



Article

Informal networks and judicial decisions: Insights from the Supreme Court of the Philippines, 1986–2015

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Abstract

To what extent do informal networks shape the decisions of the Supreme Court of the Philippines? Though often raised in the Philippines, this question has never been studied empirically. To answer it, we constructed a set of social network variables to assess how informal ties, based on university connections and work affiliations, may have influenced the court's decisions between 1986 and 2015 in 47 politically high-profile cases. Providing statistically significant evidence for the effects of political influence (presidential appointments) and hierarchical pressure (the vote of the Chief Justice) on related networks, our analysis suggests a continuing tension on the Supreme Court bench between professionalism and informality. Because the findings advance both theoretical and empirical understanding of larger issues at the intersection of courts and society throughout the region, we recommend more attention to the role of judicial networks, external to the courts as well as within them.

Keywords

Philippines, supreme court, judges, judicial networks, megapolitics

Introduction

Courts have become central players in Asia's constitutional landscape. But despite growing academic attention, there is still considerable debate about their uneven track records and whether they can be independent and neutral arbiters in political cases. Patterns of informality in Asian courts

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based on loyalty, friendship, and reciprocal obligation have been widely acknowledged, but how they may affect judicial decisions has never been studied empirically. Scrutinizing one of the most activist courts in the region, we therefore ask: To what extent do informal networks shape the decisions of the Supreme Court of the Philippines?

To shed light on this issue, we examine the link between informal ties, inferred from university studies, work affiliations, and seniority, and decisions in 47 political cases between 1986 and 2015. We thus complement previous studies of the court's decision-making with a relational perspective taking into account informal influences on judicial behaviour.

As highlighted in the introduction to this special edition (see, Dressel et al., 2018) many theoretical models of judicial behaviour developed in the West (e.g., legal, attitudinal, and strategic-rational) do not transfer easily to countries in the Global South or the post-communist world where institutions are far from sturdy, ideological fault lines are fluid, and informal practices generate uncertainty (Kapiszewski, 2012). In many non-Western societies, it has become clear that the informal and the formal are closely interwoven in institutional activities, eliciting growing recognition that the study of formal institutional arrangements needs to be complemented by similar attention to informal arrangements (Helmke and Levitsky, 2004). This means studying the roles of peers, ideological communities, party alignments, and ideational, identity-based, or clientelistic networks – informal relational dimensions that may affect how judges behave (Ingram, 2012; Llanos et al., 2014; Trochev and Ellett, 2014).

Informal dynamics in the Philippines are of particular interest. Equipped with far-reaching formal review powers after democratic institutions were restored in 1986, the Supreme Court of the Philippines is regularly called upon to resolve high-profile political cases (Pangalangan, 2014). Yet the 2012 impeachment of its Chief Justice (CJ), Renato Coronado, for abuse of power, as well as the 2018 removal of CJ Sereno via a *quo warranto* instigated with support of factions on the bench, suggest that the court is still vulnerable to traditional personalized and patronage-based politics (Agabin, 2012: 1–30; Bonoan and Dressel, 2018). Because they lack the predictability that might be expected if the law were formally applied, the court's decisions in cases with major policy or political significance have raised speculation about how much informal influence is exerted on justices (see Vitug, 2010, 2012). So far, however, neither quantitative nor qualitative studies have produced a satisfactory answer.

Empirical studies of the Supreme Court of the Philippines have drawn attention to the sociobiographical background of judges (Gatmaytan and Magno, 2011; Tate, 1970); tested for the impact on their decisions of regime variables (Tate and Haynie, 1993) and resource inequalities in litigation (Haynie, 1995); and provided measures of ideal judicial points (Pellegrina et al., 2014). Other investigations have considered attitudinal and principal-agent-based models as determinants of Philippine Supreme Court decisions (Desierto, 2015; Escresa and Garoupa, 2012, 2013). At this point, however, no analysis has explicitly considered informal factors in judicial decision-making.

Qualitative studies, by contrast, have offered rich contextual narratives of the dynamics underpinning how the Supreme Court of the Philippines functions from political-institutional (Agabin, 2012), historical-legal (Cruz, 2000), and investigative (Vitug, 2010, 2012) perspectives. Most explicitly acknowledge the importance of informal dynamics, such as presidential influence on nominations; personal characteristics that shape judicial leadership; or patterns of obligation, friendship, and loyalty among justices – all of which could influence decisions (Chua et al., 2012; Gatmaytan, 2015: 35–37; Gatmaytan and Magno, 2011).

Although both the quantitative and qualitative perspectives have much to offer to the study of the Supreme Court of the Philippines, because of their different disciplinary backgrounds, they rarely engage with each other. However, some authors in the quantitative tradition have

acknowledged that previous models of judicial behaviour do not seem to adapt well to the Philippines. For instance, findings from the application of party-capability theory to the Supreme Court of the Philippines were contrary to those found in the US (Haynie, 1995), and some scholars have admitted that though such variables such as allegiances based on kinship, fraternity memberships, and law school loyalties might make a difference, they were excluded from consideration because they are hard for statistical analysis to operationalize (Escresa and Garoupa, 2012: 21). Meanwhile though qualitative scholars, who stress the importance of contextual variables, have acknowledged the need for empirical analysis, they have preferred to confine themselves to description rather than explore systematic analysis through data sets, old or new.

It is against this background that we seek to better understand what determines the Court's behaviour and expand on the limited, albeit growing, empirical scholarship. To do so we use social network analysis (SNA) to explore the structure of interpersonal ties and examine the links between social networks and specific outcomes. Relying on data from 47 major cases between 1986 and 2015 and on biographical data for the 68 judges who heard those cases, we construct social network variables based on two widely reported social ties in the Philippines – university affiliation and professional background – in order to assess how networks may affect the voting of each justice.¹

A few qualifiers are in order: For one, while we draw on insights in social network theory (e.g., homophily and propinquity), we do not claim that social ties correlate with votes for or against the presidential administration in power; rather, we see them as creating personal loyalties that make justices vote as a cohort in *either* direction because they transmit certain kinds of pressure. Second, while we focus on the diffusion of political (presidential) and hierarchical (CJ) pressures through these networks, we do not deny that other mechanisms may also be at play (e.g., presidential appointees sharing similar legal views and strategic calculation about a dissenting vote), but we also consider them to be embedded in social ties of loyalties and friendship formed over years.

