Executive Absolutism: The Dynamics of Authority Acquisition in a System of Separated Powers

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Abstract

We study a dynamic model in which a politician (most commonly an executive) makes authority claims that are subject to a hard constraint (administered, typically, by a court). At any period, the court is free to rule against the executive and thereby permanently halt her efforts to acquire more power. Because it appropriately cares about the executive's ability to address real-world disruptions, however, the court is always willing to affirm more authority. Neither robust electoral competition nor alternative characterizations of judicial decision-making fundamentally alters this state of affairs. Moreover, we show, modest authority claims in one period yield opportunities for more substantial claims in the next. The result is an often persistent accumulation of executive authority and a degradation of judicial checks on presidential power.

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Politicians generally, and executive officeholders in particular, regularly assert authority that neither a constitution nor prior statute expressly recognizes. Rather than wait on Congress, for example, Donald Trump simply averred that he justifiably retained authority over immigration policy, trade, de-regulation, international diplomacy, and plenty of other policy domains (Milkis and Jacobs 2017). And in this regard, at least, he was hardly exceptional. Trump's immediate predecessors rather brashly asserted new authority to grant conditional state waivers over federal statutes, fabricate new tools of executive policymaking, re-interpret the meanings of laws, and expand their reach into all manner of policy domains (Howell 2013).

In the aftermath of these interventions, the adjoining branches of government have the right to step in and offer a corrective—and occasionally they do, amending or rejecting an executive's unilateral directive. Other times, though, Congress and the courts assume a very different posture. They may support a unilateral directive by writing its contents into law, appropriating the necessary funds to implement it, or denying a complainant's claims (Howell 2003, chapters 5-6). More significantly still, the adjoining branches may affirm the general right of the executive officeholder to intervene into a policy domain, thereby remaking both a political office and the legal landscape in which it functions.

When adjudicating disputes over presidential actions involving executive agreements, war powers, recess appointments, pardons, executive privilege, travel bans, and a wide range of other issues, the courts not only have looked to past practice for guidance; they have inferred political authority on the basis of such practice (Bradley and Morrison 2013; Levinson 2005; Levinson and Pildes 2006). So doing, the judiciary manufactures new authority upon which future executive officeholders can act. Authority, in this sense, grows first by initiative and then by recognition. And what previously might have been viewed as "rule-breaking" (Shepsle 2017), now becomes standard practice.

To clarify the politics of authority acquisition, we study a dynamic model in which a politician claims authority subject to the hard constraint of an adjoining branch of government, which we henceforth recognize as a court. In each period of the baseline model, the politician has the opportunity to expand the scope of her authority over a unit interval, where zero indicates no authority over the matter in question, one indicates full authority, and interior values indicate intermediate levels of authority. Should the court affirm the claim, then the politician's authority expands up to the point of the claim, and all future courts are obligated to uphold claims within the affirmed domain. Should the court reject the claim, however, the politician's authority collapses to its previous maximum, and all future expansionary claims are rejected.

While the politician wishes to expand her authority over the full interval, the court, strictly as a matter of constitutional interpretation, would prefer that the politician have something less. What the court formally sanctions, however, is a function of both its constitutional preferences, which are constant across all periods, and exogenous shocks, which are realized each period of play, and which stylistically represent current circumstances (the state of the economy, international conflict, natural disasters). Depending upon the size of a contemporaneous shock, the court may tolerate smaller or larger claims of authority. Additionally, the court worries about a decision in one period disabling the politician from responding in the future to disruptive events or unforeseen contingencies. Consequently, both present values of these shocks and expectations about their future realizations cause the court to qualify its constitutional preferences over authority.

To expand her authority beyond the court's nominal constitutional preference, the politician exploits the court's concerns about present and future flexibility to respond to these random disturbances. So doing, she persistently grows her authority, even when the realized shock is quite unfavorable to any extension of authority.

The model also reveals several features of the evolution of authority acquisition. In every period, if the politician is patient enough, there exists an equilibrium in which the politician expands her authority as far as the court will permit. And consistent with a literature on wartime jurisprudence (Howell and Ahmed 2014; Epstein et al 2005), larger exogenous shocks induce the court to affirm larger claims of authority. Interestingly, though, smaller acquisitions of authority in one period portend larger acquisitions in the next. In some instances, moreover, these dynamics enable one politician with significantly less authority to overtake another politician, yielding a demonstrable "reversal of fortunes."

Lastly, the model reveals a weakness within a separation of powers system in constraining executives. Precisely because a court rejection is damaging to an executive's present and future authority, courts are inclined not to stand in her way. The ability to administer a significant punishment—a big club behind the door, so to speak—actually discourages the court from opposing ever expanding authority.

Overall, this paper makes two contributions. First, it specifies the precise conditions that support the expansion of executive authority. And second, it clarifies the dynamics of authority acquisition: the pace at which it proceeds and the trajectory of its growth. Our main results are robust to several changes in our baseline model: a less stringent judicial rule, the possibility for the judiciary to revisit precedents, a world with a lower need for executive authority, and the inclusion of political competition. Further, in a setting without judicial precedent we show that the court can slow down the growth of executive authority, but it cannot permanently block it. Again and again, we see a judiciary weighing future concerns against present needs as it struggles to limit the accretion of executive authority. By distilling essential features of presidential-judicial relations, the baseline model and its extensions expose enduring democratic vulnerabilities in a system of separated powers.

1 Literature Review

Our paper speaks to a large body of theoretical work recognizing that political manipulation by an officeholder today affects what a successor can do tomorrow. A host of papers investigates the efforts of politicians to restrict the actions of their replacements, either by increasing debt (Persson and Svensson 1989; Alesina and Tabellini 1990; Milesi-Ferretti 1995a and b), over-privatizing (Montagnes and Bektemirov 2018), or constraining the information available to them (Callander and Hummel 2014). From a technical standpoint, our model also is related to theories of dynamic decision-making with an endogenous status quo that is situated in a changing environment. In some such works, the future is uncertain because the identity of the proposer can change (e.g., Kalandrakis 2004; Bowen et al 2014; Baron and Bowen 2015; Buisseret and Bernhardt 2016; Nunnari 2019). In others, which are more closely connected to our models, the identities of the proposer and pivotal actors are fixed, but the environment in which decisions are made varies (e.g., Dziuda and Loeper 2016 and 2018; Callander and and Martin, 2017).

With respect to these theoretical literatures, the main innovation of our paper concerns the consequences of rejecting a proposal. Whereas rejection only has short term consequences in other set-ups, in ours, it limits the possibility of revisiting the policy domain in all future periods. This strong formal power of a veto player is the cause of its weakness in practice. Even when the environment is unfavorable to the decision-maker, we show, the proposer can always advance her agenda.

Our paper also innovates from a substantive perspective. None of the works mentioned above expressly recognizes, much less parameterizes, a notion of political "authority." That a politician has a legal right to intervene into a policy space, instead, is either assumed or treated as irrelevant.

A substantial body of work, of course, investigates the issue of delegation. Numerous scholars have studied the conditions under which one branch of government (typically a legislature) will delegate authority to another (typically an executive). Its willingness to do so, this work shows, crucially depends upon the levels of ideological convergence, the complexity of the policy domain, and the independent costs of lawmaking (see, e.g., Epstein and O'Halloran 1999, Huber and Shipan 2002, Bendor and Meirowitz 2004). Foster (2021) complements this literature by identifying conditions under which Congress willingly delegates authority to the president to protect itself against interest groups' attacks. In a nice reversal of perspective, Gailmard (2021) shows how colonial assemblies in imperial America grabbed power from their ruling governors by exploiting their dependence on the British crown for survival. All these works share a common perspective: They put a legislature firmly in the driver's seat.[1] These models do not so much as recognize even the possibility that politicians within an executive branch might unilaterally claim new authority for themselves.

In this regard, our paper is in closer conversation with Svolik (2009) and Howell and Wolton (2018), and a burgeoning literature on democratic backsliding. Like us, Svolik (2009) is interested in the growth of a leader's power. Unlike us, he focuses on authority acquisition in autocracy, not democracy. As such, his leader faces the threat of a coup by the regime selectorate, whereas our officeholder is constrained by the court. Further, Svolik imposes exogenously fixed incremental jumps in power, whereas we allow the officeholder to choose a continuous amount of new authority. The two works also differ in their treatment of what information is available to the leader and other political actors when they take an action.

Howell and Wolton (2018) examine the conditions under which a politician will either request new authority or claim it outright. In important respects, however, our paper differs from theirs. First, we consider how authority is built over time rather than instantly. Second, we take a more fine-grained approach to authority that allows the officeholder to claim more or less authority, rather than only a fixed amount. Finally, we consider a setting in which a strategic judiciary functions as a constraint, and in which a well-defined notion of "precedent" governs the judiciary's behavior—features, both, that are entirely missing from Howell and Wolton's model.

Recent scholarship has started paying close attention to a perceived decline in democratic norms. In some papers, democratic backsliding takes the form of a weakening of electoral institutions, sometimes with voters' implicit support (Luo and Przeworski 2019; Helmke, Kroeger, and Paine

[1] There is also a large literature in economics studying how a principal can optimally delegate to a subordinate (e.g., Alonso and Matouschek, 2008). Here again, the principal has full decision power (Kartik, Van Weelden, and Wolton, 2017, being an exception).

2019; Gratton and Lee, 2020). In others, would-be autocrats exploit polarization (Graham and Svolik 2019; Nalepa, Vanberg, and Chiopris 2019), voters' behavioral biases (Grillo and Prato 2019), or the electorate's lack of democratic values (Besley and Persson 2019) in order to remove checks on their power.[2] In all, the focus is on the electorate's limited ability to constrain executive ambitions. Our paper offers a complementary, and more troubling, account–complementary because we focus on judicial constraints on the executive; and troubling, because we establish that executive absolutism may derive not from an electorate's failings, but from the very design of a system of separated powers.

The presence of a strategic and forward-looking judiciary also connects our work to the formal literature on court behavior. As in Gennaoili and Shleifer (2008), Fox and Stephenson (2011, 2014), Almendares and Le Bihan (2015), Gailmard and Patty (2017), among others, court decisions, anticipated or issued, impose constraints on other political actors. As in Baker and Mezzetti (2012), Fox and Vanberg (2013), Beim (2017), Clark and Kastellec (2013), and Clark (2016), the court makes decisions while uncertain of their long term consequences. With some important exceptions, including Fox and Vanberg (2015) and Beim, Clark, and Patty (2017), the literature assumes that cases exogenously arise before the courts. In contrast, we suppose that the cases brought before the court are the result of a strategic decision by a rational actor.[3] We further build upon this literature by investigating the acquisition of authority by executives in the shadow of judicial constraint.

We set to one side the constraining weight of a legislature on executive authority (cf. Howell 2003; Chiou and Rothenberg 2017) or of party and public opinion (cf. Levinson and Pildes, 2006; Christenson and Kriner, 2019). Our intention, instead, is to hone in on the capacity of the courts, as a final line of defense, to limit executive authority when neither Congress, traditional parties, nor the public seem up to the job. Our findings offer little by way of reassurance.

2 The Baseline Model

Our baseline model consists of a dynamic game with two players: a politician P, which we interchangeably refer to as politician, executive, or officeholder; and a strategic court C. In each

[2]Other scholarship published before the populist wave of 2016 paint a less gloomy picture. For example, Lagunoff (2001) shows how tolerance can decrease over time as the state becomes more able to monitor deviant behavior. Vigorous electoral competition, however, provides a corrective and leads to a tolerant society.

[3]In the context of lower and upper court relationships, Carrubba and Zorn (2010), Carrubba and Clark (2012), Clark and Carrubba (2012), Beim, Hirsch, and Kastellec (2014), and Hübert (2019) consider how a lower court may strategically issue a judgement to avoid being overturned by an upper court. These papers generally consider a one-shot game and cannot explain the evolution of jurisprudence over time.

period, denoted by t, P claims authority over a policy domain. To keep the model manageable, the authority claimed by P is assumed to be unidimensional, and is represented at time t by $a_t \in [0, 1]$ (in Online Appendix C.2, we extend the model to multiple dimensions). We assume that authority is finite in recognition of the limits (e.g., institutional capacity constraints, overarching principles) on what an officeholder can do. Authority facilitates (un-modeled) actions that advance the office-holder's (again un-modeled) agenda. As such, in our baseline model, P always benefits from more authority.

Authority is governed by precedent, by which we mean the prior rulings of the court C. At the outset of period t, the court's prior rulings have partitioned the authority space $[0, 1]$ into three subsets: a permissible set $\mathcal{R}_t$, which consists of the authority acquired by prior court rulings; an impermissible set $\mathcal{W}_t$, also determined by prior court rulings, which limits the office-holder's authority; and the remainder $[0, 1] \setminus (\mathcal{R}_t \cup \mathcal{W}_t)$, which represents authority that remains up for grabs and thus constitutes the court's discretion set.

After observing the officeholder's authority claim a_t, the court decides whether to uphold ($d_t = 0$) or reject ($d_t = 1$) P's claim. The court's decision affects both the outcome of period t and the dynamic of precedents. We discuss each in turn.

The court's decision affects the scope of P's authority, which we denote $y_t(d_t)$. We assume that if the court upholds the politician's claim in period t, then P exercises the full scope of authority, a_t. If the court rejects the politician's claim, then we impose that P exercises the maximum of previously permissible authority. Hence, the authority acquired in period t assumes the following form:

$$y_t(d_t) = \begin{cases} a_t & \text{if court upholds } (d_t = 0) \\ \max \mathcal{R}_t & \text{if court rejects } (d_t = 1) \end{cases}$$

The court's decision is constrained by past precedent on executive authority. Consistent with the broad contours of judicial history, we assume that claims permitted in the past cannot be rescinded, and claims rejected in the past cannot be reconsidered (Below, we show that this assumption is inconsequential for the dynamics of authority acquisition). Thus, if in period t P stays within the bounds of acquired authority, the court has no choice but to uphold: $d_t = 0$ if $a_t \in \mathcal{R}_t$. In turn, if the politician claims authority that has already been refused to her, the court must reject the officeholder's action: $d_t = 1$ if $a_t \in \mathcal{W}_t$. The court is free to evaluate the claim of new authority only if it belongs to $C's$ discretion set: $a_t \in [0, 1] \setminus (\mathcal{R}_t \cup \mathcal{W}_t)$.

A court ruling also introduces dynamic changes to the precedents governing authority. At the beginning of the game, we assume that the court has discretion over almost the whole set: $\mathcal{R}_1 = \{0\}$ and $\mathcal{W}_1 = \emptyset$. For any authority claim a_t in the court's discretion set ($a_t \in [0,1] \setminus (\mathcal{R}_t \cup \mathcal{W}_t)$), if C upholds a_t ($d_t = 0$), then the permissible range of authority in period $t+1$ becomes $\mathcal{R}_{t+1} = [0, a_t]$, and the impermissible range is unaffected. If, on the other hand, C rejects the authority claim, then the permissible range remains unchanged, $\mathcal{R}_{t+1} = \mathcal{R}_t$, and the impermissible range expands to $\mathcal{W}_{t+1} = [0,1] \setminus \mathcal{R}_t$.

With one important caveat, our characterization of precedent evolution follows the literature (e.g., Baker and Mezzetti 2012). As in previous papers, if a_t is upheld, then P accumulates executive authority. In our baseline model, however, overreach, as determined by the court, has severe consequences. If C determines that P has "gone too far" and rejects a claim for enhanced authority, then parameters for authority are fixed permanently at the level previously acquired. While we relax this assumption in Section 6 below, it proves useful to establish a baseline in which an adverse court ruling has lasting and deleterious consequences for political authority.

Payoffs are discounted by β. To allow for comparative statics on the discount rate without modifying other model parameters, we suppose that $0 < \beta < \overline{\beta}$, with $\overline{\beta} < 1$. Recalling that y_t is the authority acquired in period t, we further assume that the politician's payoff satisfies $U_P(y_t) = v(y_t)$. Lastly, we assume $v(\cdot)$ is continuously differentiable and its derivative satisfies $0 < v'(y) < \infty$ for all $y \in [0,1]$.[4]

In contrast, the judiciary may favor restrictions on executive authority for constitutional reasons. As such, we assume that everything else equal, the optimal amount of authority from C's perspective is $\kappa^C \in [0,1]$. The court's evaluation of P's authority, however, is also affected by the overall context. In certain circumstances—say, during war, a natural disaster, or a deep economic slump—the court may be prepared to grant legitimacy to greater exercises of authority by politicians.[5] We capture this with a random state variable, θ_t, which is drawn i.i.d. each period according to the pdf $f(\cdot)$, and which is continuous over the interval $[-\overline{\theta}, \overline{\theta}]$, with associated CDF $F(\cdot)$. Higher θ implies an environment more favorable to authority claims, and lower values suggest an environment less

[4]Politicians may want authority for either instrumental or intrinsic reasons, but we will have nothing to say about the distinctive implications of one motivation or another. Instead, we simply assume that politicians want more of it, for as Bueno de Mesquita and Smith (2012, p. xviii) remind us, politics, at its very heart, "is about getting and keeping power."

[5]Examples include the extraordinary authority recognized by the Supreme Court in allowing the internment of Japanese citizens during World War II (*Korematsu v. United States*, 323 U.S. 214 (1944)) or in permitting state legislatures during the Great Depression to annul debt contracts and restrict property foreclosures by allowing repayment moratoriums (*Home Building & Loan Association v. Blaisdell*, 290 U.S. 398 (1934)).

amenable to such. In particular, we suppose that there exist exceptional circumstances in which interventions by P are recognized as being valuable to the court and, by extension, an un-modeled public. We therefore assume that $\overline{\theta}$ is large and, in particular, $\overline{\theta} > \frac{1}{1-\overline{\beta}}$. This assumption facilitates the analysis and simplifies the characterization of equilibrium outcomes (we discuss in depth the role of this assumption in Section 6). We do not require that extreme events are common. Indeed, it is enough that there exists an extremely small probability that θ is large (in formal terms, we only require that $F(1/(1-\overline{\beta})) < 1-\epsilon$, with ϵ strictly positive, but potentially arbitrarily small). Given our interpretation of the state θ_t, we assume that θ_t is observed by all players at the beginning of period t. Future circumstances $(\theta_{t+1}, \theta_{t+2}, ...)$ can only be predicted using the common prior CDF $F(\cdot)$.

For ease of exposition, we assume that only the court's per-period payoff is affected by the state of the world.[6] Further, to provide some characterization of equilibrium strategies, we assume that C's utility takes the form of a quadratic loss function: $U_C(y_t) = -(y_t - (\kappa^C + \theta_t))^2$, $(\kappa^C + \theta_t)$ the adjustment C makes to what it regards as "ideal" depending on the nature of the times.

The game proceeds as follow. Each period,

0. The state, θ_t, is drawn by Nature and observed by both P and C. The current permissible $(\mathcal{R}_t)$ and impermissible $(\mathcal{W}_t)$ sets are known by P and C as well.
1. Politician P chooses an authority claim $a_t \in [0, 1]$.
2. Court C chooses whether to uphold or reject: $d_t \in \{0, 1\}$.
3. The authority employed is $y_t(d_t) = d_t \max \mathcal{R}_t + (1 - d_t)a_t$, and the permissible and impermissible sets are amended to $\mathcal{R}_{t+1}$ and $\mathcal{W}_{t+1}$, if required.
4. The period t payoffs are realized and the game moves to period $t + 1$.

To reduce the number of equilibria, we follow the literature on dynamic games and use Markov Perfect Equilibrium as our equilibrium concept. In our set-up, the state variables are the realization of the shock and the permissible and impermissible sets. Hence, when certain $\mathcal{R}$ and $\mathcal{W}$ are reached and a certain θ is realized, the court and the politician only condition their strategies on future plays (anticipating future possible realizations of the shocks), but do not take into account how they got to this point (the history of play). In addition, we restrict attention to pure strategy equilibria. Note that for the politician's maximization problem to be well defined, the court always upholds the office-holder's authority claim when indifferent.

[6]All our results would hold if θ also figured into the executive's utility function, provided that the executive always prefers more authority to less.

3 Analysis: Authority in the Limit

To establish what authority is acquired in the limit, we must first state a set of preliminary results. First, given our assumed construction of precedents, the set of permissible authority claims always takes the form of an interval. In addition, P can always lay claim to the authority she previously acquired without any risk ($d_t = 0$ for all $a_t \in \mathcal{R}_t$), whereas, whenever C has rejected P, then $\mathcal{W}_t \neq \{\emptyset\}$ and $\mathcal{R}_t \cup \mathcal{W}_t = [0, 1]$, so the officeholder always chooses $a_t = \max \mathcal{R}_t$. Hence, the only relevant information for both the court and politician is the maximum of the permissible set and the minimum of the impermissible set.

We then can think of P's strategy as a mapping from the present environment (θ), the maximum of the permissible set, and the minimum of the impermissible set (denoting this value 1 if $\mathcal{W}_t = \{\emptyset\}$) into an authority claim: $a_t : [-\overline{\theta}, \overline{\theta}] \times [0, 1] \times [0, 1] \to [0, 1]$. Likewise, C's strategy maps the state, the authority claim, the maximum of $\mathcal{R}_t$, and the minimum of $\mathcal{W}_t$ to a ruling: $d_t : [-\overline{\theta}, \overline{\theta}] \times [0, 1] \times [0, 1] \times [0, 1] \to \{0, 1\}$. We note that, because we focus on Markov Perfect Equilibrium, the time subscript is superfluous to define the court and executive strategies. We nonetheless keep the time subscripts in order to highlight the period-specific strategic choices of the political actors. Recall that by assumption, if $\max \mathcal{R}_t = \min \mathcal{W}_t = a$, then $a_t(\theta_t, a, a) = a$ for all θ_t. As a result, in all that follows, we consider the cases when the politician has not yet obtained all authority (hence $\max \mathcal{R}_t = a \in [0, 1))$ and when the court has not rejected any politician's claim ($\mathcal{W}_t = \{\emptyset\}$).

With this in mind, Lemma 1 below highlights that there exist two states of affairs. When the state θ_t is below a threshold denoted $\widehat{\theta}(a)$, the court acts as a day-to-day constraint on executive power (i.e., limits the scope of her authority). Hence, each period, there is a strictly positive probability that P is forced to restrict her authority claim if she wants to avoid having the claim rejected by the court. In turn, when θ_t is above the threshold $\widehat{\theta}(a)$, the court is willing to accept any authority claim even if it anticipates that, if granted, the executive will always exert full authority in the future.

Lemma 1. *Define* $\max \mathcal{R}_t = a$ *and denote* $\widehat{\theta}(a) \equiv \frac{\frac{1+a}{2} - \kappa^C}{1-\beta}$. *In any equilibrium, the court rejects a full authority claim,* $d_t(\theta_t, 1, a, 1) = 1$, *if and only if* $\theta_t < \widehat{\theta}(a)$.

Proof. The proof of this and all subsequent technical results can be found in the Online Appendix.

Anticipating the court's strategy, the politician always chooses a new claim that is upheld by the court. After all, if she were to go too far, her claim would be rejected, she would be stuck with current precedents, and she would be stripped of all future opportunities to expand her authority. This overreaching strategy is always dominated by waiting for more favorable circumstances ($\theta \geq \widehat{\theta}(a)$) and obtaining full authority over the domain. Each period, the executive makes either no authority claim or an admissible claim–that is, one that the court upholds. Thus, in any equilibrium, the court never punishes the politician, and the growth of executive authority only comes to a halt when it has been utterly exhausted. In the limit, *in any equilibrium*, the officeholder gains full authority over the policy domain.

Proposition 1. *In any equilibrium,* $\lim_{t\to\infty} \mathcal{R}_t = [0,1]$ *with probability* 1*.*

Proposition 1 should not be over-interpreted, but rather seen as a sanity check. Given the assumptions of the model, especially the existence of circumstances that are very favorable to the executive (even if improbable) and the cost of being rejected, any other result would represent a surprising failure of rationality. In a later section, we discuss the robustness of this finding to alternative assumptions. In the meantime, we look at a different problem: the dynamics of authority acquisition, where, as we will see in the next section, more interesting patterns emerge.

4 Analysis: Dynamics of Authority Acquisition

Our two first results highlight a contrast. In the long run, the court, under our assumptions, is powerless to block the extension of authority. On a day-to-day basis (or maybe rather year-to-year), the court seems to act as a constraint. But how much of a constraint is it? The next proposition shows that it is a relatively weak one. In all possible circumstances ($\theta_t \in [-\overline{\theta}, \overline{\theta}]$) there exists a set of new authority claims ($a_t \in [0,1] \setminus (\mathcal{R}_t \cup \mathcal{W}_t)$) that a court will not reject.

