of the president.

⁴⁶The case of President Desi Bouterse, who was granted immunity through a wider amnesty for human rights abuses committed under military rule does not represent the conventional criminal immunity regime in the country. The observation that his prosecution continued while he was president indicates that the president does not enjoy immunity protections.

See generally SURIN. CONST.

Ministerial

See, e.g., Suriname Strips Former Cabinet Member Suspected of Corruption of Immunity, JAM. OBSERVER, Aug. 29, 2005, http://www.jamaicaobserver.com/news/87146_Suriname-strips-former-Cabinet-minister-suspected-of-corruption-of-immunit.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally SURIN. CONST. (1987).

Legislative

See generally SURIN. CONST. (1987).

Ministerial

See generally SURIN. CONST. (1987).

SWEDEN (SWE)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

SWED. INSTRUMENT OF GOVERNMENT OF 1974 ch. 13, art. 3.

Legislative

SWED. INSTRUMENT OF GOVERNMENT OF 1974 ch. 4, art. 12.

Ministerial

SWED. INSTRUMENT OF GOVERNMENT OF 1974 ch. 13, art. 3.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

SWED. INSTRUMENT OF GOVERNMENT OF 1809 §106.

Legislative

SWED. INSTRUMENT OF GOVERNMENT OF 1809 §110.

Ministerial

SWED. INSTRUMENT OF GOVERNMENT OF 1809 §106.

SWITZERLAND

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

DOKUMENTATIONSDIENST, DIE IMMUNITÄT DER MITGLIEDER DER OBERSTEN BUNDESBEHÖRDEN, PARLAMENTSDIENSTE DER SCHWEIZ (2012), available at <http://www.parlament.ch/d/dokumentation/berichte/faktenblaetter/Documents/faktenblatt-immunitaet-d.pdf> (last visited August 15, 2012).

Legislative

DOKUMENTATIONSDIENST, DIE IMMUNITÄT DER MITGLIEDER DER OBERSTEN BUNDESBEHÖRDEN, PARLAMENTSDIENSTE DER SCHWEIZ (2012), available at <http://www.parlament.ch/d/dokumentation/berichte/faktenblaetter/Documents/faktenblatt-immunitaet-d.pdf> (last visited August 15, 2012).

Ministerial

DOKUMENTATIONSDIENST, DIE IMMUNITÄT DER MITGLIEDER DER OBERSTEN BUNDESBEHÖRDEN, PARLAMENTSDIENSTE DER SCHWEIZ (2012), available at <http://www.parlament.ch/d/dokumentation/berichte/faktenblaetter/Documents/faktenblatt-immunitaet-d.pdf> (last visited August 15, 2012).

TAIWAN (TWN)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

MINGUO XIANFA art. 52.

REPUBLIC OF CHINA PRESIDENTIAL AND VICE PRESIDENTIAL ELECTION RECALL LAW
(2009).

Legislative

MINGUO XIANFA art. 33.

Ministerial

MINGUO XIANFA art. 97.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

MINGUO XIANFA art. 52 (1991).

Legislative

MINGUO XIANFA art. 33 (1991).

Ministerial

MINGUO XIANFA art. 97 (1991).

TANZANIA (TZA)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

TANZ. CONST. art. 46.

TANZ. CONST. art. 46A.

Legislative

See generally TANZ. CONST.

Ministerial

See generally TANZ. CONST.

THAILAND (THA)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

THAI. CONST. art. 270.

THAI. CONST. art. 271.

THAI. CONST. art. 272.

THAI. CONST. art. 273.

THAI. CONST. art. 274.

THAI. CONST. art. 275.

THAI. CONST. art. 276.

THAI. CONST. art. 277.

THAI. CONST. art. 278.

Legislative

THAI CONST. art. 131.

THAI. CONST. art. 270.

THAI. CONST. art. 271.

THAI. CONST. art. 272.

THAI. CONST. art. 273.

THAI. CONST. art. 274.

THAI. CONST. art. 275.

THAI. CONST. art. 276.

THAI. CONST. art. 277.

THAI. CONST. art. 278.

Ministerial

THAI. CONST. art. 270.

THAI. CONST. art. 271.

THAI. CONST. art. 272.

THAI. CONST. art. 273.

THAI. CONST. art. 274.

THAI. CONST. art. 275.

THAI. CONST. art. 276.

THAI. CONST. art. 277.

THAI. CONST. art. 278.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

CONST. OF THE KINGDOM OF SIAM of 1932 art. 26.
CONST. OF THE KINGDOM OF SIAM of 1932 art. 33.
CONST. OF THE KINGDOM OF SIAM of 1932 art. 34.
CONST. OF THE KINGDOM OF SIAM of 1932 art. 47.
CONST. OF THE KINGDOM OF SIAM of 1932 art. 49.

Legislative

CONST. OF THE KINGDOM OF SIAM of 1932 art. 26.
CONST. OF THE KINGDOM OF SIAM of 1932 art. 33.
CONST. OF THE KINGDOM OF SIAM of 1932 art. 34.