Hence, by generating evidence on how political influence (presidential appointments) and hierarchical pressure (the vote of the CJ) may be diffused, we add a new perspective to previous accounts of what determines Supreme Court decision-making. We present, for the first time, empirical evidence of the effects of informal, peer-related hierarchical and political influence in major political cases decided by the Supreme Court of the Philippines.

Highlighting how formal and informal practices interact to influence the bench has significant theoretical and practical implications, as do the sections that follow. The results suggest that at least at the highest echelons, justices must deal with the tension between professional constraints and relational ties. Moreover, our study suggests that the ability of the highest courts to transcend relational ties might help explain the unevenness of judicial performance, especially in constitutional cases.

In what follows, in the first section we briefly review recent political history and the history of the Court. The second section sets out assumptions and hypotheses about how informal networks influence how justices behave. The third section introduces the case data and construction of the social network variables. The fourth section discusses the results of the baseline regression and models that incorporate social network variables. Finally, we consider the theoretical and empirical implications of the results.

The relational perspective

The Supreme Court of the Philippines has been central to the country's political system since it was established in 1901 (see Agabin, 2012). Created under US colonial tutelage and nationalized as part of the Commonwealth of the Philippines in 1935, it became the top court when independence

in 1946 did away with the US Supreme Court's appellate function. The court has since been called upon regularly to review the constitutionality of cases of considerable policy consequence – although its role is occasionally contested. In fact, during the authoritarian government of President Ferdinand Marcos (1965–1986) it was generally viewed as having succumbed to the executive (Haynie, 1998) – which prompted President Corazon Aquino (1986–1992) to repopulate the bench after the return to democracy. To prevent similar authoritarian regression, the 1987 Constitution also granted the court expanded powers and safeguards, including the power to determine if there has been an abuse of power.²

However, the president still appoints each justice to the 15-member court from a shortlist of three candidates provided by the independent Judicial and Bar Council (JBC). The JBC has four *ex officio* members (the CJ, the secretary of justice, and one member each from the upper and lower houses) and four regular members (a law professor, a retired Supreme Court justice, a member of the integrated Bar of the Philippines, and a representative of the private sector).³ The president also chooses the CJ (usually the longest-serving justice). Unless they resign or are impeached, justices must retire at age 70. The court is organized in three-judge divisions, though most important cases are decided *en banc*. Separate opinions are allowed, but the majority opinion that resolves the case is written by an assigned judge.

In the last 30 years the court has become ever more involved in high-profile decisions, some of which have crucially shaped the nation's democratic and institutional trajectory. In 1986, the court ruled on the legitimacy of the confirmation of President Corazon 'Cory' Aquino after the EDSA ('People Power') Revolution.⁴ In 2001 after the interrupted impeachment trial of former President Joseph Estrada (1998–2001), presided over by the CJ, and widespread public demonstrations, the court deemed Estrada had resigned, a controversial decision that legitimized Gloria Macapagal Arroyo's presidency.⁵ However, as it gradually moves beyond the constraints of the political-question doctrine in core constitutional matters, the court's political role has raised public concerns over corruption and politicization. In fact, in 2012, under President Benigno Aquino III (2010–2016), CJ Corona (2010–2012) faced eight different impeachment charges for betrayal of public trust and violation of the constitution⁶ – charges closely linked to corrupt behaviour and President Macapagal Arroyo's appointments to the bench (2001–2010).⁷

Justices clearly have been closely tied to Philippine elites (Agabin, 2011, 2012; Pangalangan, 2014). In fact, as highlighted by Tate's (1970) study of the social background and career pattern of Supreme Court Justices from 1901 through 1968, justices have traditionally not been as representative as other political elites in terms of regional diversity, university background, or professional sources for appointment. Four decades later, the bench since 1987 (Table 1) shows little change.

While the Philippines has an estimated 105 law schools, since 1986 appointments to the male-dominated Supreme Court have been graduates of only six, of which two, Ateneo de Manila University and the University of the Philippines, account for about 64%. Some regions, such as Luzon, are over-represented relative to population; others, such as Mindanao, are under-represented – an illustration of the traditional bias of elite socialization in the capital, Manila, and surrounding Luzon. Most justices have been appointed from within the judiciary (60%), followed by academe (12%) and the executive branch (12%). However, the shares fluctuate considerably – a hint of each president's influence on appointments.

Coming to power through the 1986 'People Power Revolution,' President Cory Aquino (1987–1992) was in a unique position to reshape the bench. In her six-year term she appointed 24 justices (five of whom Marcos had originally appointed), many of whom gave crucial support to the administration in a period of political turmoil.⁹ Under the politically stable and technocratic Ramos (1992–1998), when there were fewer high-profile cases, 10 of the 14 justices he appointed came from the judiciary – a trend which Estrada (1998–2001) continued. President Arroyo (2001–2010),

Table 1. The bench of the Supreme Court of the Philippines (1987–2016).

President:		Aquino I	Ramos	Estrada	Arroyo	Aquino III
Number of appointments		24 ⁸	14	6	21	6
Gender	Male	83%	100%	50%	81%	66%
	Female	17%	0%	50%	19%	33%
University	University of Philippines	71%	43%	33%	38%	33%
	Ateneo de Manila University	13%	0%	17%	24%	50%
	University of Santo Tomas	8%	0%	50%	5%	0%
	Far Eastern University	0%	14%	0%	10%	0%
	Manuel L. Quezon University	4%	14%	0%	10%	0%
	Other	4%	14%	0%	19%	17%
	Prior position	Judicial	50%	71%	83%	67%
	Academe	21%	7%	0%	5%	33%
	Executive	0%	7%	0%	14%	33%
	Private	25%	14%	0%	14%	0%
	Other	4%	0%	17%	0%	0%
Region	Luzon	75%	93%	83%	81%	83%
	Visayas	21%	7%	17%	10%	17%
	Mindanao	4%	0%	0%	10%	0%

who finished Estrada's term before being elected herself, was able to appoint 21 judges, so that ultimately all the justices were Arroyo appointees. But corruption scandals implicating the president and her family also affected some appointees; for instance, CJ Corona was appointed despite a 60-day constitutional ban on appointments before presidential elections (Vitug, 2012: 233–255). His impeachment in 2012 under President 'Noynoy' Aquino III (2010–2016) shone a spotlight on initially tense executive–judicial relations. However, in 2010 Aquino appointed Maria Lourdes Sereno, then executive director of a think tank, and two years later made her CJ, and his other five appointees also somewhat relieved the tension.¹⁰ (Her removal as CJ in 2018 through a controversial *quo-warranto* procedure under the Duterte administration (2016–) illuminates the continuing fragility of executive–judicial relations.)