Proposition 2. *In any equilibrium, for all* $\theta_t \in [-\overline{\theta}, \overline{\theta}]$*, there exists* $\overline{a}(\theta_t, a) > a$ *such that* C *upholds* P*'s authority claim* a_t*,* $d_t(\theta_t, a_t, a, 1) = 0$*, if* $a_t \in [a, \overline{a_t}(\theta_t, a)]$*, where* $a = \max \mathcal{R}_t$*.*

Proposition 2 has important substantive implications. In our baseline model, in which we have set to one side the constraining role of the legislature, parties, electoral competition, and public opinion, C is the only bulwark against executive absolutism. And in principle, it would appear up to the task. With the power to set new precedents, after all, the court can put a permanent end to the extension of executive authority. In any equilibrium, however, the court's practical ability to restrain the politician is limited, for the politician can always make authority claims that the court would approve, *even when* the circumstances are quite unfavorable ($\theta_t = -\overline{\theta}$).

Why is the executive always able to expand her authority, should she so choose? Here is the key intuition. Each time it must make a decision (i.e., $a_t \notin \mathcal{R}_t$), the court is faced with a binary choice: either recognize the legitimacy of P's encroachment or reject it and force the executive to be stuck with the previously granted authority level forever. This generates a trade-off for the court between present and future payoffs. On the one hand, when the state of the world is unfavorable to the executive (θ_t is low), the court may be tempted to reject the authority claim whenever it induces a payoff loss for the court today compared to the existing permissible actions. For a new authority claim a_t only slightly greater than the current maximum permitted authority $\max \mathcal{R}_t$, however, the court's present payoff loss is arbitrarily close to 0. Yet, if it rejects the new authority claim, the court loses all future chances for the executive's authority to adapt to special circumstances (high θ). Given that there exist states such that the court values full authority by the executive ($\overline{\theta}$ is large by assumption), the future cost of impeding flexibility by rejecting a new authority claim is always bounded away from zero (which is guaranteed by $\overline{\theta} > \frac{1}{1-\overline{\beta}}$). Hence, there always exists a sufficiently small new authority claim for which the present cost from upholding it is dominated by the future loss from rejecting it, leading the court to sanction the increase in executive authority. Importantly, it is the court's forward looking perspective, even as it anticipates future authority claims by P, that allows executive authority to grow in every period, no matter the circumstances. As a result, each period, the executive can break out beyond what was previously allowed, sometimes by a little, sometimes by a lot, but always successfully.

There exist multiple equilibrium paths in this dynamic game. Proposition 2 (as well as Proposition 1) describes characteristics common to all of them. To be able to say more about the dynamics of authority growth over time, however, we must select a specific equilibrium. We focus on one in which P relies upon an intuitive strategy: she claims as much authority as the court will allow each period–that is, the amount that leaves the court indifferent between upholding and rejecting her action. We label this equilibrium, in which executive authority strictly increases each period, the "maximally admissible" equilibrium. As the next lemma shows, this strategy is indeed an equilibrium whenever the politician does not value the future too heavily.

Lemma 2. *There exists $\widehat{\beta} \in (0, \overline{\beta}]$ such that if $\beta \leq \widehat{\beta}$, then an equilibrium exists in which, each period, P either claims full authority ($a = 1$) or chooses a new level of authority that leaves the court indifferent between upholding and rejecting it.*

In such an equilibrium, the politician always maximizes her present payoff by pushing her authority as far as she can each period. The court observing P's behavior today and anticipating her action tomorrow then uses a very simple strategy: it upholds if the claim is below a certain threshold and rejects otherwise. This tolerance threshold, which we denote $\overline{a}(\theta_t, a)$, is a function of the upper bound on the set of already permissible claims, $\max \mathcal{R}_t = a$, and the current circumstances θ_t. The next lemma characterizes some properties of the court's tolerance threshold, and, thus, P's authority claim each period.

Lemma 3. *The court's tolerance threshold* $\overline{a}(\theta_t, a)$ *satisfies:*
(i) $\overline{a}(\theta_t, a) = 1$ *if and only if* $\theta_t \geq \widehat{\theta}(a) \equiv \frac{\frac{1+a}{2} - \kappa C}{1-\beta}$;
(ii) for all $\theta_t < \widehat{\theta}(a)$, $\overline{a}(\theta_t, a)$ *is strictly increasing with* θ_t;
(iii) for all θ_t, *the distance between* $\overline{a}(\theta_t, a)$ *and* a *is decreasing with* a.

The first point is simply the contra-positive of Lemma 1. Each period, there exist states under which the court tolerates full authority acquisition due to the inefficiency loss induced by constraining P, ever more, to the prior authority level. Rather intuitively, the second point indicates that the politician's ability to claim more authority is increasing in the favorability of state circumstances.

The third point highlights that past authority acquisition can reduce the gains in authority acquisition. To understand this result, let us return to the court's trade-off between present loss when upholding an expansive authority claim and the cost from losing future flexibility when rejecting the claim. When the politician has already acquired a relatively large scope of authority, the court's concern about its future flexibility is reduced since P already can do a great deal with her current authority. Hence, a large stock of existing authority makes the court less lenient regarding contemporary claims for even more. The difference between what the politician already has and what the court will tolerate (and hence, under this equilibrium, what the politician will claim) reliably decreases as the politician secures ever more authority.

In combination, points (ii) and (iii) of Lemma 3 have substantive consequences for the dynamics of authority acquisition. There is no clear correlation between past authority acquisitions and future ones. A politician who starts period t with a lot of room for action (a large $\max \mathcal{R}_t$) may end up in period $t+1$ with less authority than an office-holder who started with a smaller permissible set.

Proposition 3. *Take any two possible sets of permissible authority claims* $\mathcal{R}_t^l$ *and* $\mathcal{R}_t^h$ *satisfying* $\max \mathcal{R}_t^l = a^l < \max \mathcal{R}_t^h = a^h$. *There exists* $\theta^\dagger(a^l, a^h) < \widehat{\theta}(a^l)$ *such that if* $\theta_t \in (\theta^\dagger(a^l, a^h), \widehat{\theta}(a^h))$, *then* $\max \mathcal{R}_{t+1}^l > \max \mathcal{R}_{t+1}^h$.

This result again follows from the court becoming less tolerant of an executive's ambitions when she already has acquired substantial authority. The complement is also true. Indeed, precisely because past limitations of authority portend future advancements, a politician may experience a "reversal of fortune," allowing her to overcome the levels of authority she would have acquired had the court previously adopted a more accommodating posture. Past limitations, in this sense, have the potential to hasten the onset of executive absolutism.[7]

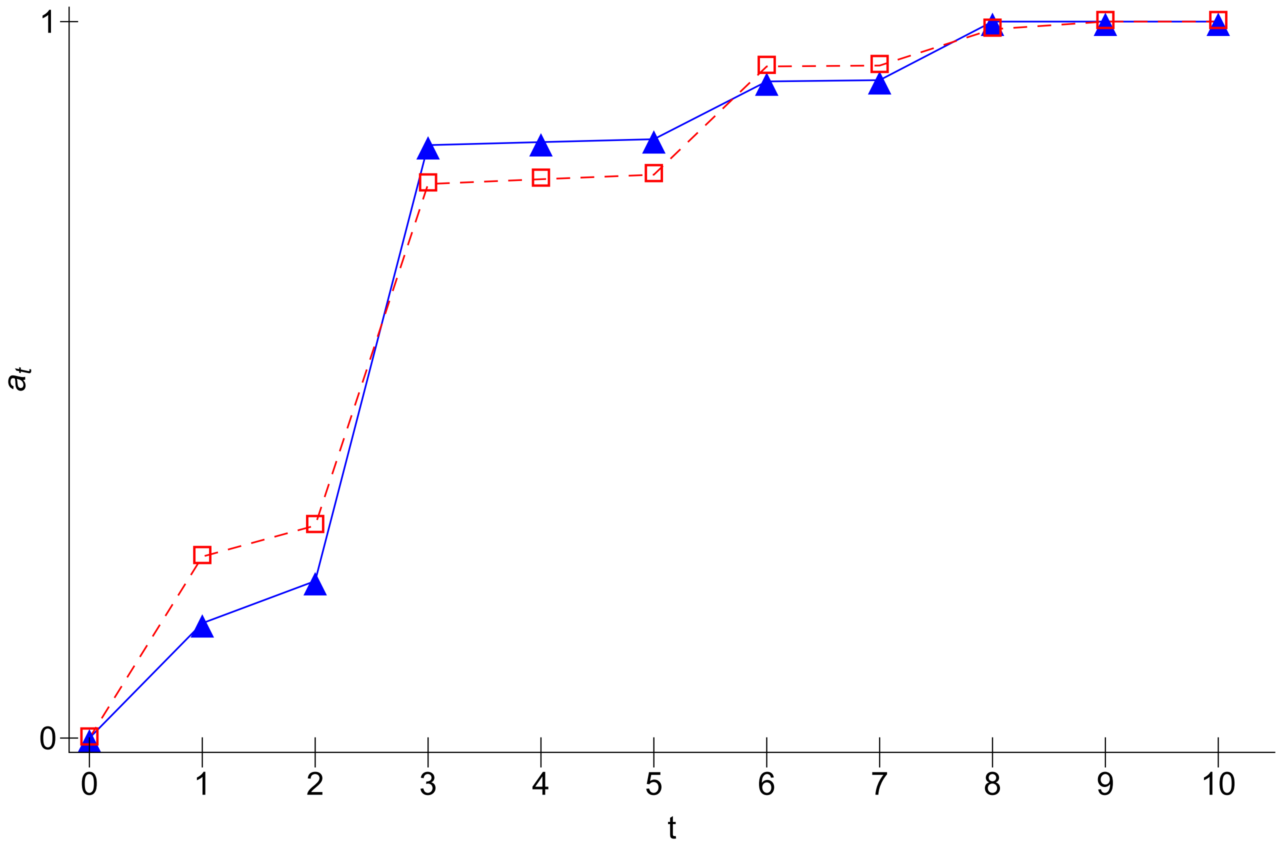

Figure 1: Dynamics of authority acquisition

The dotted red line with squares represents the dynamics of authority acquisition under the sequence of shocks $\{\theta_t^{\square}\}_{t=1}^{10}$. The plain blue line with triangles represents the dynamics of authority acquisition under the sequence of shocks $\{\theta_t^{\blacktriangle}\}_{t=1}^{10}$. Parameter values: $\beta = 0.9$, $\overline{\theta} = 13$, $F(\theta) = \frac{\theta}{26}$, $\kappa^C = 0$, $\theta_1^{\square} = -2 > -5 = \theta_1^{\blacktriangle}$, $\theta_t^{\square} = \theta_t^{\blacktriangle} = \theta_t$ for $t > 1$, with $\theta_2 = -10$, $\theta_3 = 5$, $\theta_4 = -2$, $\theta_5 = -2$, $\theta_6 = 8.5$, $\theta_7 = 0$, $\theta_8 = 9.6$, $\theta_9 = 11$, $\theta_{10} = 10$.

To see how these dynamics function, consider Figure 1. Here, we track the authority acquired by two executives over ten periods. The two executives, square and triangle, face a common realization of θ in every period except the first. In period 1, the square executive benefits from more favorable circumstances than the triangle executive and therefore is able to acquire more authority. Notice, though, that this initial advantage is not permanent. In period 3, the common realization of θ

[7] The risk of a reversal of fortune explains why the existence of the maximally feasible equilibrium is not guaranteed for all discount factors (though, note that Lemma 2 only states a sufficient condition). It also raises the possibility that this equilibrium is not the payoff-maximizing equilibrium for the politician. Unfortunately, comparing the executive's welfare across equilibria proves impossible because payoffs depend on future expected claims of authority, which themselves are a function of the realization of future states of the world. Hence, future payoffs are equilibrium-specific, and there is no easy way to define the optimal strategies for the politician (or the court for that matter) in ways that facilitate welfare calculations.

allows the triangle executive to acquire enough authority to surpass that of the square executive. Additional reversals of fortune appear in periods 6 and 8. We also see how different realizations of θ can produce relatively small or large jumps in authority. And illustrating Proposition 2, both executives acquire more authority in every period until each, illustrating Proposition 1, acquires full authority.[8]

More generally, does gaining more authority today routinely impede the acquisition of future authority, as stipulated in Proposition 3? The complexity of the formal analysis prevents us from reaching definitive conclusions, and so we proceed via simulation.[9] In Figure 2, we plot the expected time (plain blue line) and the median time (dashed purple line) to full authority as a function of the authority acquired in period 1, with 0 serving as a reference point. This figure is based on 5,000 simulations over 800 periods with $\kappa^C = 0$, $\beta = 0.9$ and θ_t drawn from a truncated normal distribution over the interval $[-13.5, 13.5]$. We observe an increasing relationship, which becomes especially pronounced for high values of a_1. This positive correlation arises, we conjecture, due to the reduced chances of obtaining full authority in period 2. As we noted above, the executive can propose $a_2 = 1$ and get away with it only if circumstances are sufficiently dire: $\theta_2 \geq \widehat{\theta}(a_1)$. The threshold for securing full authority is decreasing in a_1; and hence, high level of authority in the present impairs full authority acquisition in the future. Having more authority today, therefore, delays the acquisition of full authority in the future.

The maximally admissible equilibrium is also useful to study how uncertainty about circumstances, defined in term of mean preserving spread, affects authority acquisition. Quite intuitively, the greater the chances of extreme circumstances, the more attuned the court becomes to the costs of permanently constraining the politician. The executive, for her part, takes advantage of this heightened demand for flexibility in order to acquire greater authority each period for herself.[10]

Proposition 4. *Take two symmetric CDFs of the state of the world θ, F_A and F_B, such that F_B is a mean-preserving spread of F_A. Denote $\overline{a}_A(\theta, a)$ and $\overline{a}_B(\theta, a)$ the tolerance thresholds under distributions F_A and F_B, respectively. For all $a \in [0, 1)$ and all $\theta \in [0, \widehat{\theta}(a))$, $\overline{a}_B(\theta, a) \geq \overline{a}_A(\theta, a)$.*

[8] Though difficult to observe, the slopes of both curves are slightly positive between periods 3 and 5, 6 and 7, and 8 and 9.

[9] The expected time to full authority as a function of a_1 is given by the formula: $1 \times (1 - \widehat{\theta}(a_1)) + 2 \times \widehat{\theta}(a_1) E_{\theta_2}\big((1 - \widehat{\theta}(a_2(\theta_2, a_1))|\theta_2 < \widehat{\theta}(a_1)\big) + 3 \times E_{\theta_2}\big(E_{\theta_3}\big((1 - \widehat{\theta}(a_3(\theta_3, a_2))|\theta_3 < \widehat{\theta}(a_2)\big)|\theta_2 < \widehat{\theta}(a_1)\big) + \dots$

[10] Notice that to state the result formally, we impose that the distribution of states is symmetric (a sufficient, but not necessary assumption). This assumption disciplines the mean preserving spread, as it guarantees that increased risk of a very low state (θ_t negative) does not dominate the risk of a very high state in the court's decision. The assumption of symmetry really plays a role in the proof of the proposition when the court may uphold a full authority claim for negative states (i.e., $\widehat{\theta}(a) < 0$, which can happen if $\kappa^C > 1/2$). Alternatively, we could assume $\kappa^C < 1/2$ and do away with the symmetry assumption.

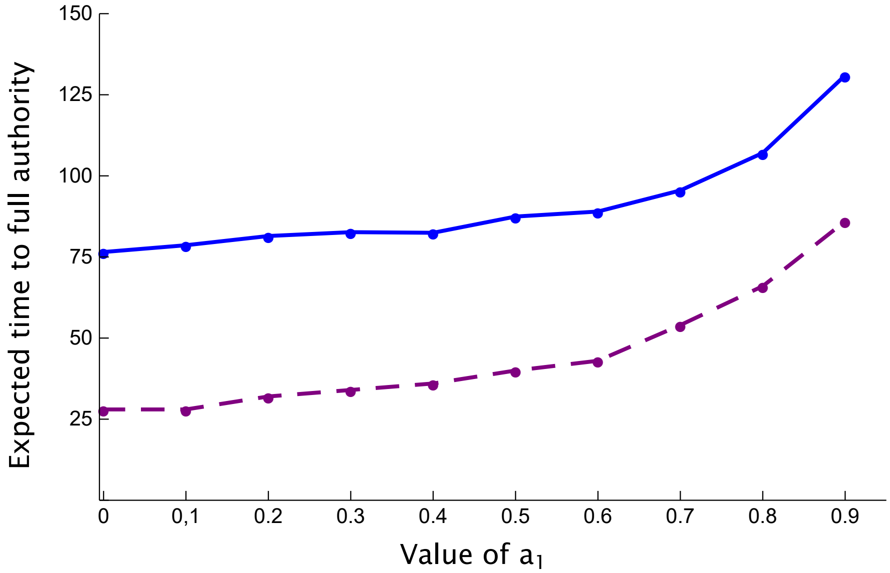

Figure 2: Time to full authority as a function of authority acquired in period 1 (a_1)

The figure is obtained from 5,000 simulations of paths of authority acquisition (over 800 periods). The blue plain line is the average time to full authority acquisition. The dashed purple line is the median time to full authority acquisition. Parameter values: $\beta = 0.9$, $\overline{\theta} = 13.5$, θ distributed according to a truncated normal with variance 4 over the interval $[-\overline{\theta}, \overline{\theta}]$, $\kappa^C = 0$.

Our model thus indicates that we should observe a greater push for authority in environments that are more volatile (among presidential systems, think of Latin American regimes) than in those that are relatively stable (e.g., the United States, at least until recently).

We cannot determine clear comparative statics on players' patience, as characterized by the discount factor β. As the court becomes more patient, it puts more weight on the need for flexibility. This tends to make the court more lenient, as we have just seen. But greater patience also means that the court cares more about the cost of future extensions of executive authority, which reduces the court's incentive to permit further authority acquisition. Depending on circumstances (the state of the world, but also the stock of authority already acquired), one or the other force can dominate, and the tolerance threshold can either increase or decrease with β.

Overall, the analysis of the dynamics of authority acquisition reveals two interesting patterns. On a general note, the executive is able to exploit the court's demand for (future) flexibility to increase her authority each period, no matter the circumstances. And when she chooses to do so, i.e. in the maximally admissible equilibrium, authority acquisition exhibits period by period variation. A politician who starts a period with the largest stock of authority does not necessarily end up with the highest permissible set. Reversals of fortune may occur. In the next section, we complement the study of the maximally admissible equilibrium by contrasting the executive's choices in our baseline model with her authority claims and acquisitions in a world without precedent.

5 Precedents vs State-Dependent Decisions

Our baseline model takes a strong view of precedents. A court cannot revisit authority previously granted and, once it rejects an authority claim, intervention in the domain is forever precluded. We have seen that this formal "big stick" actually weakens the court and allows the executive to claim at least some new authority each period. It thus seems natural to contrast our results with another, equally strong, perspective on the judiciary: a world with state-dependent decisions, in which the court's ruling is conditional on the realization of θ. Note that this world is basically akin to a world without precedent (since decision in one state has no spillover effect on decisions in other states).

How do authority claims look with state-dependent decisions? The game then collapses to a bargaining game with the court as veto and the executive as agenda setter. In each state, the court's ideal point is $\theta + \kappa^C$, the executive's is one, and the status quo can be understood to be zero. The executive makes a take-it-or-leave-it offer to the court that leaves the court indifferent between accepting or rejecting the offer. With quadratic preferences, the court would accept any state-dependent claim satisfying $a(\theta) \leq 2\theta + \kappa^C$. When the right-hand side is lower than zero, then the court rejects all positive authority claims and the executive sticks with the status quo. When $2\theta + \kappa^C \geq 1$, the judiciary accepts all claims and the executive proposes $a(\theta) = 1$. In between these two bounds, the claim is interior and equals $2\theta + \kappa^C$. This reasoning is summarized in the following remark.

Remark 1. *If the court can condition its ruling on the state of the world, the state-dependent authority claim satisfies:* $a(\theta) = \max\{0, \min\{2\theta + \kappa^C, 1\}\}$.

State-dependent decisions do not preclude the growth of executive authority. In many states, the executive claims more authority (all those for which $\theta \geq -\frac{\kappa^C}{2}$). Further, for a large set of circumstances, the executive will have full authority over the domain (for all $\theta \geq \frac{1-\kappa^C}{2}$). State-dependent rulings, as such, do not reliably guard against executive growth.

Further, we can contrast the distribution of the period 1 claim in our baseline notion of precedent with the claim given in a state-dependent decision (i.e., when $\mathcal{R}_1 = \{0\}$). To do so, we focus on the maximally admissible equilibrium discussed above and we illustrate this comparison in Figure 3 (with formal results available upon request). There, the solid line represents the claim in the maximally admissible equilibrium as a function of θ. The dashed line, in turn, graphs the state-dependent claim. Obviously, in circumstances relatively unfavorable to the politician, the authority claim is smaller in the case with state-dependent authority since the court can refuse any growth of executive authority. For low states, the solid line is above the dashed line, but the difference is not especially large. For very favorable circumstances ($\theta \geq \widehat{\theta}(0)$), the executive claims full authority in period 1 with or without precedents. For intermediate states, the pattern is reversed: we observe more encroachment with state-dependent authority (the dashed line is above the solid line). The logic is rather obvious. Expecting that authority will subsequently grow with precedent, the court becomes more stringent in its evaluation of present claims. Expectations about future expansion, as such, reduce the court's tolerance for present authority acquisition.

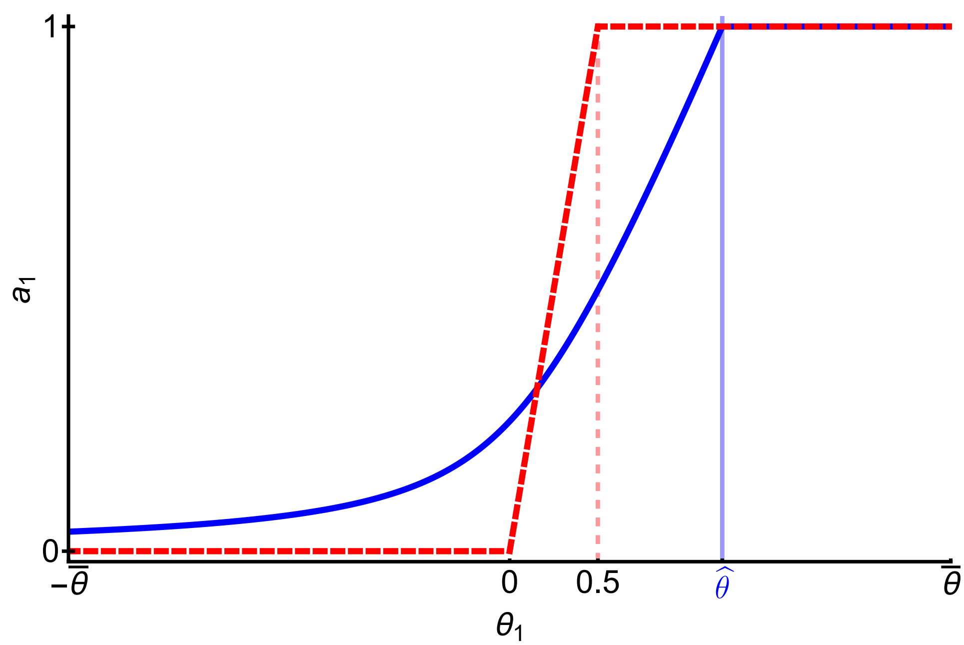

Figure 3: First-period claim

The dotted red line represents the first-period claim as a function of the shock θ_1 for state-dependent decisions. The plain blue line represents the first-period claim in the maximally feasible equilibrium. Parameter values: $\beta = 0.585$, $\overline{\theta} = 2.5$, $F(\theta) = \frac{\theta}{5}$, $\kappa^C = 0$.

The comparison between a world with precedents and a world with state-contingent decisions yields two lessons. First, because the executive remains the agenda-setter, state-dependent decisions do not resuscitate the court as a robust check on executive authority. As a consequence, the cost of allowing precedents for the court, while positive, is limited. Absent precedent, the court cannot impose its preferred level of authority for given circumstances on the executive. Rather, it is limited (for all purposes) between getting its payoff from the status quo and its payoff from full authority. Hence, if one believes that precedents provide benefits in the form of predictable judicial decisions, the (relatively limited) cost for the court may not be a strong enough argument to abandon precedents. Second, while precedents allow in the long run the executive to claim full authority over the domain, in the short run, they can dampen the expansion of executive authority in the present. For intermediate shocks, the court is concerned about leaving too much discretion in future periods when it prefers little discretion. Hence, the court becomes less conciliatory when dynamics concerns are present than in the static model. The court cannot stop acquisition of authority, but its long-term concerns may slow it down, which may fortify the separation of powers.