Ministerial

CONST. OF THE KINGDOM OF SIAM of 1932 art. 26.
CONST. OF THE KINGDOM OF SIAM of 1932 art. 33.
CONST. OF THE KINGDOM OF SIAM of 1932 art. 34.
CONST. OF THE KINGDOM OF SIAM of 1932 art. 47.
CONST. OF THE KINGDOM OF SIAM of 1932 art. 49.

TIMOR-LESTE (TMP)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

TIMOR-LESTE CONST. §113.
TIMOR-LESTE CONST. §114.

Legislative

R. PROC. OF THE NAT'L PARLIAMENT OF TIMOR-LESTE §§8-9.

Ministerial

TIMOR-LESTE CONST. §113.
TIMOR-LESTE CONST. §114.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

TIMOR-LESTE CONST. §113 (2002)
TIMOR-LESTE CONST. §114 (2002).

Legislative

R. PROC. OF THE NAT'L PARLIAMENT OF TIMOR-LESTE §§8-9.

Ministerial

TIMOR-LESTE CONST. §113 (2002).
TIMOR-LESTE CONST. §114 (2002).

TRINIDAD AND TOBAGO (TTO)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally TRIN. & TOBAGO CONST.

Legislative

Trinidad and Tobago: House of Representatives, Interparliamentary Union, available at http://www.ipu.org/parline-e/reports/2319_D.htm (last visited August 15, 2012).

Ministerial

See generally TRIN. & TOBAGO CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally TRIN. & TOBAGO CONST. (1976).

Legislative

See generally TRIN. & TOBAGO CONST. (1976).

Ministerial

See generally TRIN. & TOBAGO CONST. (1976).

TUNISIA (TUN)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

TUNIS. CONST. art. 87.

TUNIS. CONST. art. 88.

Legislative

TUNIS. CONST. art. 68.

TUNIS. CONST. art. 69.

Ministerial

See generally TUNIS. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

See generally TUNIS. CONST. of 1959.

Legislative

TUNIS. CONST. of 1959 art. 27.

Ministerial

See generally TUNIS. CONST. of 1959.

TURKEY (TUR)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

TURK. CONST. art. 83.

TURK. CONST. art. 85.

TURK. CONST. art. 112.

Legislative

TURK. CONST. art. 83.

TURK. CONST. art. 85.

Ministerial

TURK. CONST. art. 83.

TURK. CONST. art. 85.

TURK. CONST. art. 112.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

TURK. CONST. of 1924 art. 50.

TURK. CONST. of 1924 art. 61.

Legislative

TURK. CONST. of 1924 art. 27.

Ministerial

TURK. CONST. of 1924 art. 50.

TURK. CONST. of 1924 art. 61.

UKRAINE (UKR)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

UKR. CONST. art. 111.

Legislative

UKR. CONST. art. 80.

Ministerial

See generally UKR. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

UKR. CONST. art. 111 (1996).

Legislative

UKR. CONST. art. 80 (1996).

Ministerial

See generally UKR. CONST. (1996).

UNITED KINGDOM (GBR).

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION, ch. 4 (1914).

Legislative

2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION, ch. 4 (1914).

Ministerial

2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION, ch. 4 (1914).

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION, ch. 4 (1914).

Legislative

2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION, ch. 4 (1914).

Ministerial

2 ALBERT VENN DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION, ch. 4 (1914).

UNITED STATES (USA)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

U.S. CONST. art 1 §§2-3.

Keith King, *Indicting the President: Can a Sitting President Be Criminally Indicted?*, 30 SW. U. L. REV. 417 (2001).

Akhil Reed Amar, *On Prosecuting Presidents*, 27 HOFSTRA L. REV. 671 (1999).

Legislative

U.S. CONST. art 1 §6.

Ministerial

See generally U.S. CONST.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

U.S. CONST. art 1 §§2-3 (1789).

Legislative

U.S. CONST. art 1 §6 (1789).

Ministerial

See generally U.S. CONST. (1789).

URUGUAY (URY)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

URU. CONST. art. 102.

URU. CONST. art. 103.

URU. CONST. art. 113.

URU. CONST. art. 172.

Legislative

URU. CONST. art. 114.

Ministerial

URU. CONST. art. 102.

URU. CONST. art. 103.
URU. CONST. art. 113.
URU. CONST. art. 172.
URU. CONST. art. 178.

HISTORICAL CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

URU. CONST. of 1830 art. 26.
URU. CONST. of 1830 art. 38.

Legislative

URU. CONST. of 1830 art. 26.
URU. CONST. of 1830 art. 38.
URU. CONST. of 1830 art. 51.

Ministerial

URU. CONST. of 1830 art. 26.
URU. CONST. of 1830 art. 38.

ZAMBIA (ZMB)

CURRENT CONSTITUTIONAL IMMUNITY PROVISIONS

Chief Executive

ZAM. CONST. of 1991 art. 37.

Legislative

See generally ZAM. CONST. of 1991.

Ministerial

See generally ZAM. CONST. of 1991.

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