Beyond the presidential dynamics, the composition of the bench also raises serious questions about how effective the institutional arrangements are, notably JBC procedures, which are a central feature of the 1987 constitution (Gatmaytan and Magno, 2011). The JBC was created to insulate judicial appointments from politics and ensure that appointees are of proven competence, probity, and independence; previously appointees had been confirmed by the parliamentary commission on appointments (CA), which was seen as favouring judges who had a backer (*padrino*) on the CA. There was also concern about the unrestrained presidential discretion Marcos exercised after the CA was abolished in 1973 (Chua et al., 2012: 15; Vitug, 2010: 108).

Considering how traditional informal channels shape judicial appointments, it is questionable though whether the JBC has ever operated as intended. For instance, the executive still controls the political appointees to the JBC (Secretary of Justice, upper and lower house members), and regular members often lobby for another term and owe the president if they get it (Vitug, 2010: 93–95). It is not uncommon for presidential staff to call JBC members to influence the candidate shortlist, or for networks to lobby the president and staff for specific candidates once the list is submitted (Chua et al., 2012: 39). The result is a severely compromised nomination process that lacks transparency and ignores concerns about candidate integrity, and in which the executive has regularly ignored the

rank order and even occasionally expanded JBC shortlists.¹¹ A case in point is the 2017 appointment of a former university classmate of President Duterte (2016–), who was last on the shortlist.¹²

Such informal dynamics may also find expression on the bench itself (Vitug, 2010: 123–142). For instance, it has been argued that appointments to the Supreme Court or elevation to CJ generate loyalty to the appointing president – if only because patterns of gratitude, obligation, and deference dominate social interaction in the Philippines.¹³ Gratitude may then lead groups of judges to vote as a pro-president cohort in politically sensitive cases, especially since justices often discuss cases informally.¹⁴ There is also anecdotal evidence that seniority, friendship, and shared professional and educational allegiances might have affected votes¹⁵ – given the shallow pool of judicial candidates, their social circles and professional trajectories are likely to overlap (Gatmaytan and Magno, 2011).¹⁶

Clearly, a purely institutional analysis is not enough to understand how the Supreme Court of the Philippines operates. While its expanded review powers are undoubtedly critical to the court's engagement in high-profile political cases, and internal rules on case assignment and decision-making provide useful insights into its workings, in everyday practice informal rules often compete with, and even overshadow, official rules. The Court is thus a stark reminder of the need to examine the role of judicial networks off as well as on the bench. The next section discusses, with support from theory, how to test for such relationships.

Theory and hypotheses

What motivates judges to decide cases as they do and what influences shape their decisions are traditionally at the centre of scholarship on judicial decision-making. Theories differ substantially about the relative importance of possible explanatory factors, and the empirical reach of some models seems questionable.

Take, for instance, the legalist, attitudinal, and strategic–rational approaches that have long dominated such studies – approaches that make very different assumptions about what influences a judge's decisions (see good overview, Segal, 2008). *Legalist* theories emphasize that decisions conform to precedent and legal norms, centering on constitutional and doctrinal variables (e.g., rules found in legal materials, constitutional and statutory texts, and precedents of the same court). Downplaying the constraints of law, *attitudinal* models argue that ideological positions and policy preferences shape judicial decisions (Segal and Spaeth, 2002). *Strategic–rational* models acknowledge that the policy preferences of judges must also take account of intra-court and government interactions (e.g., Epstein and Knight, 1998; Spiller and Gely, 2010).

These approaches may borrow ideas from each other, but there is considerable debate about their empirical and theoretical reach, even in Western settings (Baum, 2006: 1–21; Roux, 2015). Some scholars have questioned the singular focus on judicial preferences related to legal policy, suggesting that judges may also pursue personal goals, such as their standing with the public and legal audiences (Baum, 2006); career considerations and aspects of workload and leisure time (Posner, 2008); or maintaining collegiality on the bench (Friedman, 2006). Others, particularly those studying courts in the Global South, have highlighted how judges are socially embedded in personal relations and wider social networks (systems of interactions and personal relationships adapted to social circumstances¹⁷), and use these relations to explain variations in outcomes as diverse as judicial autonomy, ideational diffusion, patronage appointments, and even the actual decisions of judges (see in this special edition introduction by Dressel et al.; Ellett, 2013; Helmke and Ríos-Figueroa, 2010).

Combined, these contributions urge an extension of strategic models to the social and contextual dynamics that judges attach to culture and society and thus to identifying the actual goals of potentially strategic actors rather than simply positing them (Gillman, 1999). For the Philippines,

this might imply capturing pressures exerted by social relationships on and off the bench, particularly when political interference is widely suspected.

Given this context, how might networks inferred from shared university affiliation and professional background influence how Supreme Court justices in the Philippines vote? Many justices have attended the few distinguished law schools, or worked together on the Court of Appeals, in the executive branch, or in academe. In the Philippines, identification with certain law schools and professional pathways is widely recognized as tying people together through loyalty, obligation, and friendship (see Torres, 1985).

Judicial networks can also be based on political interests (partisan or ideological) or patronage and clientelism (often reinforced by cultural, regional, or religious ties) – though none of these is easy to capture. Networks may also differ in the extent to which they are formal (e.g., alumni associations, legal fraternities, and sororities) or mainly informal (e.g., friendships). Whatever the case, networks generally form through repetitive interaction, and their dynamics are guided by informal norms – loyalty, authority, reciprocity, and personal benefit – that often directly compete with professional norms and the desire for standing with legal and public audiences.