6 Robustness Checks and Extensions

Our baseline set-up makes four contestable assumptions. First, we provide the court with a strong formal stick (rejection shuts down all future extension of authority), which turns out to be the cause of its weakness in practice. Second, we assume that judges have no opportunity to revisit past rulings, invoking a strong notion of precedent. Third, judges need not worry about turnover in the executive office. And fourth, we suppose that circumstances can be sufficiently dire that the court will be willing to accept full authority claims, no matter the stock that the executive has already secured. In this section, we re-evaluate the dynamics and limits of authority acquisition when each of these assumptions is relaxed.[11]

6.1 An alternative judicial rule

Recall that in the baseline model, when the court rejects an authority claim, the discretion set collapses ($\mathcal{R}_t \cup \mathcal{W}_t = [0,1]$), and future authority extension becomes impossible—$\max R_t$ is the best the executive can do in perpetuity. Suppose, instead, that if the court rejects an authority claim $a' > \max \mathcal{R}_t$, then the impermissible set only extends up to the claim recently struck down: $\mathcal{W}_t = (a', 1]$.[12] We still assume the authority recovered this period is the maximum of the permissible set (i.e., $y_t(d_t) = a_t$ if the court upholds the claim a_t, and $\max \mathcal{R}_t$ if the court rejects it).

[11] In Online Appendix C, we also investigate how the dynamics of authority acquisition change when the court can sometimes issue temporary stays (Online Appendix C.1), when authority is multi-dimensional (Online Appendix C.2), and when the court experiences turnover (Online Appendix C.3).

[12] We assume that $a' \notin \mathcal{W}_t$ so that the executive's problem remains well-behaved.

This seemingly benign assumption change generates a string of complexities to the analysis. In the baseline model, the rejection rule allows us to straightforwardly compute the court's and executive's payoffs in the aftermath of a rejection. We then can compare the expected payoff from rejecting the authority claim to the expected payoff from permitting it, which allows us to determine both the limit outcomes of all equilibria and the behavior in the maximally admissible equilibrium. In this extension, we are no longer able to do so. Here, once the court rejects an authority claim a', a "new" game starts between the judiciary and the executive, where authority is bounded to a' rather than 1. The payoffs from rejecting an authority claim, therefore, are undetermined, as they depend on the strategies subsequently played by both actors. Absent a well-defined outside option, it becomes harder to characterize the equilibrium behaviors of the judiciary and the executive.

Despite these difficulties, our next result shows that the behavior of the court under the more permissive rejection rule resembles its choice under the more stringent one. In every period, for every precedent, the court is willing to accept a full authority claim whenever circumstances require it (for a high enough value of θ). Further, in all states of the world, there exist some new authority claim that the judiciary upholds. As such, Proposition 5 indicates that, once more, the judiciary remains a weak constraint on the executive.

Proposition 5. *Suppose* $\max \mathcal{R}_t = a \in [0,1)$ *and* $\min \mathcal{W}_t = a^R \in (a,1]$. *Then in any equilibrium:*
(i) There exists a unique $\widehat{\theta}^{\mathscr{L}}(a,a^R)$ *such that for all* $\theta_t \geq \widehat{\theta}^{\mathscr{L}}(a,a^R)$, *the court upholds any authority claim in the discretion set: for all* $a' \in [a,a^R]$, $d(\theta_t,a',a,a^R) = 0$.
(ii) For all θ_t, *there exists* $\overline{a}(\theta,a,a^R) \in (a,a^R]$ *such that the court upholds the executive's authority claim* a_t, *that is* $d(\theta_t,a_t,a,a^R) = 0$, *if* $a_t \in [a,\overline{a}(\theta,a,a^R)]$.

The change in the rejection rules (from stringent in the baseline model to permissive in this extension) does not substantially alter the judiciary's behavior. First, there exist circumstances under which the court allows a claim of full authority even though it induces a cost in the future. Note that this implies that the gain from greater flexibility upon rejecting is limited. Indeed, if the court rejects $a_t = 1$, this does not change future interactions since the executive's authority can never exceed 1. Yet, the expectations of future encroachment make this greater flexibility of limited interest to the court, who is willing to accept a full authority claim when circumstances are dire (i.e., when θ_t is sufficiently high).

A consequence of the Proposition's first result is that the court does not want to constrain the executive so much that any adaptation becomes impossible. As we have already discussed, the executive can then, if she wishes, exploit the judiciary's demand for flexibility to secure still more authority. In short, the court in every situation is willing to let authority grow, sometimes by a little, sometimes by a lot.

Can we say anything about the limit of executive authority, as we did in the baseline model? Unfortunately no, at least not definitively. We cannot rule out the possibility that an executive will constrain herself—that is, she will choose some authority claim that is rejected—in the hopes of converging faster to a new, albeit lower, limit. Even if such equilibria exist, however, they are likely to be fragile. As long as the executive is sufficiently impatient or sufficiently patient, after all, we can be sure that she will eventually acquire full authority, again as in the baseline model. To see this, note that when the office-holder's discount factor is low, she cares less about the future and therefore always chooses to maximize her per-period authority. Consequently, the executive always chooses an authority extension as high as the tolerance threshold permits, and no claim is ever rejected in equilibrium. In the limit, then, full authority is granted to the office-holder, almost despite herself. In turn, if the executive is very patient, she puts significant weight on the maximum authority she can claim in the limit. Since anything below full authority provides a lower payoff than total control over the domain in the long run, the politician prefers to be prudent in the short run in order to eventually realize these long-term gains.

6.2 Revising precedents

In this subsection, we assume that at the beginning of each period, Nature sometimes provides an occasion for the judiciary to start anew. For simplicity, we assume that the probability that the court sets a new precedent is $\lambda \in (0, 1)$ (the baseline model is a special case with $\lambda = 0$). As we do not have clear empirical guidance as to what the court can or cannot do, we assume as well that the court can pick any upper bound of the permissible set in the unit interval. That is, if given the chance to intervene in period t, the court chooses $a^* \in [0, 1]$ so that $\mathcal{R}_{t+1} = [0, a^*]$ and $\mathcal{W}_{t+1} = \emptyset$. This implies that the court can now transform previously permissible claims into claims over which it has discretion. The court also evaluates new claims into the policy domains even if it shut down the possibility of any further authority acquisition in a previous period.[13] When it decides on a new precedent, the court takes into account its present as well as future payoffs while understanding the equilibrium of the whole game. That is, the court's choice a^* is its dynamic best

[13]The assumption that this occurs automatically is without loss of generality since the court never puts constraints on itself.

response to the game played. Since the court's choice depends on the period t state of the world when it makes a decision, we denote the court's precedent decision $a^*(\theta_t)$ in what follows.

In this amended set-up, the notion of authority in the limit has little meaning since there is always the possibility of a restart. We therefore focus on the dynamics of authority acquisition. Our first result states that Proposition 2 is virtually unchanged when the court can revise precedents.

Proposition 6. *In any equilibrium, for all $\theta_t \in [-\overline{\theta}, \overline{\theta}]$, there exists $\overline{a}(\theta_t, a) > a$ such that C upholds P's authority claim a_t, $d_t(\theta_t, a_t, a, 1) = 0$, if $a_t \in [a, \overline{a_t}(\theta_t, a)]$, where $a = \max \mathcal{R}_t$.*

From the court's perspective, the game proceeds along two paths: the normal path where the executive makes authority claims and the path where the court can revisit precedent, with Nature determining which path the court is on at the beginning of each period. On the normal path, the court still values flexibility. Even though the risk of being stuck at an ineffective precedent when circumstances are dire (θ_t very large) is lower thanks to the possibility of revisiting precedent, some risk is always present in the mind of the court when confronted with an authority claim. Just like in the baseline model, the executive, if she so chooses, can exploit this demand for flexibility to extend her authority each period.

What happens when the court has the opportunity to revisit precedents? To answer this question, we need to compute the court's present and future anticipated payoffs for each decision, which depends on the equilibrium played. We again focus on the maximally admissible equilibrium and assume that conditions for existence are satisfied. We also add a condition on the shape of the CDF and pdf of the state of the world: $\frac{1}{2(1-\beta(1-\lambda))} f(\theta) \leq 2F(\theta)$. To understand this condition, recall that when more authority is granted, the court potentially suffers a cost today, but it also implies that it is less likely to grant full authority tomorrow (for a maximum of the permissible set equal to a, upholding full authority requires $\theta_t \geq \widehat{\theta}(a)$, with $\widehat{\theta}(a)$ strictly decreasing with a). The condition guarantees that tomorrow's marginal benefit of greater authority today is decreasing in a_t since the additional reduction in the likelihood of granting full authority next period (captured by $\frac{1}{2(1-\beta(1-\lambda))} f(\theta)$, with $\widehat{\theta}'(a_t) = \frac{1}{2(1-\beta(1-\lambda))}$ in this amended setting) does not compensate for the marginal additional cost of having greater authority in states less than $\widehat{\theta}(a_t)$ (captured by $2F(\theta)$). Since the cost of greater authority today is concave (due to the quadratic loss function), the condition is sufficient for the court's maximization problem to be well behaved when it has a chance to revisit precedents.

With this in mind, the next proposition shows that the court always picks a permissible set smaller than what the executive would like (proof available upon request), but it does not always revisit precedents downward when given a chance to redefine the set of permissible claims.

Proposition 7. *Suppose* $\frac{1}{2(1-\beta(1-\lambda))} f(\theta) \leq 2F(\theta)$ *for all* $\theta \in [-\overline{\theta}, \overline{\theta}]$. *Then, in the maximally admissible equilibrium, for all* $\max \mathcal{R}_t = a \in [0, 1)$, *there exists* $\underline{\theta}(a) \in [-\overline{\theta}, \overline{\theta})$ *such that when given the chance, the court's novel precedent* $a^*(\theta_t)$ *satisfies* $a^*(\theta_t) > a$ *for all* $\theta_t > \underline{\theta}(a)$.

We are not able to determine how the possibility of the court revisiting precedent affects the dynamics of authority acquisition on the normal path, when the executive makes new authority claims. The probability λ of choosing a new precedent has the same effect as reducing the discount factor β since the risk of being stuck with a bad precedent in future periods is now lower. As we noted above, smaller β has an ambiguous effect on the court's incentives—increased willingness to accept full authority, less demand for flexibility—making it difficult to determine its overall effect on authority acquisition.

6.3 Political turnover and executive authority

We now allow for the possibility that the incumbent executive loses office, in which case the authority she acquires today may be used against her tomorrow by an opposing successor. More specifically, we assume that at the beginning of each period, before θ_t is realized, Nature determines the identity of the officeholder, which can be either P_l or P_r. Once a politician is in power in period t, there is a probability π that she remains in office next period. This probability captures in reduced form an office-holder's incumbency advantage (if $\pi \geq 1/2$) or disadvantage (if $\pi < 1/2$).

When politician $J \in \{P_l, P_r\}$ holds authority, her utility from having deployed authority y_t remains $v(y_t)$, as in the baseline model. When her opponent $-J$ is in office, however, J's utility from authority y_t being used is $-v(y_t)$. That is, for $J \in \{P_l, P_r\}$,

$$U_J(y_t) = \begin{cases} v(y_t) & \text{if } J \text{ is in office} \\ -v(y_t) & \text{otherwise} \end{cases}$$

The rest of the model remains unchanged.

With or without political turnover, the court's problem remains the same as in the baseline model. The court cannot impose a hard constraint on the executive since it always wants to give itself some flexibility to deal with exceptional future circumstances. Very much like in the baseline model, authority would grow each period if the office-holder chooses so. Hence, any constraint on authority can only come from changes in equilibrium behavior induced by (expected) fluctuations in personnel. Our next result establishes that as long as the incumbency disadvantage is not too high (that is, π is not too low), then the unique outcome of the game is executive absolutism, much like Proposition 1.

Proposition 8. *There exists* $\underline{\pi} < 1/2$ *such that if the probability the incumbent remains in power satisfies* $\pi > \underline{\pi}$*, then any equilibrium satisfies* $\lim_{t \to \infty} \mathcal{R}_t = [0, 1]$ *with probability* 1.

Our revised framework predicts that electoral competition *may* generate restraints on authority acquisition, but only if there is a strong enough incumbency *dis*advantage. Only then, after all, is the incumbent sufficiently afraid to leave her opponent unchecked in the next period and, thus, acts so that legal bounds are placed on authority. She does so by seeking a sufficiently large grant of authority that will provoke the court to reject it. In the U.S. setting where the incumbency advantage is well documented (see, e.g., Fowler 2016), the likelihood of electoral competition curtailing authority acquisition hovers right around zero.

What happens when incumbents are disadvantaged (π is well below 1/2), a situation faced by many incumbents in developing countries according to recent papers (e.g., Klašnja et al., 2017)? Is authority acquisition always interrupted then? The answer, it happens, is no. While we cannot guarantee that full authority is always grabbed in the limit, we can assert that no matter the authority stock already acquired, there is a strictly positive probability that an executive claims and is granted more authority. We summarize this last result of this subsection in the form of a remark

Remark 2. *For any* $\pi < \underline{\pi}$*, in any equilibrium, if* $\mathcal{R}_t = [0, a] \subset [0, 1]$*, then* $\max \mathcal{R}_{t+1} > a$ *with strictly positive probability.*

6.4 Authority acquisition in a calm world

The baseline model and previous comparisons highlight the role of the court's demand for flexibility in a potentially turbulent world, one wherein $\overline{\theta} > \frac{1}{1-\beta}$. Whatever the level of authority already acquired by the executive, we found, there always exist circumstances in which the court is willing to uphold a full authority claim ($a_t = 1$). We now investigate the dynamics of authority acquisition in a calm world, such that $\overline{\theta} < \frac{1}{1-\beta}$. This robustness check is essential as it allows us to understand the role of the court's extreme demand for flexibility in generating executive absolutism (Proposition 1) and the dynamics of authority acquisition (Proposition 2) described above.

Recalling that the court becomes less lenient as the permissible set increases, we now consider two different situations. In the first, the permissible set $\mathcal{R}_t$ is such that the court is willing to uphold a full authority claim for some states of the world. In the second, the permissible set is so large that the court is never willing to grant full authority. Formally, it is useful to introduce $a^f = 2\big((1-\beta)\overline{\theta}+\kappa^C\big)-1$. The first case then corresponds to $\max \mathcal{R}_t = a < a^f$ so $\overline{\theta} > \frac{\frac{1+a}{2}-\kappa^C}{1-\beta} = \widehat{\theta}(a)$. The second situation arises when $\max \mathcal{R}_t \geq a^f$ so that $\overline{\theta} \leq \widehat{\theta}(a)$ and the office-holder no longer has the opportunity to obtain full authority over the policy domain. In some cases, the court never upholds a full authority claim, even if the permissible set is restricted to its original status quo $\{0\}$ (formally, $a^f < 0$). To more fully characterize the dynamics involved, however, in what follows we focus on the case when $a^f > 0$.

When $\max \mathcal{R}_t < a^f$, the court demand for flexibility is high. The court is very much afraid to reject a claim and permanently shut down authority acquisition because there exist circumstances such that it would be willing to grant full authority. Very much as before, the executive, if she so chooses, can expand her authority each period. That is, we obtain:

Proposition 9. *For all* $\max \mathcal{R}_t = a < a^f$*, in any equilibrium, for all* $\theta_t \in [-\overline{\theta}, \overline{\theta}]$*, there exists* $\overline{a}(\theta_t, a) > a$ *such that* C *upholds* P*'s authority claim* a_t*,* $d_t(\theta_t, a_t, a, 1) = 0$*, if* $a_t \in [a, \overline{a_t}(\theta_t, a)]$.

An immediate consequence of Proposition 9 is that the size of the permissible set grows at least up to $[0, a^f]$. Authority acquisition, however, does not have to stop at a^f. The court may no longer uphold a full authority claim, but this does not imply that the court rejects all claims. Indeed, when the state is sufficiently high and the permissible set sufficiently small, the court is willing to uphold some new authority claims over maintaining the status quo, and P is then able to grow her authority. When the upper bound of the permissible set is relatively high, the future cost from more authority granted to P always dominates the present gains from the court's perspective. The court then prefers the status quo to any new claim even in the highest possible state $\overline{\theta}$, and authority acquisition halts.

The next proposition establishes the highest claim a politician can make as a function of her previously acquired authority. It shows that as long as $\max \mathcal{R}_t = a$ satisfies $a < (1-\beta)\overline{\theta}+\kappa^C = a^M$, there remains room for authority to grow.

Proposition 10. *For all $a \geq a^f$, there exists a unique $a^{max}(a)$ such that, in any equilibrium,* $\lim_{t\to\infty} \max \mathcal{R}_t = a^{max}(a)$*, with* $a^{max}(a) = \max\{a, 2(1-\beta)\overline{\theta} + 2\kappa^C - a\}$.

Unfortunately, without knowing more about the properties of the equilibrium, we cannot fully characterize the dynamics of authority acquisition when the condition of Proposition 10 is satisfied (i.e., $a \geq a^f$). We can, however, describe the dynamics a bit more in the maximally admissible equilibrium, which again exists for low enough values of the discount factor. In this equilibrium, the court anticipates that, in the future, it will always receive its expected payoff from the status quo. Hence, whenever the state is relatively unfavorable to the incumbent, formally $\theta_t \leq \frac{a-\kappa^C}{1-\beta}$, the court will reject any claim as the future cost dominates any present benefit from change. Under these circumstances, the authority expansion will pause before restarting when higher states arise. As a result, we should expect two phases in authority expansion. In the first phase, authority growth will proceed rapidly and every period; in the second phase, once a large stock of authority has already been acquired, authority acquisition will proceed slowly and will pause before eventually stopping (if the upper bound of the permissible set is above $a^M = (1-\beta)\overline{\theta} + \kappa^C$).

Figure 4 illustrates these dynamics. Consider the circle executive. For the first four periods, the states of the world are relatively small and the authority grows at a slow pace, remaining below a^f and, thus, leaving the possibility for full authority acquisition in the future. In period 5, a relatively large shock pushes the maximum of the permissible set above a^f: full authority acquisition is no longer possible. Yet, authority still grows, albeit not each period (e.g., the permissible set remains unchanged in period 6 relative to period 5), until a very large shock in period 9 pushes the maximum of the permissible set above a^M and no further growth is possible. The trajectory of the diamond executive looks quite different. Her authority increases very slowly in the first two periods until a relatively high state of the world in period 3 pushes the maximum of the permissible set above a^M. From then on, no matter the shock, authority remains unchanged as the court now rejects any further claim. Despite their contrasting pathways, you'll notice, neither executive ever secures full authority in this calm world.

7 Conclusion

Our model pits the authority aspirations of an executive politician against the restraints of judicial review. Both players in the model, the politician and the court, have preferences over authority. The politician's is unbounded, the better to prosecute her policy agenda, to feel efficacious, to leave

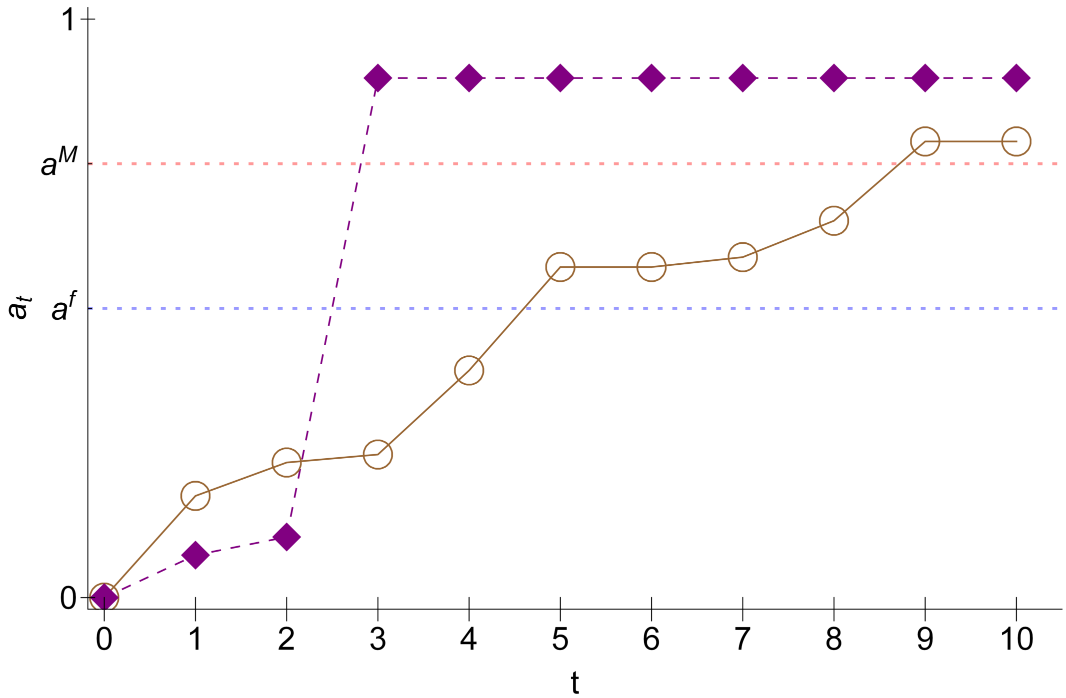

Figure 4: Authority growth in a calm world

The dotted purple line with diamonds represents the dynamics of authority acquisition under the sequence of shocks $\{\theta_t^{\blacklozenge}\}_{t=1}^{10}$. The plain brown line with circle represents the dynamics of authority acquisition under the sequence of shocks $\{\theta_t^{\circ}\}_{t=1}^{10}$. Parameter values: $\beta = 0.9$, $\overline{\theta} = 7.5$, $F(\theta) = \frac{\theta}{15}$, $\kappa^C = 0$, $\vec{\theta_t^{\circ}} = \{0, 1, -0.5, 3, 4.8, 3, 5.8, 6.2, 7.2, 7.5\}$, $\vec{\theta_t^{\blacklozenge}} = \{-2, -3, 5, 3, 4.8, 3, 5.8, 6.2, 7.2, 7.5\}$.

a legacy, or to accomplish whatever else may motivate her; all these objectives are monotonic in authority. The court, by contrast, is motivated by jurisprudential considerations, today and into the future. These constitutional principles, however, are adjusted each period to reflect the period-specific nature of the times. The court, therefore, seeks to balance what seems optimal today in terms of its principles, its concerns about the present situation, and its assessment of future contextual circumstances. And this is the opening exploited strategically by the politician. The court's need to balance present payoffs against the need for flexibility in light of future possibilities enables the politician to push the authority envelope until all that is available is eventually acquired.

Notice that this finding is recovered from an austere and rather idealized setting. Plenty of scholars have recognized numerous institutional weaknesses associated with the judiciary: lack of enforcement powers, informational asymmetries, political vulnerabilities, and so forth (Bickel 1955; Rosenberg 1992). The court in our model does not suffer any of these liabilities; and yet, still, it struggled to impede the politician's claims for more authority.

This does not mean that the court has no effect. Unless circumstances are very favorable (Lemma 1), a politician will be unable to claim full authority right away. Further, while authority may expand each period (Proposition 2), the growth will be slow whenever the state of affairs does not require decisive executive intervention (Lemma 3). We further uncover that precedents, the key institution behind the continuous growth of executive authority, may slow down authority extension at least in the short run (as illustrated in Figure 3).

In our baseline model, whether it happens in one go or many, the final outcome is always the same: in the limit, the executive acquires authority over the full policy domain (Proposition 1). While this conclusion relies on our assumption that judicial rejection closes off all avenues for future extension of authority, the dynamics we uncover appear widespread. We recover comparable findings when the consequences of judicial decision are less potent (Proposition 5). A calm world only implies weak limits on the scope of authority acquired (Proposition 9). Revisiting precedents are short term fixes which never permanently stop authority acquisition(Proposition 6), and the same holds true for temporary stays on authority claims (Online Appendix C.1).

Are the problems we identify specific to the relationship between an executive and judiciary? Or do they apply more generally to dynamic policy-making processes that include a larger class of veto players? We believe the scope of our model to be limited to the courts as constraints on the executive. The key force behind the constant acquisition of authority, even when circumstances are extremely unfavorable to the politician, lies in the consequences of overturning an authority claim.

Overturning an executive precludes authority extension in the future (fully in the baseline model, partially in our set-up with an alternative judicial rule) and limits the adaptation of executive power to future crises. The blunt power of judicial precedent handcuffs the court, but not other types of veto players. In a model with a legislative veto and an executive proposer, rejection of a proposal does not formally bind the veto player to a subsequent course of action. As a result, when the situation is detrimental to the proposer, the status quo remains in place, at least for a while.[14] Thus we see how the institutional strength of the court, in particular, ultimately is its undoing.

For the executive to falter in his quest to acquire full authority, or something close to it, one of two conditions must hold: in the baseline model, the politician must want something less than full authority; or in the expanded model with electoral competition, at least one of the politicians must want less than full authority because of her electoral disadvantage (Proposition 8) and act in ways that provoke a judicial rejection, which henceforth constrains the future authority claims of both politicians.

In American politics, neither condition seems likely to hold. Elected officials often benefit from a large incumbency advantage, making them electorally safe rather than fearful of replacements. Presidents do not practice moderation, or what Steven Levitsky and Daniel Ziblatt (2018) call "forbearance," far from it. Nearly all research on the American presidency since Richard Neustadt's seminal work (1960) has noted that presidents seek authority at every turn to meet the extraordinary expectations that the public places upon them. Indeed, those presidents who reveal only a modest appetite for power (think James Buchanan, William Howard Taft, or Herbert Hoover) are routinely excoriated for their failed tenures in office. To be president, at its very core, is to want, seek, nurture, and preserve power (Howell 2013). Individual moderation, moreover, runs counter to the very premise of the founders' constitutional project. The founders certainly lauded modesty, virtue, and the like, but they did not count upon them to protect their fledgling democratic experiment—"if men were angels" and all that. To their core, the founders were realists. They took as given the nature of men (and to be clear, politically, they only had men in mind); and in men they recognized extraordinary appetites for power. It is for precisely this reason that the founders put their faith in external checks on presidential power; that they looked to an independently elected Congress and a judiciary filled with life-time appointees to frustrate and delimit the

[14]For example, in Callander and Martin (2017), the proposer exploits policy decay to advance her agenda, but would have to pause if the quality of the status quo were to temporarily improve.

president's claims of authority. Our model highlights that the latter is unlikely to be up for the job.

This leaves Congress, the branch judged most dangerous by the Founders, as a possible bulwark against executive absolutism. Congress is not plagued by the same institutional issue as the judiciary, but it faces its own problems. As a collective decision-body, Congress confronts all sorts of well-documented coordination problems, transaction costs, parochial tendencies, and veto points that impede its ability to check presidential power. Whether Congress can be up to the task is an avenue for future research. The findings of this paper, though, serve as an additional cautionary note: while others have argued that democratic backsliding occurs through institutional changes by would-be authoritarian leaders (e.g., Luo and Przeworski, 2019; Grillo and Prato, 2019), our work reveals that it can happen almost by stealth. Democratic institutions as currently constituted can give way to authoritarian ones in the presence of real-world disruptions and without corruption or force. Our paper puts a dent in the almost religious faith that separation of powers, all by itself, guards against executive absolutism. This faith, we believe, may ultimately prove misplaced.

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Online Appendix

(Not for publication)

Table of Contents

A Proofs for the baseline model

From the reasoning in the text, recall that:

(a) Given our assumption on the construction of precedent ($\mathcal{R}_0 = \{0\}$ and $\mathcal{R}_{t+1} = [0, a_t]$ if $a_t \notin \mathcal{R}_t \cup \mathcal{W}_t$ and $d_t = 0$), in any equilibrium $\mathcal{R}_t$ is an interval from 0 to some upper bound.

(b) In the proofs, we focus on the case when for all $t' < t$, then $d_{t'} = 0$ (otherwise, $\mathcal{R}_t \cup \mathcal{W}_t = [0, 1]$ under the assumption).

(c) Given the office-holder's utility function and the constraint precedents impose on the court, in any equilibrium, for all periods t, the politician's authority choice satisfies $a_t \geq \max \mathcal{R}_t$. For all $a_t \leq \max \mathcal{R}_t$, the executive's authority claim is not rejected. Since the politician's utility is increasing in y_t and $y_t = a_t$ for all $a_t \in \mathcal{R}_t$, $a_t = \max \mathcal{R}_t$ strictly dominates any choice of authority strictly smaller than $\max \mathcal{R}_t$.

Using (a)-(c), we can thus define $\mathcal{R}_t := [0, a_{t-1}]$, with $a_0 = 0$.

(d) Finally, the politician never selects any authority above 1 in the baseline model so we can (without loss of generality) assume that the minimum of the impermissible set $\mathcal{W}_t$ is 1.

A.1 Authority in the limit

Proof of Lemma 1

Denote the court's continuation value in period t (i.e., its expected utility present and future at the beginning of period t) as a function of past sanctioned authority claim $\max \mathcal{R}_t = a$ and past rejected claim $min \mathcal{W}_t = a'$: $V(a, a')$. Note that under the assumption and our slight change of notation $a' \in \{a, 1\}$. Note further that we do not include time subscript in the continuation value since we consider a Markov Perfect Equilibrium.

When an authority claim has been rejected in a previous period so $\min \mathcal{W}_t = a \in [0, 1]$, the court's continuation value is simply:

$$V(a, a) = -\frac{E_\theta \left(a - \kappa^C - \theta\right)^2}{1 - \beta}. \tag{A.1}$$

Observe that since we consider Markov Perfect Equilibrium, all relevant information for players' actions is contained in the state variables (the bounds of the permissible and impermissible sets).

Hence, we can drop the time indices from the continuation values. Further, because in this lemma we assume equilibrium existence, these continuation values can be assumed to exist.

Absent previous rejection, given $\max \mathcal{R}_t = a \in [0,1]$ and faced with an authority claim $a_t \notin \mathcal{R}_t \cup \mathcal{W}_t$, the court decides to uphold the claim if and only if:

$$-\left(a_t - \kappa^C - \theta_t\right)^2 + \beta V(a_t, 1) \geq -\left(a - \kappa^C - \theta_t\right)^2 + \beta V(a, a) \tag{A.2}$$

If the executive proposes $a_t = 1$, the court knows that if it upholds, P will exert full authority in the future. Hence, C's continuation value is then $V(1,1) = \frac{E_\theta\left(-(1-\kappa^C-\theta')^2\right)}{1-\beta}$. Hence, the court upholds $a_t = 1$ in state θ if and only if $-\left(1 - \kappa^C - \theta\right)^2 + \beta\frac{E_{\theta'}\left(-(1-\kappa^C-\theta')^2\right)}{1-\beta} \geq -\left(a - \kappa^C - \theta\right)^2 + \beta\frac{E_{\theta'}\left(-(a-\kappa^C-\theta')^2\right)}{1-\beta}$. Simple but tedious computation reveals that this inequality is satisfied for all θ such that $\theta \geq \frac{\frac{1+a}{2}-\kappa^C}{1-\beta}$ (strictly if the inequality is strict). Note that $\frac{\frac{1+a}{2}-\kappa^C}{1-\beta} < \frac{1}{1-\beta} < \overline{\theta}$. □

Lemma A.1. *In any equilibrium, the executive never makes an authority claim which is rejected: The executive's strategy $a_t(\theta, a, 1)$ satisfies $d_t(\theta, a_t(\theta, a, 1), a, 1) = 0$ in every period t and for all θ, a.*

Proof. Suppose there exists a θ and a such that in equilibrium the executive picks $a_t(\theta, a, 1)$ and is rejected. P's continuation value is then $\frac{v(a)}{1-\beta}$. We now show that there is a profitable deviation upon reaching the state θ with permissible set a (keeping the executive's strategy unchanged in any other state or for any other authorized claims). Suppose that instead the executive picks $\hat{a}_t(\theta, a, 1) = a$ and then follows her prescribed strategy in all other states and sets of precedent. Since for all permissible sets $[0, a'] \subset [0,1]$, there exists $\widehat{\theta}(a') < \overline{\theta}$ such that $a_t(\theta, a', 1) = 1$ for all $\theta \in [\widehat{\theta}(a'), \overline{\theta}]$, it must be that the deviation yields a continuation value strictly greater than $\frac{v(a)}{1-\beta}$. Hence, we have constructed a profitable deviation. □

Proof of Proposition 1

Using Lemma A.1, we know that the court never rejects the politician's authority claim on the equilibrium path. From the proof of Lemma 1, we know that for all sets of precedents satisfying $\max \mathcal{R} = a < 1$, there exists a positive probability (i.e., $F(\widehat{\theta}(a))$) that circumstances are such that the office-holder makes a full authority claim ($a_t(\theta_t, \mathcal{R}_t, \mathcal{W}_t) = 1$) and the court upholds. Joining both facts together yield the proposition. $\square$

A.2 The dynamics of authority

Proof of Proposition 2

Recall from the main text that we define P's strategy as $a_t(\theta_t, a, 1)$ (with θ_t the state in period t and $a = \max \mathcal{R}_t$, and $1 = \min \mathcal{W}_t$ under the assumption and slight abuse of notation). Using the notation introduced in the proof of the previous lemma, observe then that in any equilibrium, we can write (ignoring arguments in a_t) $V(a_t, 1) = E_\theta\Big[\max\{-\big(a_{t+1}(\theta, a_t, 1) - \kappa^C - \theta\big)^2 + \beta V(a_{t+1}(\theta, a_t, 1), 1), -\big(a_t - \kappa^C - \theta\big)^2 + \beta V(a_t, a_t)\}\Big]$. By Lemma 1, for all $\theta_t \geq \widehat{\theta}(a_t)$, the court prefers full authority claim to the status quo a_t and $a_{t+1}(\theta_t, a_t, 1) = 1$ since full authority forever is the politician's preferred outcome. This implies that for any $a_t < 1$, for all $\theta_{t+1} \in (\widehat{\theta}(a_t), \overline{\theta}]$ (a non-empty interval), $-\big(a_{t+1}(\theta_{t+1}, a_t, 1) - \kappa^C - \theta_{t+1}\big)^2 + \beta V(a_{t+1}(\theta_{t+1}, a_t, 1), 1) > -\big(a_t - \kappa^C - \theta_{t+1}\big)^2 + \beta V(a_t, a_t)$. Hence, necessarily $V(a_t, 1) > E_\theta\Big[-\big(a_t - \kappa^C - \theta\big)^2 + \beta V(a_t, a_t)\Big] = V(a_t, a_t)$ for any $a_t \in [0, 1)$. Further, $V(a_t, 1) \geq F(\widehat{\theta}(a_t))E_t\Big[-\big(a_t - \kappa^C - \theta\big)^2 + \beta V(a_t, a_t)|\theta \leq \widehat{\theta}(a_t)\Big] + (1 - F(\widehat{\theta}(a_t))E_t\Big[-\big(1 - \kappa^C - \theta\big)^2 + \beta V(1, 1)|\theta > \widehat{\theta}(a_t)\Big]$ so $V(a_t, 1) - V(a_t, a_t) \geq (1 - F(\widehat{\theta}(a_t)))\Bigg(E_t\Big[-\big(1 - \kappa^C - \theta\big)^2 + \beta V(1, 1)|\theta > \widehat{\theta}(a_t)\Big] - E_t\Big[-\big(a_t - \kappa^C - \theta\big)^2 + \beta V(a_t, a_t)|\theta > \widehat{\theta}(a_t)\Big]\Bigg) = (1 - a_t)\int_{\widehat{\theta}(a_t)}^{\overline{\theta}}\Big(2\theta - \frac{1 + a_t - 2\kappa^C}{1 - \beta}\Big)\,dF(\theta)$ (using Lemma 1).

We now prove that there exists $\gamma(\theta, a) > 0$ such that for all $\gamma \in (0, \gamma(\theta, a))$, $-(a + \gamma - \kappa^C - \theta)^2 + \beta V(a + \gamma, 1) \geq -(a - \kappa^C - \theta)^2 + \beta V(a, a)$. This is equivalent to showing that the following inequality holds $-2\gamma\big(a + \gamma/2 - \kappa^C - \theta\big) + \beta\Big[V(a + \gamma, 1) - V(a, a)\Big] \geq 0$. To do so, we first prove that there exists a $\overline{\gamma}$ and a $\xi > 0$ such that $V(a + \gamma, 1) - V(a, a) \geq \xi$ for all $\gamma \in [0, \overline{\gamma})$.

Suppose that $V(a, 1)$ is continuous in a neighborhood of a. Then using $V(a, 1) > V(a, a)$, there exists $\overline{\gamma} > 0$ such that for all $\gamma \in [0, \overline{\gamma})$, $V(a + \gamma, 1) > V(a, a)$ (with $\overline{\gamma}$ either the upper bound of say neighborhood or the smallest solution to $V(a + \gamma, 1) = V(a, a)$ in say neighborhood).

We now assume that $V(a, 1)$ exhibits a discontinuity at some $a \in [0, 1)$. For simplicity, we assume that there exists $\overline{\gamma} \in (0, 1 - a]$ such that for all $\gamma \in (0, \overline{\gamma})$, $V(a + \gamma, 1) \leq V(a, a)$ (the proof can be extended to take care of the case when there exists $\epsilon \to 0$ such that for all

$\gamma \in (0,\overline{\gamma}) \setminus \{\epsilon\}, V(a+\gamma,1) > V(a,a)$ and $V(a+\epsilon,1) \leq V(a,a)$).[15] Recall from the end of the first paragraph that $V(a+\gamma,1) - V(a+\gamma,a+\gamma) \geq (1-a-\gamma)\int_{\widehat{\theta}(a+\gamma)}^{\overline{\theta}} \left(2\theta - \frac{1+a+\gamma-2\kappa^C}{1-\beta}\right) dF(\theta)$. Thus, there exists $\widehat{\gamma} \in (0,\overline{\gamma})$ (a well-defined interval since $\overline{\gamma} > 0$) such that there exist $\phi > 0$ and $\psi > 0$ such that for all $\gamma \in (0,\widehat{\gamma})$, $1-a-\gamma \geq \phi$ ($1-a-\gamma > 1-a-\widehat{\gamma} > 0$ since $\widehat{\gamma} < \overline{\gamma} \leq 1-a$) and $\int_{\widehat{\theta}(a+\gamma)}^{\overline{\theta}} \left(2\theta - \frac{1+a+\gamma-2\kappa^C}{1-\beta}\right) dF(\theta) \geq \psi$ (by Lemma 1, recall that $\widehat{\theta}(a) < \overline{\theta}$ for all $a \in [0,1]$). Hence, there exists $\chi > 0$ (e.g., $\chi = \phi\psi$) such that for all $\gamma \in (0,\widehat{\gamma})$, $V(a+\gamma,1) - V(a+\gamma,a+\gamma) \geq \chi$. Under the assumption that $V(a+\gamma,1) \leq V(a,a)$ for all $\gamma \in (0,\widehat{\gamma}) \subset (0,\overline{\gamma})$, we then obtain that for all $\gamma \in (0,\widehat{\gamma})$, $|V(a+\gamma,a+\gamma) - V(a,a)| \geq \chi$. This means that for all $\eta \in (0,\chi)$ (a well defined interval given $\chi > 0$), $|V(a+\gamma,a+\gamma) - V(a,a)| > \eta$ for all $\gamma \in (0,\widehat{\gamma})$ violating the finding that $V(a',a')$ is continuous in a'. Hence, even if $V(a,1)$ exhibits a discontinuity at a, it must be that there exists $\overline{\gamma} > 0$ such that for all $\gamma \in (0,\overline{\gamma})$, $V(a+\gamma,1) > V(a,a)$.

In turn, $-2\gamma\big(a+\gamma/2-\kappa^C-\theta\big)$ is continuous in γ and goes to 0 as $\gamma \to 0$. Given that there exists $\overline{\gamma} > 0$ such that $\beta(V(a+\gamma,1) - V(a,a))$ is bounded below away from zero for all $\gamma \in (0,\overline{\gamma})$ (by the reasoning above), for all θ and all $a = \max \mathcal{R}_t \in [0,1)$, there exists $\gamma(\theta,a) > 0$ such that the court upholds any new authority claim satisfying $a_t \in [a, a+\gamma(a,\theta)]$. Denote $\overline{a}(\theta,a) = a + \gamma(\theta_t,a)$ to complete the proof of the proposition. □

We now turn to the maximally admissible equilibrium. In such assessment, the executive claims as much as the court will allow each period and the court, anticipating the executive's future strategy, rules on authority claims accordingly. Before proving Lemma 2, the next technical lemmas prove the existence and uniqueness of continuation values for the court and the executive in this assessment. We first prove by construction that the court's continuation value exists and is unique.

Lemma A.2. *Suppose that in all periods $t' \geq t$, the court anticipates that P's strategy satisfies if $\max R_{t'} = a \in [0,1)$, $a_{t'}(\theta_{t'},a,1) = 1$ if $\theta_{t'} \geq \widehat{\theta}(a)$ and $a_{t'}(\theta_{t'},a,1)$ leaves the court's indifferent between upholding and rejecting $a_{t'}(\cdot)$ otherwise. In period t, the court's continuation value exists and is unique.*

[15]Obviously, if the discontinuity is such that for all $\gamma \in (0,\overline{\gamma})$, $V(a+\gamma,1) > V(a,a)$, the claim holds. Note, further, that, in practice, $\overline{\gamma}$ and all the bounds below depend on a, we omit this dependence in the notation for ease of exposition.

Proof. Denote the court's continuation value $V(\cdot)$ and assume it exists. Under the specified strategy, in all period t such that $\max \mathcal{R}_t = a \in [0,1)$ and $\theta_t < \widehat{\theta}(a)$, $a_t(\theta_t, a, 1)$ satisfies:

$$-(a_t(\theta,a,1)-\kappa^C-\theta)^2+\beta V(a_t(\theta,a,1),1) = -(a-\kappa^C-\theta)^2+\frac{\beta}{1-\beta}E_\theta(-(a-\kappa^C-\theta)^2) \quad \text{(A.3)}$$

We can then rewrite $V(a,1)$ as

$$\begin{aligned}
V(a,1) =& \int_{-\bar{\theta}}^{\widehat{\theta}(a)} -(a_t(\theta,a,1)-\kappa^C-\theta)^2+\beta V(a_t(\theta,a,1),1)dF(\theta) \\
&+\int_{\widehat{\theta}(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2+\beta\frac{E_\theta(-(1-\kappa^C-\theta)^2)}{1-\beta}dF(\theta) \\
=&\int_{-\bar{\theta}}^{\widehat{\theta}(a)} -(a-\kappa^C-\theta)^2+\beta\frac{E(-(a-\kappa^C-\theta)^2)}{1-\beta}dF(\theta) \\
&+\int_{\widehat{\theta}(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2+\beta\frac{E(-(1-\kappa^C-\theta)^2)}{1-\beta}dF(\theta) \quad \text{(using Equation A.3)} \\
=&\frac{1}{1-\beta}\big(-F(\widehat{\theta}(a))(a-\kappa^C)^2-(1-F(\widehat{\theta}(a)))(1-\kappa^C)^2-Var(\theta)\big) \\
&+\int_{-\bar{\theta}}^{\widehat{\theta}(a)} 2(a-\kappa^C)\theta dF(\theta)+\int_{\widehat{\theta}(a)}^{\bar{\theta}} 2(1-\kappa^C)\theta dF(\theta) \quad \text{(decomposing and using } E_\theta(\theta)=0) \\
=&\frac{1}{1-\beta}\big(-(a-\kappa^C)^2-(1-F(\widehat{\theta}(a)))(1-a)(a+1-2\kappa^C)-Var(\theta)\big)+\int_{\widehat{\theta}(a)}^{\bar{\theta}} 2(1-a)\theta dF(\theta) \\
=&\frac{1}{1-\beta}\left(-(a-\kappa^C)^2-Var(\theta)+(1-a)\int_{\widehat{\theta}(a)}^{\bar{\theta}} 2((1-\beta)\theta+\kappa^C)-(a+1)dF(\theta)\right) \quad \text{(A.4)}
\end{aligned}$$

Equation A.4 directly shows (i) the continuation value exists, (ii) it is unique, and (iii) it is continuous and differentiable in a. □

Having established the existence and uniqueness of the court's continuation value given P's strategy, we now show that in each period, the court uses a threshold rule to decide whether to uphold or reject (anticipating P's future actions).

Lemma A.3. *Suppose that in all periods $t' > t$, the court anticipates that P's strategy satisfies if $\max R_{t'} = a \in [0,1)$, $a_{t'}(\theta_{t'}, a, 1) = 1$ if $\theta_{t'} \geq \widehat{\theta}(a)$ and $a_{t'}(\theta_{t'}, a, 1)$ leaves the court's indifferent between upholding and rejecting $a_{t'}(\cdot)$ otherwise. Then in period t, for all $\max R_t = a \in [0,1)$ and all $\theta_t < \widehat{\theta}(a)$, there exists a unique $\overline{a}(\theta_t, a) \in (a,1)$ such that the court upholds authority claim a_t if and only if $a_t \leq \overline{a}(\theta_t, a)$.*

Proof. Using Equation A.4, the court upholds in period t a claim a_t if and only if

$$
\begin{aligned}
&-(a-\kappa^C-\theta)^2-\beta\frac{(a-\kappa^C)^2}{1-\beta} \\
&\qquad \leq -(a_t-\kappa^C-\theta)^2-\beta\frac{(a_t-\kappa^C)^2}{1-\beta}+\frac{\beta}{1-\beta}(1-a_t)\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF(\theta)
\end{aligned}
\tag{A.5}
$$

To show existence and uniqueness, rearrange the inequality in (A.5) as:

$$
\begin{aligned}
&\frac{1}{1-\beta}(a_t-a)(a_t+a-2(\kappa^C+(1-\beta)\theta)) \leq \frac{\beta}{1-\beta}(1-a_t)\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF(\theta) \\
&\Leftrightarrow 2(\kappa^C+(1-\beta)\theta)-(a+a_t)+\beta\frac{1-a_t}{a_t-a}\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF(\theta) \geq 0
\end{aligned}
\tag{A.6}
$$

For all, $a_t \leq a$, the court is constrained to uphold. We thus focus on the interval $[a,1]$. Denote

$$
H(a_t;\theta,a)=2(\kappa^C+(1-\beta)\theta)-(a+a_t)+\beta\frac{1-a_t}{a_t-a}\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF(\theta) \tag{A.7}
$$

That is, $H(\cdot)$ is the left-hand side of the inequality in (A.6). Observe that $H(\cdot)$ is strictly decreasing with a_t. To see this, notice that

$$
\begin{aligned}
\frac{\partial H(a_t;\theta,a)}{\partial a_t} =& -1-\beta\frac{1-a}{(a_t-a)^2}\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF(\theta) \\
&+\beta\frac{1-a_t}{a_t-a}\left(-\frac{\partial\widehat{\theta}(a_t)}{\partial a_t}\right)\left(2((1-\beta)\widehat{\theta}(a_t)+\kappa^C)-(a_t+1)\right)f(\widehat{\theta}(a_t))
\end{aligned}
$$

Given $\widehat{\theta}(a_t)=\frac{\frac{1+a_t}{2}-\kappa^C}{1-\beta}$, the term on the second line above is equal to zero. Hence,

$$
\frac{\partial H(a_t;\theta,a)}{\partial a_t}=-1-\beta\frac{1-a}{(a_t-a)^2}\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF(\theta)<0
$$

since $2((1-\beta)\theta+\kappa^C)-(a_t+1)>0$ for all $\theta>\widehat{\theta}(a_t)$.

Further, by definition of $\widehat{\theta}(a)$, $H(1;\theta,a)<0$. In addition, $\lim_{a_t\to a} H(a_t;\theta,a)=\infty$. Hence there exists a unique $\overline{a}_t(\theta,a)\in(a,1)$ such that the court upholds a_t if and only if $a_t\leq\overline{a}_t(\theta,a)$. □

Having established the continuation value and the strategy of the court, we can now turn to the continuation value of the office-holder.[16]

Lemma A.4. *Suppose that in all periods* $t' \geq t$*, the court anticipates that* P*'s strategy satisfies if* $\max R_{t'} = a \in [0,1)$*,* $a_{t'}(\theta_{t'}, a, 1) = 1$ *if* $\theta_{t'} \geq \widehat{\theta}(a)$ *and* $a_{t'}(\theta_{t'}, a, 1)$ *leaves the court's indifferent between upholding and rejecting* $a_{t'}(\cdot)$ *otherwise, in period* t*,* P*'s continuation value exists and is unique. Further, the continuation value is differentiable and its derivative with respect to* a *is bounded.*

Proof. Denote $W(\theta, a, 1)$ P's payoff as a function of the circumstances θ_t and precedents $a = \max \mathcal{R}_t$ and (again slightly abusing notation) $\min \mathcal{W}_t = 1$. Using Proposition 2, P only chooses $a_t \in [a, \overline{a}_t(\theta_t, a)]$, with, extending the notation introduced in Lemma A.3, $\overline{a}_t(\theta_t, a) = 1$ if $\theta_t \geq \widehat{\theta}(a)$ or $a = 1$. We can then write:

$$W(\theta_t, a, 1) = \max_{a_t \in [a, \overline{a}_t(\theta_t, a)]} v(a_t) + \beta E_\theta\big(W(\theta, a_t, 1)\big) \tag{A.8}$$

To show existence, uniqueness, and differentiability, we use the Blackwell's Theorem (Blackwell 1965; Stokey and Lucas 1989). In what follows, we follow and reproduce the steps detailed in the (superbly clear) proof of Lemma 1 in Baker and Mezzetti (2012).