Recognizing this context, we ask: (1) whether social ties affect the direction and pattern of a justice's vote; and if so, (2) what the magnitude of this effect is. Thus, we probe the extent to which a justice's decisions are independent or possibly influenced by social ties.

In seeking answers, we make several assumptions based on social network theory:

1. Given shared professional and educational pathways, many justices might have social ties with each other due to propinquity (geographical closeness) and homophily (the tendency for people to have positive ties to those similar to themselves); they probably knew each other before being appointed; and some might even have become friends.
2. Such university or professional networks facilitate exchange of information – for example, about judges' voting intentions. It has been widely reported that not only do justices meet to discuss cases before the final vote but also that the topics carry over into personal conversations. In fact, instances of CJs attempting to muster clear majorities in high-profile cases suggest that, occasional last-minute swings notwithstanding, voting intentions are well-known.¹⁸
3. Seniority shapes the flow of information among justices. This in turn reflects a common dynamic: junior justices often defer to senior justices – a fact recognized by a rule that in *en banc* decisions, judges vote in reverse order of seniority.¹⁹

With these assumptions, we propose two hypotheses, for how the Supreme Court bench behaves: (1) Justices connected by university and professional networks are likely to exchange information and constitute an informal group that can generate momentum to vote together; and (2) two situations in particular may influence how each justice votes: (a) a justice appointed by the president in power may seek to influence other justices in the same networks to vote in the president's favour – illustrating informal *political* pressure, as in the attitudinal model; and (b) justices who share networks with the CJ are likely to vote the same way in important cases – illustrating informal *hierarchical* pressure on the bench.

Methods and dataset

Our analysis is based on 47 Philippine Supreme Court decisions between 1986 and 2015 (see Appendix), chosen based on: (1) coverage on the front page of two major newspapers; (2) citations in publications about the Supreme Court; and (3) vetting by two local experts.²⁰ Megapolitical cases are of particular interest because of anecdotal evidence that they are most likely to trigger

Table 2. Individual justice votes 1986–2015.

	For presidential administration in power		Against presidential administration in power		Total
Administration appointee	240	(68.8 %)	109	(31.2 %)	349
Not administration appointee	149	(55.4 %)	120	(44.6 %)	269
Total	389	(62.9 %)	229	(37.1 %)	618

informal interferences. Although 28 cases (60%) had at least one dissenter, the remaining 19 were decided unanimously.

The individual votes of each justice in the 47 cases give us 618 observations. The outcome of interest (see Table 2), the dependent variable in the regression analysis, is a vote favourable to the presidential administration, of which there were 389 (62.9%), leaving 229 opposed (37.1%). Slightly more votes were favourable to the administration in decisions made during the administration of the president who had appointed most or all of the judges; except for the first Aquino presidency, little difference between administrations was found.

We then amassed socio-biographical data for the 68 judges who voted in these cases, such as time on the bench, university affiliation and year of graduation, and professional career before appointment.²¹ Particularly noteworthy is that, on average, 15.5% of justices graduated within four years of each other from the same law school, and 3.1% graduated in the same class. Moreover, 60% came from lower courts; the others had been lawyers (15%), academics (12%), and public officials (8%) – making experience networks a natural choice for investigation.

To capture the networks, we employ SNA, a common technique to describe and predict personal interactions. The two principal networks of concern here are the university and the work-related (see Figure 1).

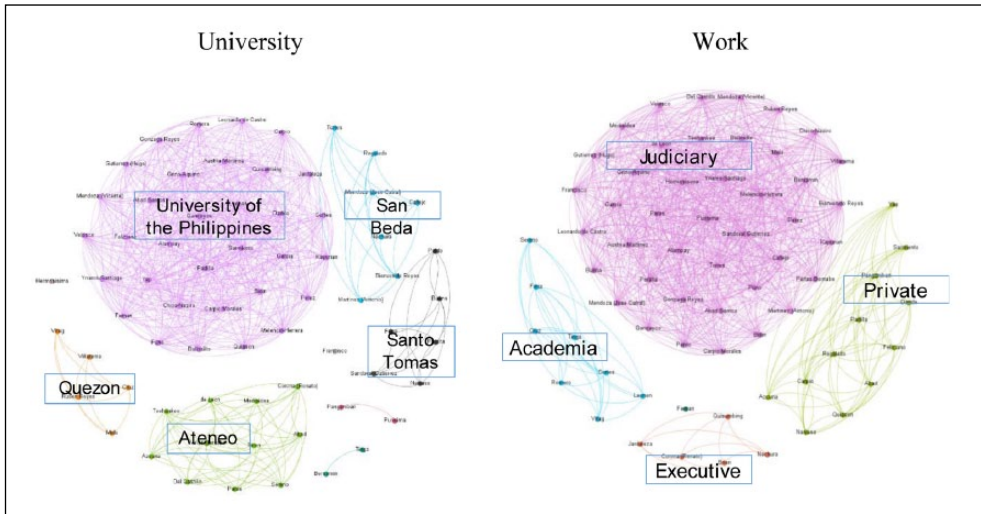
Relationships between justices are captured through a separate adjacency matrix W (the connectivity matrix) for university and work affiliation. We also impose seniority on the data to capture the hierarchy of social interaction within the bench. We construct each adjacency matrix as follows:

$$(i, j) \text{ th element of matrix } W = \begin{cases} 1 & \text{if justices } i \text{ and } j \text{ are in the same network and} \\ & \text{justice } j \text{ is the senior} \\ 0 & \text{otherwise} \end{cases}$$

The two adjacency matrices constructed are university-affiliated, $W^{(\text{univ})}$, and professional work background, $W^{(\text{work})}$. Seniority is introduced on the assumption that senior colleagues exert more peer pressure than juniors. The diagonal element of matrix W is always zero. Though the maximum number on the bench is 15, the actual number varies by case, as does the adjacency matrix. In our sample, the average is 13.34, the median 14, and the range 7–15.