Let $\mathbf{S}$ be the metric space of continuously differentiable, real-valued function $\omega : [-\overline{\theta}, \overline{\theta}] \times [0,1] \to \mathbb{R}$. Let the metric on $\mathbf{S}$ be $\rho(\omega^0, \omega^1) = \sup_{\theta \in [-\overline{\theta}, \overline{\theta}], a \in [0,1]} |\omega^0(\theta, a) - \omega^1(\theta, a)|$. Define the operator T mapping the metric space $\mathbf{S}$ into itself as follows:

$$T\omega(\theta_t, a) = \max_{a_t \in [a, \overline{a}_t(\theta_t, a)]} v(a_t) + \beta E_\theta\big(\omega(\theta, a_t)\big), \tag{A.9}$$

with $\omega(\cdot, \cdot)$ an original guess for the continuation value and $T\omega(\cdot)$ the updated guess.

First, note that $\overline{a}_t(\theta_t, a)$, implicitly defined as the solution to $H(a_t; \theta_t, a) = 0$, with $H(\cdot)$ defined in Equation A.7, is continuously differentiable. Indeed, by assumption $F(\cdot)$ is continuously

[16] As it will become clear in the proof of Lemma A.4, we proceed slightly differently than for the court's. For the court's continuation value, we look at the ex-ante period t continuation value (before the circumstances θ_t are realized). For P, we look at the interim continuation value (after θ_t is drawn). This difference of approach is to simplify the proof, but has no bearing on the main result.

differentiable so all the terms in $H(\cdot)$ are continuously differentiable and so is the solution of the equation $H(a_t;\theta_t,a)=0$.

We now show that $W(\cdot)$ defined in Equation A.8 exists and is unique by proving that T is a contraction mapping. This requires to show that T satisfies monotonicity and discounting. Monotonicity is easily verified: if $\omega^1(\theta_t,a)\geq\omega^0(\theta_t,a)$ for all $\theta_t,a\in[-\overline{\theta},\overline{\theta}]\times[0,1]$, then from Equation A.9 $T\omega^1(\theta_t,a)\geq T\omega^0(\theta_t,a)$. For discounting, let z be a non negative constant map defined by $z(\theta_t,a)=z$ for all $\theta_t,a\in[-\overline{\theta},\overline{\theta}]\times[0,1]$. Let the map $(\omega+z)$ be defined by $(\omega+z)(\theta_t,a)=\omega(\theta_t,a)+z$. From Equation A.9, it can easily be checked that $T(\omega+z)(\theta_t,a)=T\omega(\theta_t,a)+\beta z$. Since $\beta\in(0,1)$, discounting holds as well. Thus, T is a contraction. Its unique fixed point is the continuously differentiable real-valued function $W(\cdot)$ defined in Equation A.8.

We finally prove that the derivative of $W(\cdot)$ with respect to a is bounded. Consider the set $\overline{\mathbf{S}}$ the metric space of continuously differentiable, real-valued function $\omega:[-\overline{\theta},\overline{\theta}]\times[0,1]\to\mathbb{R}$, whose derivative with respect to their second argument is bounded. The set $\overline{\mathbf{S}}$ is a subset of the set $\mathbf{S}$ so to prove the result we need to show that T maps $\overline{\mathbf{S}}$ onto itself. For this denote K^v a finite upper bound on $v'(\cdot)$ ($v'(y)\leq K^v$ for all y). Consider a function $\omega(\cdot)$ satisfying $|\omega_a(\theta,a)|<K^\omega$ for some $K^\omega>0$ and for all $\theta_t,a\in[-\overline{\theta},\overline{\theta}]\times[0,1]$ (with ω_l the derivative with respect to the variable l). Denote $a_t^*=\arg\max_{a_t\in[a,\overline{a}_t(\theta_t,a)]} v(a_t)+\beta E_\theta\big(\omega(\theta,a_t)\big)$ assuming uniqueness (the proof is slightly more complicated, but similar otherwise). Using Equation A.9, we obtain:

$$\frac{\partial T\omega(\theta_t,a)}{\partial a}=\begin{cases}0 & \text{if } a_t^*\in(a,\overline{a}_t(\theta_t,a))\\ v'(a)+\beta E_\theta(\omega_a(\theta,a)) & \text{if } a_t^*=a\\ \frac{\partial\overline{a}_t(\theta_t,a)}{\partial a}\Big(v'(\overline{a}_t(\theta_t,a))+\beta E_t(\omega_a(\theta_t,\overline{a}_t(\theta_t,a)))\Big) & \text{if } a_t^*=\overline{a}_t(\theta_t,a)\end{cases}$$

Using Equation A.6, it can be checked that $\frac{\partial\overline{a}_t(\theta_t,a)}{\partial a}$ is bounded (we prove this point formally below). Hence, there exist $K^{T\omega}<\infty$ such that $\left|\frac{\partial T\omega(\theta_t,a)}{\partial a}\right|<K^{T\omega}$. Hence T maps function with bounded derivative into function with bounded derivative so $W(\theta,a)$ satisfies $W_a(\theta,a)$ is bounded. □

Proof of Lemma 2

From Proposition 2, we know that if $\theta_t \geq \widehat{\theta}(a)$ for any $\max \mathcal{R}_t = a < 1$ or if $a = 1$, then $a_t(\theta_t, a) = 1$ and the court upholds. In what follows, we exclusively focus on periods t satisfying $\max \mathcal{R}_t = a < 1$ and $\theta_t < \widehat{\theta}(a)$.

From Lemma A.3, we know that if the court anticipates that P's strategy satisfies for all $t' > t$: if $\max R_{t'} = a' \in [0, 1)$, $a_{t'}(\theta_{t'}, a', 1) = 1$ if $\theta_{t'} \geq \widehat{\theta}(a')$ and $a_{t'}(\theta_{t'}, a', 1) = \overline{a}_{t'}(\theta_{t'}, a')$, then in period t, the court plays a threshold strategy in which it upholds if and only if $a_t \leq \overline{a}_t(\theta_t, a)$. We now demonstrate that there exists $\widehat{\beta}$ such that if $\beta \leq \widehat{\beta}$ in each period t, P makes a new authority claim satisfying $a_t(\theta_t, a, 1) = \overline{a}(\theta_t, a)$.

Fix $a, \theta_t \in [0, 1) \times [-\overline{\theta}, \widehat{\theta}(a))$. P prefers $a_t = \overline{a}(\theta_t, a)$ to any other authority claim if and only if $v(\overline{a}(\theta_t, a)) + \beta E_\theta\big(W(\theta, \overline{a}(\theta_t, a))\big) \geq \max_{a' \in [a, \overline{a}(\theta_t, a)]} v(a') + \beta E_\theta\big(W(\theta, a')\big)$. Since $\overline{a}(\theta, a)$ is not monotonic in a (see Lemma 3), we cannot prove that $W(\theta, a)$ is increasing in a. As a result, we cannot automatically prove that the inequality above is always satisfied. Rather, we proceed by a different route and provide a sufficient condition so that the function $M(a') = v(a') + \beta E_\theta\big(W(\theta, a')\big)$ is weakly increasing in a' for all $a' \in [a, \overline{a}(\theta_t, a)]$.

By Lemma A.4, $M(a')$ is continuously differentiable so we can write $\frac{\partial M(a')}{\partial a'} = v'(a') + \beta E_t\big(W_a(\theta, a')\big)$. We know that $W_a(\theta, a)$ satisfies $W_a(\theta, a) \geq -K^W$ for all $\theta, a \in [-\overline{\theta}, \overline{\theta}] \times [0, 1]$ for some finite K^W (see Lemma A.4). Hence $\frac{\partial M(a')}{\partial a'} \geq v'(a') - \beta K^W$. If $K^W = 0$ (i.e., $W_a(\theta_t, a)$ is always weakly increasing), define $\widehat{\beta} = \overline{\beta}$. If $K^W > 0$, define $\widehat{\beta} = \min_{a' \in [0,1]} \frac{v'(a')}{K^W} > 0$ since K^W is finite. For all $\beta \leq \widehat{\beta}$, $M(a')$ is strictly increasing in a' for $a' \in [a, \overline{a}(\theta_t, a)]$ for all $\theta_t, a \in [-\overline{\theta}, \widehat{\theta}(a)] \times [0, 1)$ so $a_t = \overline{a}(\theta_t, a)$ is a best response to the court's strategy. $\square$

Proof of Lemma 3

Point (i) follows directly from the proof of Lemma 1.

For the remaining points, we ignore arguments for ease of exposition, from Lemma A.3, recall that $\overline{a}$ is the unique solution to $H(\overline{a}; \theta, a) = 0$ with

$$H(a_t; \theta, a) = 2(\kappa^C + (1-\beta)\theta) - (a + a_t) + \beta \frac{1 - a_t}{a_t - a} \int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta + \kappa^C) - (a_t + 1) dF(\theta),$$

strictly decreasing in a_t.

$H(\cdot)$ is clearly $\mathcal{C}^1$ in all arguments given $\widehat{\theta}(a) = \frac{\frac{1+a}{2}-\kappa^C}{1-\beta}$. Thus we can apply the Implicit Function Theorem. We obtain (using H_z to denote the partial derivative with respect to z):

$$H_{a_t}(\overline{a};\theta,a)\overline{a}_\theta + 2(1-\beta) = 0,$$

which immediately proves point (ii) since $H_{a_t}(\overline{a};\theta,a) < 0$ from Lemma A.3.

For point (iii), notice again that by the Implicit Function Theorem, $\frac{\partial \overline{a}(\theta,a)}{\partial a} = -\frac{H_a(\overline{a};\theta,a)}{H_{a_t}(\overline{a};\theta,a)}$. Since $H_{a_t}(\overline{a};\theta,a) < 0$, $\frac{\partial(\overline{a}-a)}{\partial a}$ has the same sign as $H_a(\overline{a};\theta,a) + H_{a_t}(\overline{a};\theta,a)$.

Using Equation A.7, we obtain

$$H_a(\overline{a};\theta,a) = -1 + \frac{1}{\overline{a}-a}\beta\frac{1-\overline{a}}{\overline{a}-a}\int_{\widehat{\theta}(\overline{a})}^{\overline{\theta}} (2((1-\beta)\theta+\kappa^C) - \overline{a} + 1)dF(\theta)$$

and (noting that $2((1-\beta)\widehat{\theta}(a_t)+\kappa^C) - (a_t+1) = 0$ by definition of $\widehat{\theta}(a_t)$)

$$H_{a_t}(\overline{a};\theta,a) = -1 - \frac{1}{\overline{a}-a}\beta\frac{1-a}{\overline{a}-a}\int_{\widehat{\theta}(\overline{a})}^{\overline{\theta}} (2((1-\beta)\theta+\kappa^C) - \overline{a} + 1)dF(\theta) - \beta\frac{1-\overline{a}}{\overline{a}-a}(1-F(\widehat{\theta}(\overline{a})).$$

Hence, $H_a(\overline{a};\theta,a) + H_{a_t}(\overline{a};\theta,a) < 0$ and the distance between $\overline{a}(\theta,a)$ and a decreases with a as claimed. □

Proof of Proposition 3

Given $\widehat{\theta}(a) = \frac{\frac{1+a}{2}-\kappa^C}{1-\beta}$, $\widehat{\theta}(a^l) < \widehat{\theta}(a^h)$. From Lemma 3, $\overline{a}(\theta,a)$ is continuously strictly increasing in θ for all $\theta < \widehat{\theta}(a)$. Combining both properties together, there exists $\theta^\dagger(a^l,a^h)$ satisfying the property of the proposition. Note that $\theta^\dagger(a^l,a^h) < \widehat{\theta}(a^l)$ since at $\theta_t = \widehat{\theta}(a^l)$, $\overline{a}(\widehat{\theta}(a^l),a^l) = 1$ and $\overline{a}(\widehat{\theta}(a^l),a^h) < 1$. □

Proof of Proposition 4

Recall that $\overline{a}_t$ (ignoring arguments) is the solution to $H(a_t;\theta,a) = 0$ with

$$H(a_t;\theta,a) = 2(\kappa^C + (1-\beta)\theta) - (a+a_t) + \beta\frac{1-a_t}{a_t-a}\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C) - (a_t+1)dF(\theta),$$

Recall as well that $\widehat{\theta}(a) = \frac{\frac{1+a}{2}-\kappa^C}{1-\beta}$ and does not depend on the distribution of the states of the world.

Denote $H_J(\cdot)$ the $H(\cdot)$ function associated with the distribution F_J: $H_J(a_t;\theta,a) = 2(\kappa^C+(1-\beta)\theta)-(a+a_t)+\beta\frac{1-a_t}{a_t-a}\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF_J(\theta)$, $J \in \{A, B\}$. To prove the result, it is sufficient that $H_A(a_t;\theta,a) \leq H_B(a_t;\theta,a)$ for all a_t (since $H(\cdot)$ is strictly decreasing with a_t). This is equivalent to showing that $\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF_A(\theta) \leq \int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF_B(\theta)$. Notice that (by integrating by parts):

$$\begin{aligned}\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF_J(\theta) =& \big(2(1-\beta)\overline{\theta}+\kappa^C)-(a_t+1)\big)\\ &-\big(2(1-\beta)\widehat{\theta}(a_t)+\kappa^C)-(a_t+1)\big)F_J(\widehat{\theta}(a_t))\\ &-\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2(1-\beta)F_J(\theta)d\theta\end{aligned}$$

By definition of $\widehat{\theta}(a_t)$, $2(1-\beta)\widehat{\theta}(a_t)+\kappa^C)-(a_t+1) = 0$. Hence, we just need to compare $\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} F_A(\theta)d\theta$ and $\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} F_B(\theta)d\theta$.

Suppose $\widehat{\theta}(a_t) \geq 0$. Since F_B is a mean preserving spread of F_A, $\int_{-\overline{\theta}}^{\widehat{\theta}(a_t)} F_A(\theta)d\theta \leq \int_{-\overline{\theta}}^{\widehat{\theta}(a_t)} F_B(\theta)d\theta$ and $\int_{-\overline{\theta}}^{\overline{\theta}} F_A(\theta)d\theta = \int_{-\overline{\theta}}^{\overline{\theta}} F_B(\theta)d\theta$ (to see this, note that $\int_{-\overline{\theta}}^{\overline{\theta}} \theta dF_J(\theta) = \overline{\theta} - \int_{-\overline{\theta}}^{\overline{\theta}} F_J(\theta)d\theta$ by integrating by parts). Hence, $\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} F_A(\theta)d\theta \geq \int_{\widehat{\theta}(a_t)}^{\overline{\theta}} F_B(\theta)d\theta$. This directly implies $\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF_A(\theta) \leq \int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF_B(\theta)$.

Suppose now that $\widehat{\theta}(a_t) < 0$. Since $F_J(\cdot)$ is symmetric, we have $F_J(-\theta) = 1 - F_J(\theta)$. Decompose $\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} F_J(\theta)d\theta = \int_{\widehat{\theta}(a_t)}^{0} F_J(\theta)d\theta + \int_{0}^{-\widehat{\theta}(a_t)} F_J(\theta)d\theta + \int_{-\widehat{\theta}(a_t)}^{\overline{\theta}} F_J(\theta)d\theta$. By change of variables, $\int_{\widehat{\theta}(a_t)}^{0} F_J(\theta)d\theta = \int_{-\widehat{\theta}(a_t)}^{0} -F_J(-\theta)d\theta = \int_{-\widehat{\theta}(a_t)}^{0} -(1-F_J(\theta))d\theta = \int_{0}^{-\widehat{\theta}(a_t)}(1-F_J(\theta))d\theta$ (where the second equality uses the symmetry). Hence, $\int_{\widehat{\theta}(a_t)}^{0} F_J(\theta)d\theta = -\widehat{\theta}(a_t) - \int_{0}^{-\widehat{\theta}(a_t)} F_J(\theta)d\theta$ and $\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} F_J(\theta)d\theta = -\widehat{\theta}(a_t) + \int_{-\widehat{\theta}(a_t)}^{\overline{\theta}} F_J(\theta)d\theta$. Since F_B is a mean preserving spread of F_A, by the same reasoning as above, $\int_{-\widehat{\theta}(a_t)}^{\overline{\theta}} F_A(\theta)d\theta \geq \int_{-\widehat{\theta}(a_t)}^{\overline{\theta}} F_B(\theta)d\theta$ so $\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF_A(\theta) \leq \int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(a_t+1)dF_B(\theta)$ again. □

B Proofs for extensions and robustness

B.1 Alternative judicial rule

Before proving Proposition 5, it is useful to consider the following modified maximization problem. We study the *court*'s choice of a new authority claim under the constraint that the authority choice each period must satisfy $a_t \geq \max \mathcal{R}_t$ (i.e., this is equivalent to the court choosing when to increase authority, but the incumbent deciding how much authority to use each period). In this amended problem, we use $\breve{\cdot}$ to denote the associated continuation value and equilibrium choices. More specifically, facing with a state θ, the court's equilibrium choice is denoted $\breve{a}(\theta, a, a^R)$ under the conditions of the lemma ($\max \mathcal{R}_t = a$ and $\min \mathcal{W}_t = a^R$).

Lemma B.1. *Suppose* $\max \mathcal{R}_t = a \in [0, 1)$*,* $\min \mathcal{W}_t = a^R \in (a, 1]$*, and the court decides the increase in authority claim under the constraint* $a_t \geq \max \mathcal{R}_t$*. Then*
(i) the court never imposes additional constraint on itself: $\min \mathcal{W}_{t'} = a^R$ *for all* $t' \geq t$*;*
(ii) there exists a unique $\theta^T(a) < \overline{\theta}$ *such that for all* $\theta_t \leq \theta^T(a)$*, the court keeps authority constant in period* t*:* $\breve{a}(\theta_t, a, a^R) = a$*;*
(iii) there exists a unique $\theta^M(a^R) \in (\theta^T(a), \overline{\theta})$ *such that for all* $\theta_t \geq \theta^M(a^R)$*, the court extends authority to its maximum in period* t*:* $\breve{a}(\theta_t, a, a^R) = a^R$*;*
(iv) For all $\theta_t \in (\theta^T(a), \theta^M(a^R))$*, the court's period* t *authority claim satisfies:* $\breve{a}(\theta_t, a, a^R) = \theta_t - \beta \int_{-\overline{\theta}}^{\theta_t} (\theta_t - \tilde{\theta}) dF(\tilde{\theta})$*.*

Proof. We first look at the court's maximization problem when it does not impose constraint on itself. That is, the court's maximization problem is:

$$\max_{a' \in [a, a^R]} \; -(a' - \kappa^C - \theta)^2 + \breve{V}(a', a^R)$$

We suppose that the court then plays a threshold strategy: pick $\breve{a}(\theta, a, a^R) = a$ if and only if $\theta \leq \theta^T(a)$, for some $\theta^T(a)$, and choose some authority $\breve{a}(\theta, a, a^R) > a$ otherwise. We verify that this is the case below.

Under the prescribed strategy, using a similar reasoning as in the proof of Lemma A.4, the continuation value $\breve{V}(\cdot, \cdot)$ exists, is differentiable, concave, with continuous derivative. Further, it equals, for all a', a^R:

$$\breve{V}(a', a^R) = \int_{-\bar{\theta}}^{\theta^T(a')} -(a' - \kappa^C - \tilde{\theta})^2 + \beta \breve{V}(a', a^R) dF(\tilde{\theta}) + \int_{\theta^T(a')}^{\bar{\theta}} -(\breve{a}(\tilde{\theta}, a', a^R) - \kappa^C - \tilde{\theta})^2$$
$$+ \beta V(\breve{a}(\tilde{\theta}, a', a^R), a^R) dF(\tilde{\theta}),$$

with $\breve{a}(\theta, a', a^R) = \arg\max_{a'' \in [a', a^R]} \ -(a'' - \kappa^C - \theta)^2 + \beta \breve{V}(a'', a^R)$.

Denote $\breve{\mathcal{V}}(a', \theta, a) = -(a' - \kappa^C - \theta)^2 + \beta \breve{V}(a', a^R)$. Denoting partial derivative with respect to the ith argument by the usual subscript, we obtain

$$\breve{\mathcal{V}}_1(a', \theta, a) = -2(a' - \kappa^C - \theta) + \beta \breve{V}_1(a', a^R),$$

with

$$\begin{aligned}\breve{V}_1(a', a^R) = &\int_{-\bar{\theta}}^{\theta^T(a')} -2(a' - \kappa^C - \tilde{\theta}) + \beta \breve{V}_1(a', a^R) dF(\tilde{\theta}) \\ &+ \frac{\partial \theta^T(a')}{\partial a'} f(\theta^T(a')) \Big(-(a' - \kappa^C - \theta^T(a'))^2 + \beta \breve{V}(a', a^R) \\ &- \big(-(\breve{a}(\theta^T(a'), a', a^R) - \kappa^C - \theta^T(a'))^2 + \beta \breve{V}(\breve{a}(\theta^T(a'), a', a^R), a^R) \big) \Big)\end{aligned}$$

Given $\breve{a}(\theta^T(a'), a', a^R) = a'$, we then obtain:

$$\breve{V}_1(a', a^R) = \int_{-\bar{\theta}}^{\theta^T(a')} -2(a' - \kappa^C - \tilde{\theta}) + \beta \breve{V}_1(a', a^R) dF(\tilde{\theta})$$

Observe that if $\breve{\mathcal{V}}_1(a', \theta, a) < 0$ for all $a' > a$, the court's optimal claim is $\breve{a}(\theta, a, a^R) = a$. The condition is equivalent to

$$(a' - \kappa^C - \theta) + \beta \frac{\int_{-\bar{\theta}}^{\theta^T(a')} (a' - \kappa^C - \tilde{\theta}) dF(\tilde{\theta})}{1 - \beta F(\theta^T(a'))} > 0$$

After rearranging, we obtain

$$(a' - \kappa^C - \theta) + \beta \int_{-\bar{\theta}}^{\theta^T(a')} (\theta - \tilde{\theta}) dF(\tilde{\theta}) > 0$$

In turn, $\breve{a}(\theta, a, a^R)$ is an interior solution ($a' \in (a, a^R)$), if there exists a solution to $\breve{\mathcal{V}}_1(a', \theta, a) = 0$, or equivalently to

$$a' = \theta + \kappa^C - \beta \int_{-\overline{\theta}}^{\theta^T(a')} (\theta - \tilde{\theta}) dF(\tilde{\theta}) \tag{B.1}$$

Finally, $\breve{a}(\theta, a, a^R) = a^R$ if $\breve{\mathcal{V}}_1(a', \theta, a) \geq 0$ for all $a' \in [a, a^R]$.

We now show that for all $a \in [0, a^R]$, there exists a unique $\theta^T(a)$ such that $\breve{\mathcal{V}}_1(a', \theta, a) < 0$ for all $a' \geq a$ if and only if $\theta \leq \theta^T(a)$. Consider the function $H(\theta, \theta^T) = \theta - \kappa^C - \beta \int_{-\overline{\theta}}^{\theta^T} (\theta - \tilde{\theta}) dF(\tilde{\theta})$. Notice that $H_1(\theta, \theta^T) > 0$ and $H_2(\theta, \theta^T) < 0$. We now show that there exists a unique $\theta^T(a) \in (-\overline{\theta}, \overline{\theta})$ such that for all $a \in [0, 1]$, $H(\theta^T(a), \theta^T(a)) = a$. To do so, consider $h(\theta^T) = H(\theta^T, \theta^T) = \theta^T - \kappa^C - \beta \int_{-\overline{\theta}}^{\theta^T} (\theta^T - \tilde{\theta}) dF(\tilde{\theta})$. The function $h(\cdot)$ has the following properties:

(a) $h'(\theta^T) = 1 - \beta F(\theta^T) > 0$ for all $\theta^T \in [-\overline{\theta}, \overline{\theta}]$;

(b) $h(-\overline{\theta}) = -\overline{\theta} + \kappa^C < 0$ since $\overline{\theta} > 1/(1-\beta) > 1$ and $\kappa^C \leq 1$;

(c) $h(\overline{\theta}) = (1-\beta)\overline{\theta} + \kappa^C > 1$ under the assumption.

Combining the three properties, by the theorem of intermediate values, there exists a unique $\theta^T(a) \in (-\overline{\theta}, \overline{\theta})$ such that for all $a \in [0, 1]$, $h(\theta^T(a)) = a$. Further, $\theta^T(a)$ is strictly increasing with a by the Implicit Function Theorem.

Given that $H(\theta, \theta^T)$ is strictly increasing in its first argument and strictly decreasing in its second argument, this implies that $H(\theta, \theta^T(a)) \leq a$ if and only if $\theta \leq \theta^T(a)$. Further, $a' - H(\theta, \theta^T(a')) > 0$ for all $a' > a$ if and only if $\theta \leq \theta^T(a)$. Consequently, for all $\theta \leq \theta^T(a)$, $\breve{a}(\theta, a, a^R) = a$ as claimed (this proves point (ii) of the lemma).

We now show that there exists $\theta^M(a^R) \in (-\overline{\theta}, \overline{\theta})$ such that $\breve{a}(\theta, a, a^R) = a^R$ for all $\theta \geq \theta^M(a^R)$ (i.e., $\breve{\mathcal{V}}_1(a', \theta, a) \geq 0$ for all $a' \in [a, a^R]$). To see this, recall that for all a, $\theta^T(a)$ is defined as: $a = \theta^T(a) + \kappa^C - \int_{-\overline{\theta}}^{\theta^T(a)} (\theta^T(a) - \tilde{\theta}) dF(\tilde{\theta})$. Hence, for all $\theta \geq \theta^T(a)$, we can rewrite Equation B.1 as

$$\theta^T(a') + \kappa^C - \beta \int_{-\overline{\theta}}^{\theta^T(a')} (\theta^T(a') - \tilde{\theta}) dF(\tilde{\theta}) = \theta + \kappa^C - \beta \int_{-\overline{\theta}}^{\theta^T(a')} (\theta - \tilde{\theta}) dF(\tilde{\theta}),$$

which implies that $\theta = \theta^T(a')$. As a result, the court's equilibrium choice satisfies for all $\theta \geq \theta^T(a)$

$$\breve{a}(\theta, a, a^R) = \min \left\{ \theta + \kappa^C - \int_{-\overline{\theta}}^{\theta} (\theta - \tilde{\theta}) dF(\tilde{\theta}), a^R \right\} \tag{B.2}$$

Recall that $\theta + \kappa^C - \int_{-\overline{\theta}}^{\theta}(\theta - \tilde{\theta})dF(\tilde{\theta}) = h(\theta)$, $h(\overline{\theta}) > 1$, and $h(\cdot)$ is strictly increasing. Hence, there exists a unique $\theta^M(a^R)$ such that for all $\theta \geq \theta^M(a^R)$, the court picks $\breve{a}(\theta, a, a^R) = a^R$. This proves point (iii). Point (iv) then follows from Equation B.2.

Finally, note that the court would never choose to increase the impermissible set if it decides upon new claim. Indeed, the court can, if it chooses so, constraint itself and never to go over a certain authority claim $\widehat{a^R} < a^R$ without having to increase the impermissible set. Since it chooses not to do with positive probability by the reasoning above, the court must be strictly better off without imposing additional constraint on itself. Hence, the optimal choice of the court under the constraint $a_t \geq \max \mathcal{R}_t$ is as defined in the text of the lemma. □

We now turn to the proof of Proposition 5. Throughout, we assume that continuation values exist since we focus on the properties of equilibria.

Proof of Proposition 5

The proof proceeds in several steps. In step 1, we show the existence of $\widehat{\theta}^{\mathscr{L}}(a, a^R)$. In step 2, we show that $\widehat{\theta}^{\mathscr{L}}(a, a^R)$ is unique. In step 3, we demonstrate that there exists $\overline{a}(\theta, a, a^R) > a$ such that the court upholds all authority claims satisfying $a_t \leq \overline{a}(\theta, a, a^R)$ in all states of the world.

Step 1. From Lemma B.1, we know that when the court chooses the extent of authority extension in period t, there exists $\theta^M(a^R)$ such that for all $\theta_t \geq \theta^M(a^R)$, the court chooses $\breve{a}(\theta_t, a, a^R) = a^R$ (recall that $\breve{\cdot}$ denotes equilibrium choice, continuation values in the modified maximization problem). That is, for all $a' \in [a, a^R)$, we have: $-(a' - \theta_t)^2 + \beta\check{V}(a', a^R) < -(a^R - \theta_t)^2 + \beta\check{V}(a^R, a^R)$. Because in our model the incumbent, not the court, is deciding upon the authority extension, it must be that $\check{V}(a', a^R) \geq V(a', a^R)$. Further, from point (iv) of Lemma B.1, we know that the court never restricts itself. Hence, the court's continuation value is always lower with the incumbent deciding on authority extension than when it chooses the new claim each period. In turn, $\check{V}(a^R, a^R) = V(a^R, a^R) = \frac{E_\theta\left(-(a^R-\theta)^2\right)}{1-\beta}$. Consequently, whenever the court prefers a^R under the amended maximization problem, it also prefers a^R to all other authority claims when the executive is deciding on the extension of authority. That is, for all $\theta_t \geq \theta^M(a^R)$, $d(\theta_t, a_t, a, a^R) = 0$ for all $a_t \in [a, a^R]$. This proves existence of a threshold and concludes step 1.

Step 2. To show uniqueness, notice that the court prefers to uphold a claim a^R rather than rejecting it whenever

$$-(a^R - \theta)^2 + \beta V(a^R, a^R) \geq -(a-\theta)^2 + \beta V(a, a^R)$$
$$\Leftrightarrow \quad (a - a^R)(a + a^R - 2\theta) \geq \beta\big(V(a, a^R) - V(a^R, a^R)\big)$$

The function $(a - a^R)(a + a^R - 2\theta)$ is strictly increasing with θ. Hence, if there exists θ^l such that $(a - a^R)(a + a^R - 2\theta^l) \geq \beta\big(V^0(a, a^R) - V^0(a^R, a^R)\big)$, then $(a - a^R)(a + a^R - 2\theta) > \beta\big(V^0(a, a^R) - V^0(a^R, a^R)\big)$ for all $\theta > \theta^l$. Hence, $\widehat{\theta}^{\mathscr{L}}(a, a^R)$ is necessarily unique.

Step 3. We now show that there exists $\overline{\epsilon} > 0$ such that for all $\epsilon \in (0, \overline{\epsilon}]$, defining $a' = a + \epsilon$, $-(a' - \kappa^C - \theta)^2 + \beta V(a', a^R) \geq -(a - \kappa^C - \theta)^2 + \beta V(a, a')$ (i.e., the court upholds any $a' \in (a, a + \overline{\epsilon}]$. This is equivalent to show that $2\epsilon(a + \frac{\epsilon}{2} - \theta - \kappa^C) \leq \beta(V(a + \epsilon, a^R) - V(a, a + \epsilon))$. Now, we can rewrite $V(a + \epsilon, a^R) - V(a, a + \epsilon) = (V(a + \epsilon, a^R) - V(a, a)) - (V(a, a + \epsilon) - V(a, a))$. Using a similar reasoning as in the proof of Proposition 2, given steps 1 and 2, we know that there exist $\widehat{\epsilon} > 0$ such that for all $\epsilon \in (0, \widehat{\epsilon})$, $V(a + \epsilon, a^R) - V(a, a)$ is bounded below away from zero. Further, denote $\theta^*(a) = a - \kappa^C$ and note that $V(a, a + \epsilon) < F(\theta^*(a))\frac{E_\theta(-(a-\theta-\kappa^C)^2|\theta \leq \theta^*(a))}{1-\beta} + (F(\theta^*(a + \epsilon)) - F(\theta^*(a))) \times 0 + (1 - F(\theta^*(a + \epsilon))\frac{E_\theta(-(a+\epsilon-\theta-\kappa^C)^2|\theta \geq \theta^*(a))}{1-\beta}$ (the right-hand side is the court's payoff if it can choose the optimal $a_t \in [a, a + \epsilon]$ for itself each period without any effect on precedent, the inequality is strict since if $a_t = a + \epsilon$ in some period t, $a_{t'}(\theta) = a + \epsilon$ for all θ and all $t' > t$ in any equilibrium). This means that $V(a, a + \epsilon) - V(a, a) < (F(\theta^*(a + \epsilon)) - F(\theta^*(a)))\frac{E_\theta((a-\theta-\kappa^C)^2|\theta \in (\theta^*(a), \theta^*(a+\epsilon)))}{1-\beta} + (1 - F(\theta^*(a + \epsilon))\frac{E_\theta((a-\theta-\kappa^C)^2 - (a+\epsilon-\theta-\kappa^C)^2|\theta \geq \theta^*(a))}{1-\beta}$. This (strict) upper bound is continuous in ϵ and converge to 0 as $\epsilon \to 0$. Hence, there exists $\acute{\epsilon} > 0$ such that there exists $\psi > 0$ such that for all $\epsilon \in (0, \acute{\epsilon})$, $(V(a + \epsilon, a^R) - V(a, a)) - (V(a, a + \epsilon) - V(a, a)) \geq \psi$. Given that $2\epsilon(a + \frac{\epsilon}{2} - \theta - \kappa^C)$ is continuous in ϵ and converges to 0 as $\epsilon \to 0$, there exists $\overline{\epsilon} > 0$, such that for all $\epsilon \in (0, \overline{\epsilon}), 2\epsilon(a + \frac{\epsilon}{2} - \theta - \kappa^C) \leq \beta(V(a + \epsilon, a^R) - V(a, a + \epsilon))$. □

B.2 Revisiting precedents

To prove Propositions 6 and 7, we first introduce or re-introduce some notation. Let $V(a, a')$ be the continuation of the court at the beginning of a period before the state of the world is realized and Nature determines the court's ability to revisit precedents. Since we consider our original baseline judicial rule, note that $a' \in \{a, 1\}$. As noted above, with probability λ, the court has an opportunity to revisit precedents. We denote V^C the continuation of the court in this case. That is,

$$V^C = E_\theta\Big(\max_{a\in[0,1]} \big\{ - (a - (\theta + \kappa^C))^2 + \beta V(a, 1)\big\}\Big)$$

The next lemma provides an equivalent result to Lemma 1 in this setting.

Lemma B.2. *Define* $\max \mathcal{R}_t = a$ *and denote* $\widehat{\theta}(a) = \frac{\frac{1+a}{2} - \kappa^C}{1-\beta(1-\lambda)}$. *In any equilibrium, the court upholds a full authority claim,* $d_t(\theta_t, 1, a, 1) = 0$*, if and only if* $\theta_t \geq \widehat{\theta}(a)$.

Proof. If the court rejects a claim of $a_t = 1$, then its continuation value is:

$$V(a, a) = (1 - \lambda)E_\theta\big(- (a - (\theta + \kappa^C))^2 + \beta V(a, a)\big) + \lambda V^C$$

With probability $1 - \lambda$, the court cannot revisit precedents, it obtains a period payoff of $-(a - (\theta + \kappa^C))^2$ for each realization of the state (hence, the expectation) and start next period with the same continuation value. With probability λ, the court has an opportunity to revisit precedent and its continuation value is V^C. Rearranging, this yields

$$V(a, a) = \frac{(1 - \lambda)E_\theta\big(- (a - (\theta + \kappa^C))^2\big)}{1 - \beta(1 - \lambda)} + \frac{\lambda V^C}{1 - \beta(1 - \lambda)} \tag{B.3}$$

In turn, if the court upholds the claim, its continuation value is, by the same reasoning:

$$V(1, 1) = (1 - \lambda)E_\theta\big(- (1 - (\theta + \kappa^C))^2 + \beta V(1, 1)\big) + \lambda V^C$$

Rearranging, this yields

$$V(1, 1) = \frac{(1 - \lambda)E_\theta\big(- (1 - (\theta + \kappa^C))^2\big)}{1 - \beta(1 - \lambda)} + \frac{\lambda V^C}{1 - \beta(1 - \lambda)} \tag{B.4}$$

The court upholds an authority claim of $a_1 = 1$ in state θ_t if and only if:

$$-(a - (\theta_t + \kappa^C))^2 + \beta V(a, a) \leq -(1 - (\theta_t + \kappa^C))^2 + \beta V(1, 1)$$

Proceeding just like in the proof of Lemma 1 finishes the proof of the lemma. □

Proof of Proposition 6

The proof is very similar to the proof of Proposition 2. The key step is to show that the court always prefers the continuation value $V(a_t, 1)$ to $V(a_t, a_t)$.

Keeping P's strategy as $a_t(\theta_t, a, 1)$ (with θ_t the state in period t and $a = \max \mathcal{R}_t$, and $1 = \min \mathcal{W}_t$). In any equilibrium, the continuation value when no claim has been rejected is (ignoring arguments in a_t) $V(a_t, 1) = (1-\lambda)E_\theta\Big[\max\{-\big(a_{t+1}(\theta, a_t, 1) - \kappa^C - \theta\big)^2 + \beta V(a_{t+1}(\theta, a_t, 1), 1), -\big(a_t - \kappa^C - \theta\big)^2 + \beta V(a_t, a_t)\}\Big] + \lambda V^C$. By Lemma B.2, for all $\theta_t \geq \widehat{\theta}(a_t)$, the court prefers full authority claim to the status quo a_t and $a_{t+1}(\theta_t, a_t, 1) = 1$ since full authority forever is the politician's preferred outcome. This implies that for any $a_t < 1$, for all $\theta_{t+1} \in (\widehat{\theta}(a_t), \overline{\theta}]$ (a non-empty interval), $-\big(a_{t+1}(\theta_{t+1}, a_t, 1) - \kappa^C - \theta_{t+1}\big)^2 + \beta V(a_{t+1}(\theta_{t+1}, a_t, 1), 1) > -\big(a_t - \kappa^C - \theta_{t+1}\big)^2 + \beta V(a_t, a_t)$. Hence, necessarily $V(a_t, 1) > (1-\lambda)E_\theta\Big[-\big(a_t - \kappa^C - \theta\big)^2 + \beta V(a_t, a_t)\Big] + \lambda V^C = V(a_t, a_t)$ for any $a_t \in [0, 1)$. In addition, following the same reasoning as in Proposition 2, $V(a_t, 1) - V(a_t, a_t) \geq (1-\lambda)(1-a_t)\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} \left(2\theta - \frac{1+a_t-2\kappa^C}{1-\beta}\right) dF(\theta)$.

As we recover a similar inequality as in the proof of Proposition 2 (the only difference being the probability $(1-\lambda) > 0$), we can then apply the same steps to prove the result. □

We now turn to the case of the maximally admissible equilibrium. Existence follows very much along the same steps as for the proof of Lemma 2. In particular, the court's tolerance threshold is now the unique solution to the following equation for all $\theta_t \leq \widehat{\theta}_t(a)$, with $\widehat{\theta}_t(a)$ defined in Lemma B.2 (details available upon request).

$$2(\kappa^C + (1-\beta(1-\lambda))\theta) - (a + a_t) + \beta(1-\lambda)\frac{1-a_t}{a_t - a}\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta(1-\lambda))\theta + \kappa^C) - (a_t + 1) dF(\theta) = 0 \quad \text{(B.5)}$$

The possibility of the court revisiting precedents is, thus, equivalent to a decrease in the discount factor the court (compare Equation B.5 and Equation A.7). As we have discussed in the main text, the comparative statics on β is unclear and we cannot conclude whether the possibility of revisiting precedents increase or decrease the court's tolerance threshold. We can, however, prove that the court increases on its own the authority of the executive when θ_t is sufficiently large.

Proof of Proposition 7

Under the specified strategy, in all period t such that $\max \mathcal{R}_t = a \in [0,1)$ and $\theta_t < \widehat{\theta}(a) = \frac{\frac{1+a}{2} - \kappa^C}{1-\beta(1-\alpha)}$, $a_t(\theta_t, a, 1)$ satisfies:

$$-(a_t(\theta,a,1) - \kappa^C - \theta)^2 + \beta V(a_t(\theta,a,1),1) = -(a - \kappa^C - \theta)^2 + \beta V(a,a) \tag{B.6}$$

We can then rewrite $V(a,1)$ as

$$\begin{aligned}
V(a,1) =&(1-\lambda)\Big[\int_{-\bar{\theta}}^{\widehat{\theta}(a)} -(a_t(\theta,a,1) - \kappa^C - \theta)^2 + \beta V(a_t(\theta,a,1),1) dF(\theta) \\
&+ \int_{\widehat{\theta}(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 + \beta V(1,1) dF(\theta)\Big] + \lambda V^C \\
=&(1-\lambda)\Big[\int_{-\bar{\theta}}^{\widehat{\theta}(a)} -(a-\kappa^C-\theta)^2 + \beta V(a,a) dF(\theta) \\
&+ \int_{\widehat{\theta}(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 + \beta V(1,1) dF(\theta)\Big] + \lambda V^C \quad \text{(using Equation B.6)} \\
=&(1-\lambda)\Big[\int_{-\bar{\theta}}^{\widehat{\theta}(a)} -(a-\kappa^C-\theta)^2 + \frac{\beta(1-\lambda)E_\theta\big(-(a-(\theta+\kappa^C))^2\big)}{1-\beta(1-\lambda)} dF(\theta) \\
&+ \int_{\widehat{\theta}(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 + \frac{\beta(1-\lambda)E_\theta\big(-(1-(\theta+\kappa^C))^2\big)}{1-\beta(1-\lambda)} dF(\theta)\Big] \\
&+ \frac{(1-\lambda)\beta\lambda V^C}{1-\beta(1-\lambda)} + \lambda V^C \qquad \text{(using Equation B.3 and Equation B.4)}
\end{aligned}$$

Decomposing and using $E_\theta(\theta) = 0$, we then obtain:

$$\begin{aligned}
V(a,1) =& \frac{1-\lambda}{1-\beta(1-\lambda)}\big(- F(\widehat{\theta}(a))(a-\kappa^C)^2 - (1-F(\widehat{\theta}(a)))(1-\kappa^C)^2 - Var(\theta)\big) \\
&+ (1-\lambda)\Big[\int_{-\overline{\theta}}^{\widehat{\theta}(a)} 2(a-\kappa^C)\theta dF(\theta) + \int_{\widehat{\theta}(a)}^{\overline{\theta}} 2(1-\kappa^C)\theta dF(\theta)\Big] + \frac{\lambda V^C}{1-\beta(1-\lambda)} \\
=& \frac{1-\lambda}{1-\beta(1-\lambda)}\big(- (a-\kappa^C)^2 - (1-F(\widehat{\theta}(a)))(1-a)(a+1-2\kappa^C) - Var(\theta)\big) \\
&+ (1-\lambda)\int_{\widehat{\theta}(a)}^{\overline{\theta}} 2(1-a)\theta dF(\theta) + \frac{\lambda V^C}{1-\beta(1-\lambda)} \\
=& \frac{1-\lambda}{1-\beta(1-\lambda)}\left(-(a-\kappa^C)^2 - Var(\theta) + (1-a)\int_{\widehat{\theta}(a)}^{\overline{\theta}} 2((1-\beta(1-\lambda))\theta + \kappa^C) - (a+1) dF(\theta)\right) \\
&+ \frac{\lambda V^C}{1-\beta(1-\lambda)}
\end{aligned} \tag{B.7}$$

Equation B.7 directly shows (i) the continuation value exists, (ii) it is unique, and (iii) it is continuous and differentiable in a.

With this, we can rewrite the court's maximization problem for a realization of the state of the world θ_t as

$$\max_{a_t \in [0,1]} \; - (a_t - \theta_t - \kappa^C)^2 + \beta V(a_t, 1)$$

The first derivative of the objective function is:

$$-2(a_t-\theta_t-\kappa^C)+\frac{\beta(1-\lambda)}{1-\beta(1-\lambda)}\Big(-2(a_t-\kappa^C)-\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} 2((1-\beta(1-\lambda))\theta+\kappa^C)-(a_t+1)dF(\theta)-(1-a_t)\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} dF(\theta)\Big)$$

The second derivative is

$$\begin{aligned}
&-2 + \frac{\beta(1-\lambda)}{1-\beta(1-\lambda)}\Big(-2 + 2\int_{\widehat{\theta}(a_t)}^{\overline{\theta}} dF(\theta) + (1-a_t)\frac{\partial\widehat{\theta}(a_t)}{\partial a_t} f(\widehat{\theta}(a_t))\Big) \\
=& -2 + \frac{\beta(1-\lambda)}{1-\beta(1-\lambda)}\Big(-2F(\widehat{\theta}(a_t)) + (1-a_t)\frac{\partial\widehat{\theta}(a_t)}{\partial a_t} f(\widehat{\theta}(a_t))\Big)
\end{aligned}$$

Since $\frac{\partial\widehat{\theta}(a_t)}{\partial a_t} = \frac{1}{2(1-\beta(1-\lambda))}$ and, by assumption $\frac{f(\widehat{\theta}(a_t))}{F(\widehat{\theta}(a_t))} \leq 4(1-\beta(1-\lambda))$, the second derivative is strictly negative so the court's maximization problem is strictly concave.

Now consider the unconstrained problem (without the court's choice being constrained in the interval $[0,1]$), it is easy to observe that the solution the unconstrained problem satisfies:

$$\begin{aligned}&-2(a_t-\theta_t-\kappa^C)\\&+\frac{\beta(1-\lambda)}{1-\beta(1-\lambda)}\Big(-2(a_t-\kappa^C)-\int_{\widehat{\theta}(a_t)}^{\overline{\theta}}2((1-\beta(1-\lambda))\theta+\kappa^C)-(a_t+1)dF(\theta)-(1-a_t)\int_{\widehat{\theta}(a_t)}^{\overline{\theta}}dF(\theta)\Big)=0\end{aligned}$$

and it is continuous and increasing in θ_t. Hence, to prove the claim we just need to show that the solution to the unconstrained problem is strictly greater than 1 for some $\theta_t\in[-\overline{\theta},\overline{\theta}]$. This is equivalent to show that there exists $\theta^C\in[-\overline{\theta},\overline{\theta})$ such that for all $\theta_t\geq\theta^C$:

$$-2(1-\theta_t-\kappa^C)+\frac{\beta(1-\lambda)}{1-\beta(1-\lambda)}\Big(-2(1-\kappa^C)-\int_{\widehat{\theta}(1)}^{\overline{\theta}}2((1-\beta(1-\lambda))\theta+\kappa^C)-(1+1)dF(\theta)\Big)\geq 0$$

The threshold θ^C assumes the following value:

$$\theta^C=\frac{1-\kappa^C}{1-\beta(1-\lambda)}+\beta(1-\lambda)\int_{\widehat{\theta}(1)}^{\overline{\theta}}\theta-\frac{1-\kappa^C}{1-\beta(1-\lambda)}dF(\theta)$$

Noticing that $\widehat{\theta}(1)=\frac{1-\kappa^C}{1-\beta(1-\lambda)}$, we have:

$$\theta^C=\widehat{\theta}(1)+\beta(1-\lambda)\int_{\widehat{\theta}(1)}^{\overline{\theta}}\theta-\widehat{\theta}(1)dF(\theta)$$

Now notice that $\int_{\widehat{\theta}(1)}^{\overline{\theta}}\theta-\widehat{\theta}(1)dF(\theta)<(1-F(\widehat{\theta}(1))(\overline{\theta}-\widehat{\theta}(1))$ so $\widehat{\theta}(1)+\beta(1-\lambda)\int_{\widehat{\theta}(1)}^{\overline{\theta}}\theta-\widehat{\theta}(1)dF(\theta)<(1-\beta(1-\lambda))(1-F(\widehat{\theta}(1)))\widehat{\theta}(1)+\beta(1-\lambda)(1-F(\widehat{\theta}(1)))\overline{\theta}<\overline{\theta}$. Hence, $\theta^C<\overline{\theta}$. Using the continuity of the court's choice in θ, there exists $\underline{\theta}(a)$ such that if $\max\mathcal{R}_t=a$, the court's choice of new precedent $a^*(\theta_t)$ satisfies $a^*(\theta_t)>a$ for all $\theta_t>\underline{\theta}(a)$. □

B.3 Political turnover and executive power

Proof of Proposition 8

Denote $W_J(\theta,a,1,K)$ the continuation value of politician $J\in\{P_l,P_r\}$ when the state is θ, the maximum of the permissible range is a ($\max\mathcal{R}_t=a$), no previous claim has been rejected, and politician $K\in\{P_l,P_r\}$ is in office (assuming the existence). Let $a^*(\theta,a,1,K)$ a prescribed equilibrium authority acquisition when the state is θ, $\max \mathcal{R}_t = a$, and $K \in \{P_l, P_r\}$ is in office.

To prove the result, we first suppose that there exists $a \in [0,1]$ and θ such that the office-holder's equilibrium strategy satisfies $d(a^*(\theta, a, 1, J), \theta, a, 1) = 1$. That is, there exists some authority stock and some state of the world so that the incumbent oversteps her authority so as the court rejects the authority claim and blocks future claims. We show that there exists a profitable deviation whenever π is sufficiently close below to 1/2.