Next, we construct several independent variables, considered to explain individual votes, based on dominant academic models for the regression analysis.²² The definitions are as follows:

1. *Presidential appointee*: takes value 1 if the justice was appointed by the president in power whose administration is challenged in the case, zero otherwise.
2. *Female*: takes the value 1 if the justice is female, zero otherwise.
3. *Age at decision*: is the age of the justice when the case was decided.

Figure 1. University and work networks (visualization).

Note: Gephi 0.9 was used in constructing Figure 1.

4. *Presidential tenure at decision*: is the duration of the presidential administration in power when the decision was made. Except for the Estrada and Arroyo administrations, the maximum year is 6; the average for the Estrada administration is 2.28 years, and for the Arroyo administration 9.29 years.
5. *Professor of Law*: takes the value 1 if the justice worked as an academic before appointment, zero otherwise.
6. *Public official*: takes the value 1 if the justice worked in the executive branch before appointment, zero otherwise.
7. *Lawyer*: takes the value 1 if the justice has experience as a lawyer in private practice, zero otherwise.

As we noted in Table 1, there are five occupational categories before appointment. The majority of the justices come from the career judiciary, which is made a reference group.

Next, we construct additional independent variables to represent social pressures, on and off the bench, that influence individual votes. The variables are created by multiplying the adjacency matrix W by the vector z , which captures the type of pressure. Thus, the new social network variable Wz proxies a variety of peer-pressure types for each case. We make two operational hypotheses about the type of pressure and define four additional variables.

Hypothesis 1 (political influence from the president): the vote of a justice who knows other justices appointed by the president in power through a social network is more likely to favour that president.

For this hypothesis, we define z as:

$$j \text{ th element of vector } z^{(pres\ app)} = \begin{cases} 1 & \text{if justice } j \text{ is appointed by the president in power} \\ 0 & \text{otherwise} \end{cases}$$

where the superscript *pres app* denotes presidential influence. The *i*-th elements of vector $W_z^{(pres\ app)}$ thus represents the pressures from the senior fellow justices on the *i*-th justice. By adding this social network variable to the baseline regression, we thus examine the loyalty to the president in power transmitted through senior fellow justices on the bench, in addition to the individual loyalty to the president for reasons loosely similar to the attitudinal model as measured by *presidential appointee*.

Hypothesis 2 (hierarchical pressure from the CJ): here we draw attention to the pressure exerted from the CJ. Justices who share networks with the CJ are likely to vote the same way in important cases.

For this hypothesis, we define *z* as:

$$j\text{th element of vector } z^{(CJvote)} = \begin{cases} 1 & \text{if justice } j \text{ is the CJ and voted for the} \\ & \text{presidential administration in power} \\ -1 & \text{if justice } j \text{ is the CJ and voted against} \\ & \text{the presidential administration in power} \\ 0 & \text{if justice } j \text{ is not the CJ} \end{cases}$$

with *CJvote* denoting the CJ’s vote. The vector $W_z^{(CJvote)}$ then shows the transmission of the voting direction of justices in each case, on the theory that when a justice knows the CJ personally, the CJ might exert pressure to vote in the same direction. Thus, the network affiliation amplifies the elevated position of the CJ, with direct consequences for the decision.

The next section discusses the results of our investigation, starting from baseline regression (Model-1) and proceeding through extended models (2–5).

Regression findings

Our dependent variable is binary, with a value of one if the vote is favourable to the administration in power or zero if not. Since we draw on the 618 votes of the 68 justices in 47 cases in 1986–2015, the panel data structure is highly unbalanced; individual justices voted from one to 27 times, and justices averaged 9.15 votes. We therefore fitted a random-effects Probit model and estimated the parameters by maximum likelihood.²³

Model-1: baseline regression model

Our findings are in line with those of Escrima and Garoupa (2012) as reported in Table 3. The coefficient of *presidential appointee* has the expected positive sign and is statistically significant at the 1% level. The variable *female* has a negative coefficient and is also statistically significant at 5%; the estimated coefficient indicates that female justices are less likely to vote with the administration in power in high-profile cases. *Age at decision* is not statistically significant. Nor is professional background, though both academic and private practice backgrounds show negative signs. Decisions against the current administration are more likely toward the end of the presidential term as *presidential tenure at decision* is negative and significant at 1%. This is consistent with possible strategic ‘defection’ as a presidential term is ending (see, Helmke, 2002).

Table 3. Regression results.

Adjacency matrix W	Baseline	Political influence from president		Hierarchical pressure from the chief justice (CJ)	
		Model-1	Model-2	Model-3	Model-4
Nature of pressure z		University	Work	University	Work
		Pres. App.	Pres. App.	Vote of the CJ	Vote of the CJ
Presidential appointee	0.575*** [0.139]	0.472*** [0.165]	0.412** [0.174]	0.484*** [0.141]	0.631*** [0.142]
Female	-0.347** [0.143]	-0.389*** [0.133]	-0.281** [0.121]	-0.326** [0.133]	-0.294* [0.152]
Age at decision	0.012 [0.0159]	0.010 [0.0150]	0.014 [0.0146]	0.005 [0.0159]	0.010 [0.0153]
Presidential tenure	-0.086*** [0.0292]	-0.084*** [0.0283]	-0.105*** [0.0314]	-0.080*** [0.0304]	-0.077** [0.0316]
At decision					
Professor of Law	-0.070 [0.158]	-0.031 [0.163]	0.094 [0.184]	-0.053 [0.163]	-0.102 [0.156]
Public official	0.056 [0.162]	0.083 [0.167]	0.202 [0.191]	0.099 [0.157]	0.099 [0.157]
Lawyer	-0.204 [0.176]	-0.224 [0.169]	-0.113 [0.167]	-0.249 [0.166]	-0.260* [0.152]
Social network variables		0.059 [0.0424]	0.122** [0.0496]	0.670*** [0.143]	0.957*** [0.132]
Constant	-0.665 [1.011]	-0.563 [0.966]	-0.682 [0.943]	-0.151 [1.013]	-0.525 [0.971]
Log likelihood	-390.0	-388.7	-385.9	-374.1	-367.0
McFadden Pseudo R^2	0.048	0.051	0.058	0.087	0.104
Likelihood ratio χ^2	48.55	59.57	67.67	77.16	105.90
Probability > χ^2	0.000	0.000	0.000	0.000	0.000
Number of observations	618	618	618	618	618

Notes: ***/**/* indicates 1%, 5%, and 10% level of significance, respectively; standard errors in brackets.

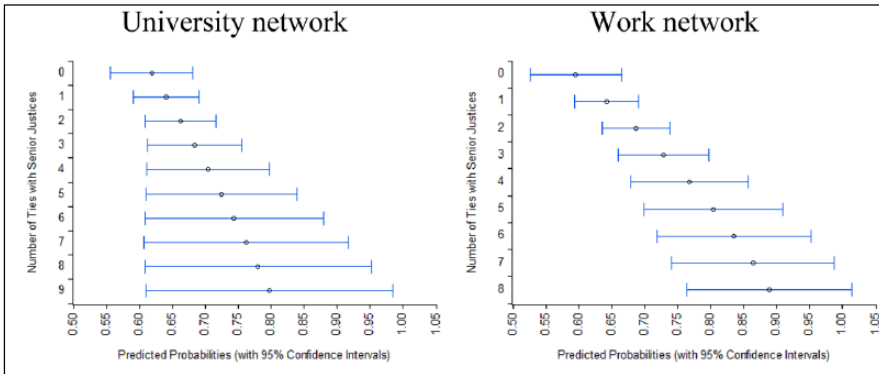
Regression models with social network variables

Next we investigate the effect of peer pressure on voting by adding in the four new social network variables: $W^{(univ)}_{z(pres\ app)}$; $W^{(work)}_{z(pres\ app)}$; $W^{(univ)}_{z(CJvote)}$; and $W^{(work)}_{z(CJvote)}$.²⁴

Presidential pressure. Models 2 to 3 in Table 3 report the results of presidential influence. The estimated coefficients of variables $W^{(univ)}_{z(pres\ app)}$ and $W^{(work)}_{z(pres\ app)}$ have positive signs in line with the prediction of Hypothesis 1, but only the work network is statistically significant at 5%. Figure 2 shows the predicted probabilities conditional on the number of ties with senior justices who are appointed by the president in power. Both networks increase the likelihood of voting for the presidential administration in power, but only work-related ties have shown an effect in our cases.

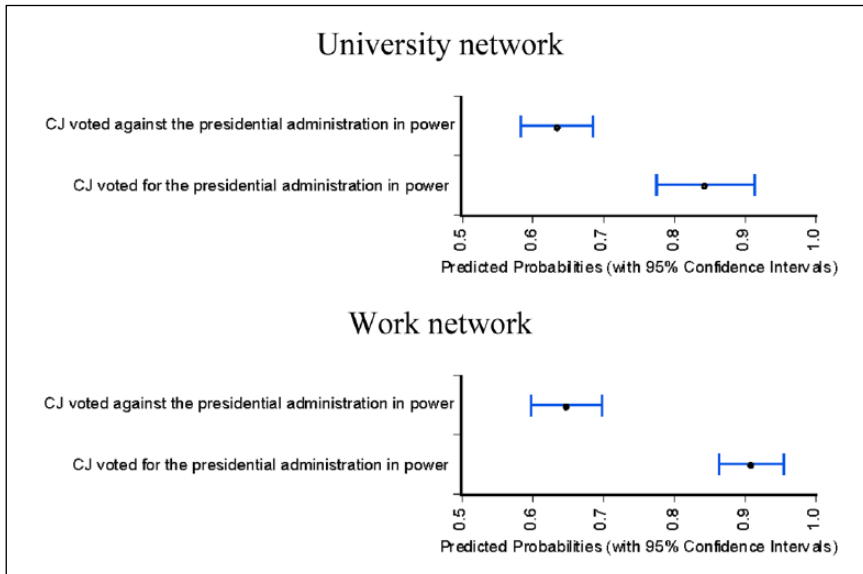
CJ pressure. The coefficients of the social network variables $W^{(univ)}_{z(CJvote)}$ and $W^{(work)}_{z(CJvote)}$ in models 4 and 5 are statistically significant at the 1% level in line with the prediction of Hypothesis

Figure 2. Probability of voting for presidential administration in power (with 95% confidence intervals).



Note: in evaluating probabilities of voting for the president in power, it is assumed that the random effect for that observation's panel is zero, with sample averages of independent variables (*presidential appointee* at 0.565, *female* at 0.207, *age at decision* at 64.376, *presidential tenure at decision* at 3.896, *Professor of Law* at 0.0987, *public official* at 0.102, and *lawyer* at 0.201).

Figure 3. Probability of voting for presidential administration in power (with 95% confidence intervals).



Note: see Figure 2 footnote.

2 (see Table 3). Transmission of CJ pressure via work-related ties is slightly stronger than via educational ties, but the difference is negligible, as illustrated in Figure 3. The result indicates that if a justice knows the CJ personally through university or work affiliation and the CJ votes for the president, the probability that the justice votes with the CJ increases by 20–30 percentage points.

Taken together, the findings suggest that informal political linkages (presidential pressure) and hierarchical pressures (from the CJ) are important in animating the voting behaviour of individual justices. This both lends further support to widespread anecdotal evidence about informal influences on the Supreme Court of the Philippines and raises questions about how independent its bench is.

Conclusion

This study draws attention to how informal networks may have influenced the votes of justices on the Supreme Court of the Philippines in 47 high-profile cases. Based on analysis of university and work-related social network variables as applied to 618 individual votes between 1986 and 2015, our analysis provides descriptive evidence that political–presidential and hierarchical pressures via the CJ exerted through networks did influence the voting behaviour of individual justices. Thus, our results support a widely reported but understudied aspect of the behaviour of Philippine Supreme Court justices: how informality on and off the bench may animate judicial votes.