To do so, suppose that for some $t \geq 1$, P_l (the reasoning is parallel for P_r) is in power with authority stock a and the state is θ. If P_l follows her prescribed strategy, her expected payoff is:

$$W_{P_l}(\theta, a, a, P_l) = v(a) + \beta\pi W_{P_l}(\theta, a, a, P_l) + \beta(1-\pi)W_{P_l}(\theta, a, a, P_r) \tag{B.8}$$

Similarly,

$$W_{P_l}(\theta, a, a, P_r) = -v(a) + \beta\pi W_{P_l}(\theta, a, a, P_r) + \beta(1-\pi)W_{P_l}(\theta, a, a, P_l) \tag{B.9}$$

Simple computation then yields:

$$W_{P_l}(\theta, a, a, P_l) = v(a) + \beta\frac{(2\pi - 1)}{1 - \beta(2\pi - 1)}v(a) \tag{B.10}$$

Using a similar reasoning as in the proof of Proposition 2, it can be shown that there exists $\overline{a}(\theta, a)$ such that the court upholds the executive action if $a \leq \overline{a}(\theta, a)$.[17] Given the prescribed equilibrium strategy (the court must reject P_l's claim), obviously, $\overline{a}(\theta, a) < 1$. Consider the following deviation strategy by P_l. In period t, P_l chooses $\widehat{a}_t = \overline{a}(\theta, a)$. Then, in period $t+k$, $k \geq 1$, for each possible authority stock a_{t+k} and state of the world θ_{t+k}, P_l when in office chooses the same authority grab as P_r would if in power and denote this value $\widehat{a}_{t+k}(\theta_{t+k}, a_{t+k})$. Notice that for this particular deviation, we do not make any prediction about how P_r and the court react to the deviation strategy proposed. The reaction, however, is well defined since we assume that the equilibrium exists and

[17] Recall that we focus on Markov Perfect Equilibrium. Hence, the court only considers the state variables in its decision—(a) the identity of the current officeholder (which is inconsequential), (b) the authority stock a, and (c) the state θ_t—taking into *future* players' strategies.

we just look for a necessary condition for its existence.[18]

Denote $\widehat{a}_{t+k}$ the realized authority acquisition in period $t+k$ and noting that it is fully determined by previous states of the world, the expected payoff from the prescribed deviation is:

$$\widehat{W}_{P_l}(\theta, a, 1, P_l) = v(\overline{a}(\theta, a)) + \beta\pi E_{\theta_{t+1}}\big(\widehat{W}_{P_l}(\theta_{t+1}, \overline{a}(\theta, a), 1, P_l)\big) + \beta(1-\pi)E_{\theta_{t+1}}\big(\widehat{W}_{P_l}(\theta_{t+1}, \overline{a}(\theta, a), 1, P_r)\big) \tag{B.11}$$

Note that under the assumed deviation (ignoring arguments whenever possible):

$$\begin{aligned} E_{\theta_{t+1}}\big(\widehat{W}_{P_l}(\theta_{t+1}, \overline{a}(\theta, a), 1, P_l)\big) = E_{\theta_{t+1}}\Big(& v(\widehat{a}(\theta_{t+1}, \overline{a}) + \beta\pi E_{\theta_{t+2}}\big(\widehat{W}_{P_l}(\theta_{t+2}, \widehat{a}_{t+1}, 1, P_l)\big) \\ &+ \beta(1-\pi)E_{\theta_{t+2}}\big(\widehat{W}_{P_l}(\theta_{t+2}, \widehat{a}_{t+1}, 1, P_r)\big)\Big) \end{aligned}$$

and

$$\begin{aligned} E_{\theta_{t+1}}\big(W_{P_l}(\theta_{t+1}, \overline{a}(\theta, a), 1, P_r)\big) = E_{\theta_{t+1}}\Big(& - v(\widehat{a}(\theta_{t+1}, \overline{a}) + \beta\pi E_{\theta_{t+2}}\big(\widehat{W}_{P_l}(\theta_{t+2}, \widehat{a}_{t+1}, 1, P_r)\big) \\ &+ \beta(1-\pi)E_{\theta_{t+2}}\big(\widehat{W}_{P_l}(\theta_{t+2}, \widehat{a}_{t+1}, 1, P_l)\big)\Big) \end{aligned}$$

Therefore

$$\begin{aligned} &E_{\theta_{t+1}}\big(\widehat{W}_{P_l}(\theta_{t+1}, \overline{a}(\theta, a), 1, P_l) - \widehat{W}_{P_l}(\theta_{t+1}, \overline{a}(\theta, a), 1, P_r)\big) \\ =&E_{\theta_{t+1}}\big(2v(\widehat{a}(\theta_{t+1}, \overline{a})\big) + \beta(2\pi-1)E_{\theta_{t+1},\theta_{t+2}}\big(\widehat{W}_{P_l}(\theta_{t+2}, \widehat{a}_{t+1}, 1, P_l) - \widehat{W}_{P_l}(\theta_{t+2}, \widehat{a}_{t+1}, 1, P_r)\big), \end{aligned}$$

where $E_{\theta_{t+1},\theta_{t+2}}(\cdot)$ denotes iterated expectations.

Using the equation above, we can extend the series to obtain:

$$\begin{aligned} &E_{\theta_{t+1}}\big(\widehat{W}_{P_l}(\theta_{t+1}, \overline{a}(\theta, a), 1, P_l) - \widehat{W}_{P_l}(\theta_{t+1}, \overline{a}(\theta, a), 1, P_r)\big) \\ =&E_{\theta_{t+1}}\big(2v(\widehat{a}(\theta_{t+1}, \overline{a})\big) + 2\sum_{k=2}^{\infty}\beta^k(2\pi-1)^k E_{\theta_{t+1},\cdots,\theta_{t+k}}\big(v(\widehat{a}_{t+k})\big), \end{aligned}$$

[18]Notice that the one-shot deviation principle does not necessarily holds in this setting since the game is not a proper infinitely-repeated game due to the variations in the authority stock a and state of the world θ.

with $\widehat{a}_{t+k}$ standing for $\widehat{a}_{t+k}(\theta_{t+k}, \widehat{a}_{t+k-1})$.

Using the same reasoning as in Lemma A.4, in equilibrium, the continuation value must be unique. So we have:

$$E_{\theta_{t+1}}\big(\widehat{W}_{P_l}(\theta_{t+1}, \overline{a}(\theta, a), 1, P_l)\big) = E_{\theta_{t+1}}\big(v(\widehat{a}(\theta_{t+1}, \overline{a})\big) + \sum_{k=2}^{\infty} \beta^k (2\pi - 1)^k E_{\theta_{t+1},\cdots,\theta_{t+k}}\big(v(\widehat{a}_{t+k})\big) \quad \text{(B.12)}$$

$$E_{\theta_{t+1}}\big(\widehat{W}_{P_l}(\theta_{t+1}, \overline{a}(\theta, a), 1, P_r)\big) = E_{\theta_{t+1}}\big(- v(\widehat{a}(\theta_{t+1}, \overline{a})\big) - \sum_{k=2}^{\infty} \beta^k (2\pi - 1)^k E_{\theta_{t+1},\cdots,\theta_{t+k}}\big(v(\widehat{a}_{t+k})\big) \quad \text{(B.13)}$$

Denoting $\widehat{a}_{t+1} = \widehat{a}(\theta_{t+1}, \overline{a})$, we thus obtain:

$$\widehat{W}_{P_l}(\theta, a, 1, P_l) = v(\overline{a}(\theta, a)) + \sum_{k=1}^{\infty} \beta^k (2\pi - 1)^k E_{\theta_{t+1},\cdots,\theta_{t+k}}\big(v(\widehat{a}_{t+k})\big) \quad \text{(B.14)}$$

If $\pi \geq 1/2$, it is obvious that $\widehat{W}_{P_l}(\theta, a, 1, P_l) > W_{P_l}(\theta, a, a, P_l) = v(a) + \sum_{k=1}^{\infty} \beta^k (2\pi - 1)^k v(a)$ since $\widehat{a}_{t+1} > a$ and $\overline{a} > a$. Suppose $\pi < 1/2$, then note that $(2\pi - 1)^k$ is negative for k odd and positive for k even. So we have

$$\widehat{W}_{P_l}(\theta, a, 1, P_l) > v(\overline{a}(\theta, a)) + \sum_{k=0}^{\infty} \beta^{2k+1} (2\pi - 1)^{2k+1} v(1) + \sum_{k=1}^{\infty} \beta^{2k} (2\pi - 1)^{2k} v(a)$$

Consequently, a necessary condition for the postulated equilibrium to exist is:

$$v(a) + \sum_{k=1}^{\infty} \beta^k (2\pi - 1)^k v(a) \geq v(\overline{a}(\theta, a)) + \sum_{k=0}^{\infty} \beta^{2k+1} (2\pi - 1)^{2k+1} v(1) + \sum_{k=1}^{\infty} \beta^{2k} (2\pi - 1)^{2k} v(a)$$

For all θ and a, there exists $\varepsilon(\theta, a) > 0$ such that $v(\overline{a}(\theta, a)) - v(a) > \varepsilon(\theta, a)$. Further, by assumption $\beta < 1$. Hence, there exists $\acute{\pi}(a, \theta) < 1/2$ such that this necessary condition is satisfied only if $\pi \geq \acute{\pi}(a, \theta)$.

Denote $\grave{\pi} = \min_{a \in [0,1), \theta \in [-\overline{\theta}, \overline{\theta}]} \acute{\pi}(a, \theta)$. From the reasoning above, $\grave{\pi} < 1/2$. Since we have only looked at a single possible deviation, there exists $\underline{\pi} \leq \grave{\pi} < 1/2$ such that any equilibrium in which $d(\cdot) = 0$ with positive probability exists only if $\pi \leq \underline{\pi}$. The contrapositive then proves the claim. □

Proof of Remark 2

The proof is by contradiction. Suppose there exists an equilibrium in which there exists a permissible set $[0, a] \subset [0, a]$ such that if $\mathcal{R}_t = [0, a]$ with $\mathcal{W}_t = \emptyset$, the incumbent prefers to remain forever with this permissible set rather than seeing any extension of authority (i.e., $\mathcal{R}_{t+1} = [0, a]$ with probability one). Note that because once in office, both politicians face the same problem than if P_l prefers to remain with $\mathcal{R}_t = [0, a]$ so does P_r. We show that the office-holder has a profitable deviation in some state and such equilibrium cannot exist assuming throughout that $\mathcal{W}_t = \emptyset$.

Suppose we are in such equilibrium with $\mathcal{R}_t = [0, a]$ and the state θ_t satisfying $\theta_t \geq \widehat{\theta}(a)$ (the time subscript is for expositional convenience, as we use MPE as solution concept, the relevant variable is the permissible set $[0, a]$ and the realization of the shock). We now show that the office-holder, say P_l, prefers to claim full authority over the domain $a_t(\theta) = 1$ rather than maintaining $\mathcal{R}$.

Suppose P_l makes no new claim. Her payoff is $W(a) = v(a) + \beta\big(\pi E_{\theta_{t+1}}(W_{P_l}(\theta_{t+1}, a, 1, P_l)) + (1 - \pi)E_{\theta_{t+1}}(W_{P_l}(\theta_{t+1}, a, 1, P_r))\big)$ (where, under our prescribed strategy, both politicians make authority claim a forever). We further have $W_{P_l}(\theta_{t+1}, a, 1, P_l) = v(a) + \beta\big(\pi E_{\theta_{t+1}}(W_{P_l}(\theta_{t+1}, a, 1, P_l)) + (1 - \pi)E_{\theta_{t+1}}(W_{P_l}(\theta_{t+1}, a, 1, P_r))\big)$ for all θ_{t+1} and $W_{P_l}(\theta_{t+1}, a, 1, P_r) = -v(a)+\beta\big((1-\pi)E_{\theta_{t+1}}(W_{P_l}(\theta_{t+1}, a, 1, P_l))+ \pi E_{\theta_{t+1}}(W_{P_l}(\theta_{t+1}, a, 1, P_r))\big)$ for all θ_{t+1}. This implies that $E_{\theta_{t+1}}(W_{P_l}(\theta_{t+1}, a, 1, P_l)) = \frac{v(a)}{1+\beta(1-2\pi)}$ and $E_{\theta_{t+1}}(W_{P_l}(\theta_{t+1}, a, 1, P_r)) = -\frac{v(a)}{1+\beta(1-2\pi)}$. So $W(a) = v(a) - \beta(1 - 2\pi)\frac{v(a)}{1+\beta(1-2\pi)} = \frac{v(a)}{1+\beta(1-2\pi)}$.

If instead, P_l deviates and makes a full authority claim, then $\hat{W}(1) = v(1)+\pi E_{\theta_{t+1}}(W_{P_l}(\theta_{t+1}, 1, 1, P_l))+ (1-\pi)E_{\theta_{t+1}}(W_{P_l}(\theta_{t+1}, 1, 1, P_r))$. By a similar reasoning, $\hat{W}(1) = \frac{v(1)}{1+\beta(1-2\pi)} > W(a)$. Hence, we have found a profitable deviation.

We have, thus, excluded the existence of an equilibrium in which there exists a permissible set $[0, a] \subset [0, 1]$ such that if $\mathcal{R}_t = [0, a]$ then $\mathcal{R}_{t+1} = [0, a]$ for all θ_t (recall that since we study MPE, this means authority never increases above $[0, a]$). This leaves two cases. First, the equilibrium is such that such $[0, a]$ exists, but it is never reached on the equilibrium path. This case is excluded in the text of the Lemma by assuming $\mathcal{R}_t = [0, a]$. But then for all permissible sets reached in equilibrium, authority will increase with positive probability as stated in the text of the Remark. Second, there is no such permissible set, and this yields the Remark directly. $\square$

B.4 Authority acquisition in a calm world

Proof of Proposition 9

The proof follows directly from the proof of Proposition 2. Indeed, the key step of the proof of Proposition 2 is to show that the continuation values satisfy $V(a,1) > V(a,a_t)$. And this inequality holds whenever the interval $(\widehat{\theta}(a), \overline{\theta}]$ is not empty, which is guaranteed by $a < a^f$. □

Proof of Proposition 10

For any $\max \mathcal{R}_t = a > a^f$, we claim that the upper bound on authority, denoted $a^{max}(a)$ is the solution to $-(a - \overline{\theta} - \kappa^C)^2 + \beta V(a,a) = -(a^{max}(a) - \overline{\theta} - \kappa^C)^2 + \beta V(a^{max}(a), a^{max}(a))$ if $a^{max}(a) > a$ or satisfies $a^{max} = a$ otherwise. Observe that the solution of the equation above is $a^{max}(a) = 2(1-\beta)\overline{\theta} + 2\kappa^C - a$ so $a^{max}(a) = \max\{2(1-\beta)\overline{\theta} + 2\kappa^C - a, a\}$.

To prove the claim, we show that for all $\max \mathcal{R}_t \geq (1-\beta)\overline{\theta} + \kappa^C$, the court rejects any additional authority claim. That is, for all $\max \mathcal{R}_t = a \geq (1-\beta)\overline{\theta} + \kappa^C$, the court's expected payoff from rejecting a claim $a' > a$ is strictly greater than the expected payoff from upholding: $-(a - \theta - \kappa^C)^2 + \beta V(a,a) < -(a' - \theta - \kappa^C)^2 + \beta V(a',1)$. Fixing a and a', we know that the inequality is most likely not to hold when $\theta = -\overline{\theta}$ so our goal is to show that $-(a - \overline{\theta} - \kappa^C)^2 + \beta V(a,a) < -(a' - \overline{\theta} - \kappa^C)^2 + \beta V(a',1)$.

Suppose first that after upholding $a' > a$, the court rejects all additional authority claims for all $a' > a$. Then $V(a',1) = V(a',a')$. Given the assumption a ($a \geq (1-\beta)\overline{\theta} + \kappa^C$) and a' ($a' > a$), we then directly have $-(a - \overline{\theta} - \kappa^C)^2 + \beta V(a,a) > -(a' - \overline{\theta} - \kappa^C)^2 + \beta V(a',1)$ then.

We now prove by contradiction that there is no equilibrium in which when $\max \mathcal{R} = a' > a \geq (1-\beta)\overline{\theta} + \kappa^C$, the court upholds some new authority claims in some states. Suppose such equilibrium exists and denote then $\check{a}(\theta, a')$ the equilibrium authority claim of the executive in state θ when the permissible set is $[0, a']$. Note that we must have $\check{a}(\theta, a') > a'$ for some θ (otherwise, $V(a',1) = V(a',a')$, contradicting that our assumption on the features of the equilibrium). Therefore, we can write the court's payoff from upholding ($V(d = 0; a_t, \theta, \max \mathcal{R}_t)$) as:

$$V(0; \check{a}(\theta, a'), \theta, a') = -(\check{a}(\theta, a') - \theta - \kappa^C)^2 + \beta V(\check{a}(\theta, a'), 1)$$

Suppose that there is no expansion of authority after $\check{a}(\theta, a') > a'$ (i.e., the court rejects all new claims) so $V(\check{a}(\theta, a'), 1) = V(\check{a}(\theta, a'), \check{a}(\theta, a'))$. Then, using the same reasoning as above, we have $V(0; \check{a}(\theta, a'), \theta, a') < -(a' - \theta - \kappa^C) + \beta V(a', a') = V(d = 1; \check{a}(\theta, a'), \theta, a')$ and the court would reject the claim. Hence, it must be that authority continuously grows with strictly positive probability on the equilibrium path for $V(a', 1) > V(a', a')$. If authority growth were to stop, inequalities would unravel by using the reasoning above.

We now show that authority cannot continuously grow. Suppose it does. Given that the authority space is compact, it has to be that the maximum of the permissible set converges in the limit to a certain value. Denote $\lim_{t\to\infty} \max \mathcal{R}_t = a^\infty \leq 1$. Further, we can always find a T sufficiently high so that $\max \mathcal{R}_T = a$ is arbitrarily close to a^∞. This implies that for all $a' \in (a, a^\infty)$,[19] $V(0; a', \theta, a)$ is approximately close to $-(a^\infty - \theta - \kappa^C) + \beta V(a^\infty, a^\infty)$, with $V(1; a^\infty, \theta, a^\infty) = -(a^\infty - \theta - \kappa^C) + \beta V(a^\infty, a^\infty) < -(a - \theta - \kappa^C) + \beta V(a, a) = V(1; a', \theta, a')$ for all θ. Thus, authority cannot grow continuously. In turn, proceeding backward in time from T, this means that $V(a', a') \geq V(a', 1)$ and so $V(1; a', \theta, a) = -(a - \overline{\theta} - \kappa^C)^2 + \beta V(a, a) > -(a' - \overline{\theta} - \kappa^C)^2 + \beta V(a', 1) = V(0; a', \theta, a)$.

To show the last claim more formally, denote $a' = a + \epsilon$ and $a^\infty = a' + \delta$ for some a arbitrarily close to a^∞, and $\epsilon > 0$ and $\delta > 0$ arbitrarily close to 0. Denote $\theta^L(a') = a' - \kappa^C$ and $\theta^T(a') = a^\infty - \kappa^C$ and note that $(1-\beta)V(a', 1) < F(\theta^L(a'))E(-(a' - \theta - \kappa^C)^2 | \theta \leq \theta^L(a')) + (F(\theta^T(a')) - F(\theta^L(a'))) \times 0 + (1 - F(\theta^T(a'))E(-(a^\infty - \theta - \kappa^C)^2 | \theta \geq \theta^T(a')) := (1-\beta)\overline{V}(a', 1)$ (that is, the court gets a' when the state is below $\theta^L(a')$, its preferred claim when the state is between $\theta^L(a')$ and $\theta^T(a')$, and a^∞ when the state is above $\theta^T(a')$ like in a world without precedent). We can then rewrite as

$$
\begin{aligned}
(1-\beta)\overline{V}(a', 1) = &- E(-(a' - \theta - \kappa^C)^2) - \int_{\theta^L(a')}^{\theta^T(a')} -(a' - \theta - \kappa^C)^2 dF(\theta) \\
&+ \int_{\theta^T(a')}^{\overline{\theta}} \big((a' - \theta - \kappa^C)^2 - (a^\infty - \theta - \kappa^C)^2\big) dF(\theta)
\end{aligned}
$$

[19] Note that $\max \mathcal{R}_t$ can never equal a^∞ in finite time since we have already noted that authority must continuously grow.

Using the definitions of $\theta^L(a')$ and $\theta^T(a')$, we have:

$$\begin{aligned}(1-\beta)\overline{V}(a',1) \leq & -E(-(a'-\theta-\kappa^C)^2) + (\theta^T(a')+\kappa^C-a')^2 \int_{\theta^L(a')}^{\theta^T(a')} dF(\theta) \\ & + \int_{\theta^T(a')}^{\overline{\theta}} (a^\infty - a')(2(\theta+\kappa^C) - (a^\infty + a'))dF(\theta) \\ =& E(-(a'-\theta-\kappa^C)^2) + (a^\infty - a')^2\big(F(\theta^T(a')) - F(\theta^T(a'))\big) \\ & + \delta \int_{\theta^T(a')}^{\overline{\theta}} (2(\theta+\kappa^C) - (a^\infty + a'))dF(\theta) \\ =& -E(-(a'-\theta-\kappa^C)^2) + \delta \int_{\theta^T(a')}^{\overline{\theta}} (2(\theta+\kappa^C) - (a^\infty + a'))dF(\theta)\end{aligned}$$

Where the last equality comes from the fact that we assume that a is arbitrarily close to a^∞ so terms with δ^2 are negligible.

Using this, we can compare the court's expected utility between rejecting a and upholding a' when $\theta = \overline{\theta}$ (the best possible circumstance for new claim). We obtain:

$$\begin{aligned}&\Big(-(a-\overline{\theta}-\kappa^C)^2 + \beta V(a,a)\Big) - \Big(-(a'-\theta-\kappa^C)^2 + \beta V(a',1)\Big) \\ >&\Big(-(a-\overline{\theta}-\kappa^C)^2 + \beta V(a,a)\Big) - \Big(-(a'-\theta-\kappa^C)^2 + \beta \overline{V}(a',1)\Big) \\ \geq&\Big(-(a-\overline{\theta}-\kappa^C)^2 + \beta \frac{E_\theta(-(a-\theta-\kappa^C)^2)}{1-\beta}\Big) \\ &-\Big(-(a'-\theta-\kappa^C)^2 + \beta \frac{E_\theta(-(a'-\theta-\kappa^C)^2)}{1-\beta} + \frac{\beta\delta}{1-\beta}\int_{\theta^T(a')}^{\overline{\theta}} (2(\theta+\kappa^C) - (a^\infty + a'))dF(\theta)\Big) := \Delta\end{aligned}$$

After rearranging,

$$\begin{aligned}(1-\beta)\Delta =& (a'-a)(a+a'-2(1-\beta)\overline{\theta} - 2\kappa^C) - \delta \int_{\theta^T(a')}^{\overline{\theta}} (2(\theta+\kappa^C) - (a^\infty + a'))dF(\theta) \\ =& \epsilon(2a+\epsilon-2(1-\beta)\overline{\theta} - 2\kappa^C) - \delta \int_{a+\epsilon+\delta}^{\overline{\theta}} (2(\theta+\kappa^C) - (2a+2\epsilon+\delta))dF(\theta)\end{aligned}$$

Denote $\underline{\delta}(\epsilon, a)$ the smallest solution to $\Delta = 0$ for a given ϵ and a. Note that (i) $\underline{\delta}(\epsilon, a) > 0$ and $\Delta \leq 0$ for all $\delta \leq \underline{\delta}(\epsilon, a)$, implying the court would reject a claim $a' = a + \epsilon$ then. Now, for any $\epsilon > 0$, we can always pick a so that $a^\infty - (a+\epsilon) < \underline{\delta}(\epsilon, a)$. Hence, for a arbitrarily close to a^∞, we have that the court would reject all claims, contradicting the equilibrium feature that the authority grows continuously.

As we have now proven that authority cannot grow continuously, we know that for all $\max \mathcal{R}_t \geq (1-\beta)\overline{\theta} + \kappa^C$, $a^{max}(a) = a$ as the court rejects any additional authority claim. Further, when $\max \mathcal{R}_t = a < (1-\beta)\overline{\theta} + \kappa^C$ the court making a decision on claim $a' \geq (1-\beta)\overline{\theta} + \kappa^C$ knows that its utility if it upholds the claim is $-(a' - \theta - \kappa^C) + \beta V(a', a')$. So it upholds if and only if $a' \leq 2(1-\beta)\theta + \kappa^C - a$. Notice that this is decreasing in a (and increasing in θ). Hence, when $\max \mathcal{R}_t = a < (1-\beta)\overline{\theta} + \kappa^C$, the highest bound the permissible set can reach is $2(1-\beta)\overline{\theta} + \kappa^C - a$ as claimed. □

Details for Figure 4

For all $\max \mathcal{R}_t = a \geq a^f$, in the maximally admissible equilibrium, the court upholds if and only if it is indifferent between the claim and remaining with the status quo a. Using the same reasoning as in Lemma A.2, the continuation value of the court, anticipating that the executive will extend as much as is admissible in the future, is then:

$$\begin{aligned} V(a,1) &= \int_{-\overline{\theta}}^{\overline{\theta}} -(a_t(\theta,a,1) - \kappa^C - \theta)^2 + \beta V(a_t(\theta,a,1),1) dF(\theta) \\ &= \int_{-\overline{\theta}}^{\overline{\theta}} -(a - \kappa^C - \theta)^2 + \beta \frac{E(-(a-\kappa^C-\theta)^2)}{1-\beta} dF(\theta) \end{aligned}$$

Hence, the court upholds a claim a_t, if and only if a_t satisfies:

$$-(a - \theta_t - \kappa^C)^2 + \beta \frac{E_\theta(-(a-\theta-\kappa^C)^2)}{1-\beta} \leq -(a_t - \theta_t - \kappa^C)^2 + \beta \frac{E_\theta(-(a_t-\theta-\kappa^C)^2)}{1-\beta}$$

From this, we can easily determine the tolerance threshold and , thus, the executive claim.