To be sure, our findings remain open to interpretation. One might argue that presidential appointees share the same view about the law and thus hear similar arguments being made, which enhances the chances of a justice voting for the administration; there might also be strategic calculations at play that inhibit the vote against the presidential administration in power. And yet, the fact that similar arguments are heard and perhaps more favourably considered by, or group pressures are exerted on, certain individual judges more than others are precisely what would occur if networks are affecting the bench, since most networks are formed because of long-standing social ties formed over years of educational and professional relationships with others who think similarly.

Similarly, according to party capability theory (Galanter, 1974; Kritzer and Silbey, 2003), an alternative explanation might be put forth based on the characteristics of the litigants (e.g., financial resources and repeat player) – features that in particular benefit government actors. Yet earlier applications have not only shown that the ‘have nots’ often fare better in cases before the Supreme Court of the Philippines (Haynie, 1995), but such differences also matter far less in our selection of high-profile ‘megapolitical’ cases, because they can attract top constitutional lawyers and pool resources, often with civil society support. If this approach does anything, it invites closer scrutiny of networks on and off the bench as part of potential causal pathways so far missing from the theory (Szmer et al., 2016).

In sum, our results not only complement earlier empirical accounts of the Court, they also shed much-needed light on how it works. Despite much public speculation about the influence of informal networks, accounts to date have been simply anecdotal. Providing empirical evidence of how networks transmit political and hierarchical pressures aligns insights with realities. Of course, other networks, for example, ideational or primordial, may also be influencing judges, but these are even harder to capture. A related question is how various networks interact – for instance, is the CJ network simply a direct (perhaps more efficient) extension of presidential influence? The opportunities for further research are innumerable.

Finally, our results speak to broader scholarly debates that seek to account more accurately for the hybrid institutional environment of justices in the Global South. Many judges there undoubtedly struggle with the tension between expectations derived from the law itself and persistent informal cultural demands; how they balance these may well explain the unevenness sometimes exhibited in high-profile cases of international interest. It is our hope that this study will open a broad new avenue to a better understanding of judicial politics.

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Conflicting interests

The authors declare that there is no conflict of interest.

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Notes

1. In the absence of experimental and quasi-experimental design, the analysis is purely descriptive because we are unable to identify a causal effect of social ties on decisions of the Philippines Supreme Court.
2. Article VIII, Section 1, Constitution of the Philippines 1987.
3. By tradition, members of the lower and upper house in the Judicial and Bar Council share one vote.
4. See Lawyer's League for a Better Philippines vs. President Aquino G.R. No 73748 (22 May 1986), in which the court said Aquino was "not merely a *de facto* government but in fact and law a *de jure* government", whose legitimacy had been affirmed by the community of nations; see also Letter of Associate Justice Reynato Puno, A.M., No. 90-11-2697-CA, 210 SCRA 589 (29 June 1992).
5. Three justices held it to be a resignation, three accepted the Macapagal Arroyo presidency as an irreversible fact, two ruled Estrada permanently disabled, and five simply signed the ruling without expressing an opinion.
6. The charges were partiality and subservience in cases involving the Arroyo administration; failure to disclose assets publicly; failure to meet the stringent constitutional standards for judges; disregarding the principle of separation of powers; arbitrariness and partiality in consistently disregarding the principle of *res judicata*; arrogating to himself authority and jurisdiction to improperly investigate a justice; partiality in temporarily granting a restraining order in favour of former president Arroyo; and failure to account for the Judiciary Development Fund. Corona was ultimately convicted of failure to declare assets.
7. See, for impeachment background, Bonoan et al. (2012) 'Thrilla' in Manila: the impeachment of a Chief Justice', accessed at: www.iconnectblog.com/2012/03/thrilla-in-manila-the-impeachment-of-a-chief-justice/.
8. The five reappointments from the Marcos period were Herrera, Abad Santos, Teehankee, Alampay, and Gutierrez.
9. As president, Aquino faced 10 coup attempts; see Hernandez (2007).
10. See, 'Serenio appointment draws mixed reactions', *Inquirer*, 25 August 2012, accessed at: <http://news-info.inquirer.net/257574/serenio-appointment-draws-mixed-reactions>.
11. Justice Velasco, an Arroyo appointee, is still haunted by claims of ethics violations, see: <http://www.rappler.com/nation/6343-there-s-jbc,-then-there-s-malacanang-s-judicial-search-committee/>; a similar controversy erupted over Aquino's appointment of Jardeleza, whom the Judicial and Bar Council shortlisted even though the Chief Justice has accused him of lack of integrity and committing acts tantamount to treason by pushing for the exclusion of Itu Aba, the largest island in the Spratly Group, from a document submitted to the United Nations-backed tribunal set up to resolve the issue.
12. See 'Duterte appoints Noel Tijam as SC justice', accessed at: <http://www.rappler.com/nation/163622-duterte-appoints-noel-tijam-supreme-court-justice/>.
13. See, for a detailed analysis of social patterns in the Philippines, Amarylis Torres, Kinship and Social Relations in Filipino Culture, in Aganan, A and David A. (eds.) (1985), *Sikolohiyang Pilipino: Isyu, pananaw at kaalaman*. NBS, pp. 487–509. More precisely on point: Associate Justice del Castillo – then on the Court of Appeals – benefited from Arroyo's intervention to see a US heart surgeon; in an oped in the *Philippines Star*, he thanked the president, saying 'Her single indiscriminate act of kindness in my momentary blow is something of eternal value, [...]' (cited in Vitug 2010: 97).
14. Interview with Justice A (23 June 2015); see also reports on factions and infighting on the bench: Rufio (2014), 'Jardeleza's SC Entry and Sereno's Eroding Clout', accessed at: <http://www.rappler.com/newsbreak/66794-jardeleza-sc-sereno-clout/>; Canlas (2014), 'Infighting Looms at the High Court', *The Manila Times*, accessed at: <http://www.manilatimes.net/infighting-looms-at-high-court/65403/>.
15. There have been reports that a justice burst into tears when providing the crucial swing vote in an 8:7 decision because the vote would pit the justice against a close friend on the bench.

16. Several justices have had familial connections, though not necessarily serving at the same time, including one husband–wife, four father–son, and two uncle–nephew pairs. Cousins Carpio and Carpio-Morales were on the bench together until 2011.
17. See for a good overview Scott (2013).
18. Interview Justice B (12 August 2015).
19. See Vitug, 2010, p. 28.
20. The case selection follows the methodology laid out by Kapiszewsk (2011). This stringency made this list significantly smaller than that of Escresa and Garoupa (2012).
21. Although we also investigated the effects of memberships in fraternities and sororities, because they had little marginal explanatory power, they are excluded from the final regression models.
22. Data for these variables were collected from public sources, such as the Supreme Court website (<http://sc.judiciary.gov.ph/>), news, and academic journals.
23. Stata 13 was used for estimation and analysis. Standard errors are calculated by cluster robust standard error option, based on the assumption that the observations are independent across justices (clusters) but not necessarily within justices.
24. Obviously, a social network analysis approach differs from factor analysis in critical ways: (1) we can account for the interdependence of units rather than treating them as independent, which is consistent with our argument that judicial relationships do matter; and (2) it allows us to estimate the effect of network connections based on the coefficient Wz , which allows us to use the new network variables in the regression analysis.

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Appendix. Case list.

Lawyers' League for a Better Philippines vs. Aquino. G.R. No. 73748	22 May 1986
Galman vs. Sandiganbayan G.R. No. 72670	12 September 1986
BASECO vs. PCGG G.R. No. 7588	27 May 1987
Abadilla vs. Ramos G.R. No. 79173	1 December 1987
Association of Small Landowners vs. Secretary of Agrarian Reform. G.R. No. 78742	14 July 1989
Marcos vs. Manglapus. G.R. No. 88211	15 September 1989
Valmonte vs. De Villa. G.R. No. 83988	29 September 1989
In the Matter of Petition for Habeas Corpus of Roberto Umil, et al. vs. Ramos. G.R. No. 81567	3 October 1991
PHILCONSA vs. Enriquez. G.R. No. 113105	19 August 1994
Tolentino vs. Secretary of Finance. G.R. No. 115455	30 October 1995
Defensor-Santiago vs. COMELEC (PIRMA I). G.R. No. 127325	19 March 1997
Tanada vs. Angara. G.R. No. 118295.	2 May 1997
Tatad vs. The Sec. of the Department of Energy. G.R. No. 124360.	5 November 1997
Gordon vs. Executive Secretary. G.R. No. 134071	18 November 1998
BAYAN (Bagong Alyansang Makabayan) vs. Executive Secretary Zamora, et al. G.R. NO. 138570.	10 October 2000
Estrada vs. Macapagal-Arroyo. G.R. No. 146710-15.	2 March 2001
Chavez vs. Public Estates Authority and AMARI Coastal Bay Development Corporation. G.R. 133250	9 July 2002
Francisco vs. House of Representatives. G.R. No. 160261	10 November 2003
Information Technology Foundation of the Philippines vs. Commission on Elections, et al. G.R. No. 159139.	13 January 2004
Sanlakas vs. Executive Secretary Reyes. G.R. No. 159085.	3 February 2004
Tecson vs. Commission on Elections. G.R. No. 161434.	3 March 2004
La Bugal-B'laan Tribal Association, Inc. vs. Ramos. G.R. No. 127882.	1 December 2004

(Continued)

Appendix. (Continued)

ABAKADA Guro Party List vs. The Honorable Executive Secretary Ermita, et al. G.R. No. 168056.	1 September 2005
Senate of the Philippines vs. Ermita. G.R. No. 169777.	20 April 2006
Bayan vs. Eduardo Ermita/Del Prado vs. Ermita G.R. No. 169838/G.R. No. 169848.	25 April 2006
David vs. Macapagal-Arroyo. G.R. No. 171396.	3 May 2006
Gudani vs. Senga. G.R. No. 170165.	15 August 2006
Lambino vs. COMELEC. G.R. No. 174153.	25 October 2006
Chavez vs. Gonzales. G.R. No. 168338.	15 February 2008
Neri vs. Senate Committee. G.R. No. 180643.	25 March 2008
The Province of Cotabato vs. The Gov't of the Republic of the Philippines. G.R. Nos. 183591, 183572, 183893 & 183591.	14 October 2008
Garcillano vs. The House of Representatives Committee on Public Information. G.R. No. 170338	23 December 2008
De Castro vs. Judicial and Bar Council, et al. G.R. No. 191002, G.R. No. 191032, G.R. No. 191057, A.M. No. 10-2-5-SC, G.R. No. 191149, G.R. No. 191342.	17 March 2010
Senator Aquino III and Mayor Robredo vs. Commission on Elections. G.R. No. 189793.	7 April 2010
Liberal Party vs. Commission on Elections. G.R. No. 191771.	6 May 2010
Biraogo vs. The Philippine Truth Commission of 2010/Rep. Edcel C. Lagman vs. Exec. Sec. Ochoa. G.R. No. 192935 & G.R. No. 193036.	7 December 2010
Gutierrez vs. The House of Representatives Committee on Justice. G.R. No. 193459.	15 February 2011
In Re: Production of Court Records and Documents and the Attendance of Court officials and employees as witnesses under the subpoenas of February 10, 2012 and the various letters for the Impeachment Prosecution Panel	14 February 2012
Dulay vs. Judicial and Bar Council, Extended Res., G.R. No. 202143	3 July 2012
Chief Justice Corona vs. Senate. G.R. No. 200242.	17 July 2012
Citizens Adaza vs. President Aquino and JBC, Res., G.R. No. 202263	17 July 2012
Macapagal-Arroyo vs. Leila De Lima in her capacity as Secretary of the Department of Justice. G.R. No. 199034	11 November 2012
Belgica, et al vs. Executive Secretary Ochoa. G.R. No. 208566	11 November 2013
Imbong vs. Executive Secretary Ochoa. G.R. No. 204819	8 April 2014
Araullo vs. Aquino III. G.R. No. 209287	1 July 2014
Jardeleza vs. Judicial and Bar Council. G.R. No. 213181	19 August 2014
Estrada vs. Ombudsman. G.R. Nos. 212140-41.	21 January 2015