Moving backward, in term of permissible set, it is then easy to check that for all $\max \mathcal{R}_t < a^f$, we can apply the reasoning of Lemmas A.2 and A.3. Indeed, if a claim was below 1, we assumed then that $V(a_t, 1) = V(a_t, a_t)$ just like we did above (see Equation A.4). So, for all $a < a^f$, the maximally admissible claim is unaffected by the assumption that $a^f < 1$.

C Additional results

C.1 Temporary stays of authority

In this section, we consider the case when the court has the opportunity to grant temporary stays of authority. At the beginning of each period t, Nature exogenously determines whether the authority claim that period will set a new precedent or is only temporary for this particular period. We denote $\tau_t = 0$ the state when the court's decision sets a new precedent in period t and $\tau_t = 1$ the state when the court's decision is for one period only and we assume that the i.i.d. probability that Nature picks the state $\tau_t = 1$ is $\lambda \in (0, 1)$ (the baseline model has $\lambda = 0$).

We assume that when $\tau_t = 1$, the court is still constrained by precedents (in the sense that she cannot reject a claim in the permissible set or uphold a claim in the impermissible set), but her decision this period has no implication for the future.[20] For any $a_t \notin \mathcal{R}_t \cup \mathcal{W}_t$, any rejection yields $y_t(1) = \max \mathcal{R}_t$ and any upheld authority claim a_t yields $y_t(0) = a_t$, but $\max \mathcal{R}_t = \max \mathcal{R}_{t+1}$ and $\mathcal{W}_t = \mathcal{W}_{t+1} = \emptyset$ for all $d_t \in \{0, 1\}$ when $\tau_t = 1$. The rest of the baseline model remains unchanged.

In this amended set-up, we recover our main results Propositions 1 and Proposition 2 as the next result shows.

Proposition C.1. *In any equilibrium,*

(i) $\lim_{t\to\infty} \mathcal{R}_t = [0, 1]$ *with probability* 1.

(ii) for all $\theta_t \in [-\overline{\theta}, \overline{\theta}]$ *and all* $\max \mathcal{R}_t = a \in [0, 1)$*, when* $\tau_t = 0$*, there exists* $\overline{a}(\theta_t, a, 0) > a$ *such that* C *upholds* P*'s authority claim* a_t*,* $d_t(\theta_t, a_t, a, 1, 0) = 0$*, if* $a_t \in [a, \overline{a_t}(\theta_t, a, 0)]$.

We can also look at bit more closely at the dynamics of authority acquisition by focusing once more on the maximally admissible equilibrium (assuming existence, which can be proved along the same lines as the proof of Lemma 2). For our next result, recall that the court's tolerance threshold as a function of the state of the world θ_t, the set of precedents $\max \mathcal{R}_t = a$, and in circumstances when the court sets new precedent ($\tau_t = 0$) is $\overline{a}(\theta_t, a, 0)$. The next proposition states that the

[20]We could instead assume that the court is not constrained by precedent when she makes temporary stay of authority. The model then would very much look like the case of revisiting precedent with the only difference that the decision would be temporary rather than permanent. We have already established there that our result holds, so they would also in this alternative version of our set-up with temporary stays of authority.

possibility of temporary stays leads to greater per-period authority acquisition in times when the court sets new precedents.

Proposition C.2. *When* $\tau_t = 0$ *so the court's decision sets a new precedent, for all* $\max \mathcal{R}_t = a \in [0,1]$ *and for all* $\theta_t < \widehat{\theta}(a)$*, the court's tolerance threshold* $\overline{a}(\theta_t, a, 0)$ *is strictly increasing in* $\lambda \in [0, 1)$*.*

For the court, the cost of rejecting is unaffected by the possibility of temporary stays: it is stuck at the previous precedents $\max \mathcal{R}_t = a$ forever after. The benefit of upholding a claim is higher when temporary stays are possible. With probability λ, the court can adjust authority to present circumstances without suffering the consequences of its decision in the future (in Lemma C.2, we show that the court is better off when the state is $\tau_t = 1$ than $\tau_t = 0$). However, the court does not get to benefit from this when it is forced to set precedents. Indeed, anticipating this, the officeholder takes advantage of the added flexibility for the court to claim more authority whenever possible. The gains for the court are seized by the executive in the form of greater authority.

In this amended set-up, we assumed that Nature determines whether a court decision is temporary or sets a new decision. In practice, the court often decides whether to grant permanent or temporary stays of authority. While studying the court's strategic decision is beyond the scope of this extension, our results above may help explain why the judiciary may restrict its use of time-limited grants of authority. Temporary stays benefit the court (since with some probability it has flexibility), but this benefit is limited. When new precedents are set, all the rewards of added flexibility are reaped by the officeholder in the form of greater authority acquisition. If the court is worried about the growth of the executive per se, it may choose to limit its use of temporary stays. We leave a more detailed analysis of this problem to future research.

Proofs

Proof of Proposition C.1

Point (i) follows from a similar reasoning as the proof of Proposition 1. Lemma A.1 still holds in this context. Further, under the assumption of the set-up, when faced with a claim $a_t = 1$ in state $\tau_t = 0$ (so the decision sets precedent), the court is faced by the same trade-off as in the proof of

Proposition 1.

For point (ii), denote the continuation value of the court when the maximum of the permissible set is a, the minimum of the impermissible set is 1 and the state is $\tau \in \{0,1\}$ as $V(a,1,\tau)$ (since $V(a,a,1) = V(a,a,0)$ for all $a \in [0,1]$, we simply use the notation $V(a,a)$ then). Adapting the notation from the main text, we define P's strategy as $a_t(\theta_t, a, 1, \tau_t)$. We can write (ignoring arguments in a_t):

(a) $V(a_t,1,1) = E_t\Big[\max\{-\big(a_{t+1}(\theta,a_t,1,1) - \kappa^C - \theta\big)^2, -\big(a_t - \kappa^C - \theta\big)^2\}\Big] + \beta\big(\lambda V(a_t,1,1) + (1 - \lambda)V(a_t,1,0)\big)$ and

(b) $V(a_t,1,0) = E_\theta\Big[\max\{-\big(a_{t+1}(\theta,a_t,1) - \kappa^C - \theta\big)^2 + \beta\big(\lambda V(a_{t+1}(\theta,a_t,1),1,1) + (1-\lambda)V(a_{t+1}(\theta,a_t,1),1,0)\big), -\big(a_t - \kappa^C - \theta\big)^2 + \beta V(a_t,a_t)\}\Big]$.

By the usual reasoning, for all $\theta_t \geq \widehat{\theta}(a_t) = \frac{\frac{1+a_t}{2} - \kappa^C}{1-\beta}$, the court prefers full authority claim to the status quo a_t and $a_{t+1}(\theta_t, a_t, 1) = 1$ since full authority forever is the politician's preferred outcome. This implies that for any $a_t < 1$, for all $\theta_{t+1} \in (\widehat{\theta}(a_t), \overline{\theta}]$ (a non-empty interval), $-\big(a_{t+1}(\theta_{t+1},a_t,1) - \kappa^C - \theta_{t+1}\big)^2 + \beta V(a_{t+1}(\theta_{t+1},a_t,1),1) > -\big(a_t - \kappa^C - \theta_{t+1}\big)^2 + \beta V(a_t,a_t)$. Hence, necessarily $V(a_t,1,0) > E_\theta\Big[-\big(a_t - \kappa^C - \theta\big)^2 + \beta V(a_t,a_t)\Big] = V(a_t,a_t)$ for any $a_t \in [0,1)$. This implies quite immediately from point (a) that $V(a_t,1,1) > V(a_t,a_t)$ as well.

We can then apply the reasoning from Proposition 2 to prove the result. □

We now focus on the maximally admissible equilibrium. Recall that we denote $V(a,1,\tau)$ the continuation value of the court for a maximum of the permissible set equal to a, the impermissible set is empty, and the state is τ. We use again the notation $a_t(\theta,a,1,\tau)$ to define P's strategy. We first start with two preliminary lemmas.

Lemma C.1. *For all* $\max \mathcal{R}_t = a \in [0,1)$, $V(a,1,0)$ *is independent of* λ.

Proof. Under the specified strategy, in all period t such that $\max \mathcal{R}_t = a \in [0,1)$ and $\theta_t < \widehat{\theta}(a) = \frac{\frac{1+a}{2} - \kappa^C}{1-\beta}$, $a_t(\theta_t,a,1,0)$ satisfies:

$$-(a_t(\theta,a,1,0) - \kappa^C - \theta)^2 + \beta\big(\lambda V(a_t(\theta,a,1,0),1,1) + (1-\lambda)V(a_t(\theta,a,1,0),1,0)\big) = -(a - \kappa^C - \theta)^2 + \beta V(a,a) \tag{C.1}$$

We can then rewrite $V(a,1,0)$ as

$$\begin{aligned}
V(a,1,0) &= \int_{-\bar{\theta}}^{\widehat{\theta}(a)} -(a_t(\theta,a,1)-\kappa^C-\theta)^2 + \beta\big(\lambda V(a_t(\theta,a,1,0),1,1) + (1-\lambda)V(a_t(\theta,a,1,0),1,1)\big)dF(\theta) \\
&\quad + \int_{\widehat{\theta}(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 + \beta V(1,1)dF(\theta) \\
&= \int_{-\bar{\theta}}^{\widehat{\theta}(a)} -(a-\kappa^C-\theta)^2 + \beta V(a,a)dF(\theta) \\
&\quad + \int_{\widehat{\theta}(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 + \beta V(1,1)dF(\theta) \quad \text{(using Equation C.1)}
\end{aligned}$$

Hence, $V(a,1,0)$ does not depend on λ. □

Lemma C.2. *For all* $\max \mathcal{R}_t = a \in [0,1)$*,* $V(a,1,1) > V(a,1,0)$*. Further,* $V(a,1,1)$ *is strictly increasing with* λ*.*

Proof. When $\tau = 1$, the officeholder's strategy is exactly the same as for state-dependent precedent since the present has no impact on the future. Hence, P claims $a_t = a$ if $\theta_t \leq a - \kappa^C$, $a_t = 1$ if $\theta_t \geq \frac{1+a}{2} - \kappa^C$, and a_t such that $-(a-\kappa^C-\theta_t)^2 = -(a_t-\kappa^C-\theta_t)^2$ otherwise. Hence, the court's continuation value assumes the following form denoting $\theta^s(a) = \frac{1+a}{2} - \kappa^C$:

$$\begin{aligned}
V(a,1,1) = &\int_{-\bar{\theta}}^{\theta^s(a)} -(a-\kappa^C-\theta)^2 dF(\theta) + \int_{\theta^s(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 dF(\theta) \\
&+ \beta\big(\lambda V(a,1,1) + (1-\lambda)V(a,1,0)\big)
\end{aligned}$$

From this, we have

$$\begin{aligned}
V(a,1,1) - V(a,1,0) &= \int_{-\bar{\theta}}^{\theta^s(a)} -(a-\kappa^C-\theta)^2 dF(\theta) + \int_{\theta^s(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 dF(\theta) \\
&\quad + \beta\big(\lambda V(a,1,1) + (1-\lambda)V(a,1,0)\big) - V(a,1,0) \\
\Leftrightarrow \quad (1-\beta\lambda)(V(a,1,1) - V(a,1,0)) &= \int_{-\bar{\theta}}^{\theta^s(a)} -(a-\kappa^C-\theta)^2 dF(\theta) + \int_{\theta^s(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 dF(\theta) \\
&\quad - (1-\beta)V(a,1,0)
\end{aligned}$$

Using Lemma C.1,

$$
\begin{aligned}
V(a,1,0) = &\int_{-\bar{\theta}}^{\widehat{\theta}(a)} -(a-\kappa^C-\theta)^2 dF(\theta) + \int_{\widehat{\theta}(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 dF(\theta) \\
&+ \beta F(\widehat{\theta}(a)) \frac{E_\theta\big(-(a-\kappa^C-\theta)^2\big)}{1-\beta} + \beta(1-F(\widehat{\theta}(a))) \frac{E_\theta\big(-(1-\kappa^C-\theta)^2\big)}{1-\beta}
\end{aligned}
$$

Hence,

$$
\begin{aligned}
(1-\beta\lambda)(V(a,1,1)-V(a,1,0)) =&(1-\beta)\Big(\int_{-\bar{\theta}}^{\theta^s(a)} -(a-\kappa^C-\theta)^2 dF(\theta) + \int_{\theta^s(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 dF(\theta) \\
&- \int_{-\bar{\theta}}^{\widehat{\theta}(a)} -(a-\kappa^C-\theta)^2 dF(\theta) - \int_{\widehat{\theta}(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 dF(\theta)\Big) \\
&+ \beta\Big(\int_{-\bar{\theta}}^{\theta^s(a)} -(a-\kappa^C-\theta)^2 dF(\theta) + \int_{\theta^s(a)}^{\bar{\theta}} -(1-\kappa^C-\theta)^2 dF(\theta) \\
&- F(\widehat{\theta}(a)) E_\theta\big(-(a-\kappa^C-\theta)^2\big) - (1-F(\widehat{\theta}(a))) E_\theta\big(-(1-\kappa^C-\theta)^2\big)\Big) \\
=&(1-\beta)\int_{\theta^s(a)}^{\widehat{\theta}(a)} (a-\kappa^S-\theta)^2 - (1-\kappa^S-\theta)^2 dF(\theta) \\
&+ \beta F(\widehat{\theta}(a)) \int_{\theta^s(a)}^{\bar{\theta}} (a-\kappa^S-\theta)^2 - (1-\kappa^S-\theta)^2 dF(\theta) \\
&+ \beta(1-F(\widehat{\theta}(a))) \int_{-\bar{\theta}}^{\theta^s(a)} (1-\kappa^S-\theta)^2 - (a-\kappa^S-\theta)^2 dF(\theta)
\end{aligned}
$$

Since the court's per-period losses are lower with $a_t = 1$ than $a_t = a$ for $\theta \geq \theta^s(a)$ and vice versa (i.e., $-(1-\kappa^C-\theta)^2 \geq -(a-\kappa^C-\theta)^2 \Leftrightarrow \theta \geq \theta^s(a)$, with strict inequality when $\theta > \theta^s(a)$), we directly obtain that $V(a,1,1) > V(a,1,0)$.

For the comparative statics on λ, using our last equality, note that

$$
\begin{aligned}
V(a,1,1) =&V(a,1,0) + \frac{1}{1-\beta\lambda}\Bigg((1-\beta)\int_{\theta^s(a)}^{\widehat{\theta}(a)} (a-\kappa^S-\theta)^2 - (1-\kappa^S-\theta)^2 dF(\theta) \\
&+ \beta F(\widehat{\theta}(a)) \int_{\theta^s(a)}^{\bar{\theta}} (a-\kappa^S-\theta)^2 - (1-\kappa^S-\theta)^2 dF(\theta) \\
&+ (1-\beta)(1-F(\widehat{\theta}(a))) \int_{-\bar{\theta}}^{\theta^s(a)} (1-\kappa^S-\theta)^2 - (a-\kappa^S-\theta)^2 dF(\theta)\Bigg)
\end{aligned}
$$

Since $V(a,1,0)$, $\widehat{\theta}(a)$, and $\theta^s(a)$ do not depend on λ, we directly obtain the result. □

Proof of Proposition C.2

Under the specified strategy, recall that P's strategy $a_t(\theta_t, a, 1, 0)$ satisfies:

$$-(a_t(\theta,a,1,0)-\kappa^C-\theta)^2+\beta\big(\lambda V(a_t(\theta,a,1,0),1,1)+(1-\lambda)V(a_t(\theta,a,1,0),1,0)\big) = -(a-\kappa^C-\theta)^2+\beta V(a,a) \tag{C.2}$$

Denote $G(a_t;\lambda) = -(a_t-\kappa^C-\theta)^2+\beta\big(\lambda V(a_t,1,1)+(1-\lambda)V(a_t,1,0)\big)$. In the maximally admissible equilibrium, using subscript to define partial derivative with respect to their relevant argument, it must be that $G_1(a_t(\theta,a,1,0),\lambda) < 0$ (otherwise, the executive could increase her claim and still have it upheld by the court, contradicting that $a_t(\theta,a,1,0)$ is the maximally admissible claim). Further, $G_2(a_t,\lambda) = V(a_t,1,1) - V(a_t,1,0) + \beta\lambda\frac{\partial V(a,1,1)}{\partial\lambda}$. Using Lemma C.2, $G_2(a_t,\lambda) > 0$. Therefore, by the Implicit Function Theorem (which can apply as all functions are continuous), noting that $-(a-\kappa^C-\theta)^2+\beta V(a,a)$ does not depend on λ, we obtain $\frac{\partial a_t(\theta,a,1,0)}{\partial\lambda} > 0$. □

C.2 Multi-dimensional authority claims

In this subsection, we assume that an authority claim has $n \geq 1$ dimensions (our baseline model has $n = 1$). We denote an authority claim in period t by $\vec{a}_t = (a_t^1, a_t^2, \ldots, a_t^n) \in [0,1]^n$. Each dimension j is related to its own particular context, denoted θ^j, which is drawn at the beginning of each period according to the cumulative distribution function $F^j(\cdot)$ over the interval $[-\overline{\theta}^j, \overline{\theta}^j]$ with $\overline{\theta}^j > \frac{1-\kappa^C}{1-\beta}$, with κ^C the identical amount of optimal authority from the court's perspective on all dimensions (to reduce the notational burden). For simplicity, we assume that the draws across all dimensions are independent and i.i.d. over time (this is mostly to reduce notation, our results hold if the draws are correlated across dimensions within each period). The vector of states realization is denoted by $\vec{\theta}_t$.

The dimensions are linked via the court's decision. When the court upholds a claim $\vec{a}_t = (a_t^1, \ldots, a_t^n)$, then the authority acquired in period t on each dimension j is $y_t^j(0) = a_t^j$ and the permissible set on the same dimension becomes $\max\mathcal{R}_{t+1}^j = a_t^j$. The permissible set across all dimension is $\vec{\mathcal{R}}_t$. We slightly abuse notation and denote $\max\vec{\mathcal{R}}_t = (\max\mathcal{R}_t^1, \ldots, \max\mathcal{R}_t^n)$.

For the court and the executive, the dimensions are additively separable so for an outcome $\vec{y}_t = (y_t^1, \ldots, y_t^n)$, the executive period-$t$'s utility is $\sum_{j=1}^n v(y_t^j)$ and the court's payoff is $\sum_{j=1}^n -(y_t^j - \kappa^C - \theta_t^j)^2$.

We compare two situations. In the first, the court can rule on any dimension separately. That is, the court could accept the officeholder's claim in dimensions 2 to n and overturn the claim in dimension 1, which would only have consequences for future authority acquisition in the first dimension (i.e., the court makes as many decisions as there are dimensions, $d_t^j \in \{0,1\}$, and if $d_t^j = 1$, then $y_t^j(1) = \max \mathcal{R}_t^j = a^j$ and $\mathcal{W}_{t+1}^j = [0,1] \setminus R_t^j$ for dimension j only). We label this situation 'dimension-free precedent' since all dimensions can be treated separately. The second situation consists of the case when overturning a claim shuts down authority acquisition on all dimensions (i.e., the court makes a single decision $d_t \in \{0,1\}$ and if $d_t = 1$, then $y_t^j(1) = \max \mathcal{R}_t^j = a^j$ and $\mathcal{W}_{t+1}^j = [0,1] \setminus R_t^j$ for all $j \in \{1, \ldots, n\}$). We label this situation 'dimension-linked precedent.'

The next remark states that any upheld series of authority claims under dimension-free precedent is also upheld under dimension-linked precedent. In other words, linking dimensions can only increase the set of authority claims which are feasible (as the proof of the remark illustrates). This implies that if we select the best equilibrium for the executive under each situation, then the officeholder is necessarily weakly better off with dimension-linked precedent.

Remark C.1. *Denote* $\left\{\{\vec{a^{df}}_t(\vec{\theta}_t, \vec{a}, 1)\}_{\{\vec{\theta}_t \in [-\bar{\theta}, \bar{\theta}]^n, \max \vec{\mathcal{R}}_t = \vec{a}, \vec{\mathcal{W}}_t = \{\emptyset\}^n\}}\right\}_{t \in \{1, \ldots\}}$ *a n-dimensional series of upheld authority claims under dimension-free precedent for all possible permissible sets and realization of the n-dimensional state vector. Under dimension-linked precedent, for any* $\max \vec{\mathcal{R}}_t = \vec{a}$, *any realization* $\vec{\theta}_t$, *the court upholds* $\vec{a}_t(\vec{\theta}_t, \vec{a}, 1) = \vec{a^{df}}_t(\theta_t, \vec{a}, 1)$ *if it anticipates future claims to satisfy* $\left\{\{\vec{a^{df}}_{t'}(\vec{\theta}_{t'}, \vec{a}, 1)\}_{\{\vec{\theta}_{t'} \in [-\bar{\theta}, \bar{\theta}]^n, \max \mathcal{R}_{t'} = \vec{a}, \vec{\mathcal{W}}_{t'} = \{\emptyset\}^n\}}\right\}_{t' \in \{t+1, \ldots\}}$.

It proves difficult to say more since the executive may choose different mixes of authority claim across dimensions under different equilibria. The executive may choose not to claim full authority in one dimension, even if the court would uphold it, to maximize her authority growth on other dimensions when precedents link all dimensions together. To say a bit more, we focus on the case when the number of dimension is two ($n = 2$) and the executive plays a maximally admissible strategy on each dimension—that is, the officeholder never picks a little bit less on one dimension to increase her reach on the other dimension—assuming this is an equilibrium strategy (the proof of existence would require more than the proof of Lemma 2 so existence is not guaranteed by previous results). Our second remark states that when the realization of the state is sufficiently high on one dimension ($\theta^j > \widehat{\theta}(a^j) = \frac{\frac{1+a^j}{2} - \kappa^C}{1-\beta}$), the executive grabs more authority in this period in the other dimension with dimension-linked precedent than with dimension-free precedent. To state our result, denote $\overline{a}^j(\theta_t^j, a^j; df)$ and $\overline{a}^j(\theta_t^j, a^j; dl)$ the court's tolerance threshold in dimension j with dimension-free precedent (df) and dimension-linked precedent (dl), respectively, as a function of the realisation of the state and the maximum of the permissible state in this dimension.

Remark C.2. *In the maximally admissible equilibrium (assuming it exists), when $\theta_t^j > \widehat{\theta}(a^j)$ and $\theta_t^k < \widehat{\theta}(a^k)$ for $k \neq j$, then $\overline{a}(\theta_t^j, a^j; df) = \overline{a}(\theta_t^j, a^j; dl) = 1$ and $\overline{a}(\theta_t^k, a^k; df) < \overline{a}(\theta_t^k, a^k; dl)$, where* $\max \mathcal{R}_t^k = a^k < 1$.

When $\theta_t^j > \widehat{\theta}(a^j)$, the court strictly prefers full authority in dimension j to being stuck forever with the precedent a^j. With dimension-free precedent, the politician cannot take advantage of this since the court's decision in the two dimensions are independent from each other. With dimension-linked precedent, the executive uses this strict preference of the judiciary for full authority on dimension j to her advantage by claiming more authority in dimension k.

Proofs

Proofs of Remark C.1

A series of claim is upheld with dimension-free precedent if on each dimension j for each period t, realization of the state θ_t^j and each permissible set characterized by $\max \mathcal{R}_t^j = a^j$, the following inequality holds:

$$-(a_t^j - \kappa^C - \theta_t^j)^2 + \beta V^j(a_t^j, 1) \geq -(a^j - \kappa^C - \theta_t^j)^2 + \beta V^j(a^j, a^j), \tag{C.3}$$

where $V^j(\cdot, \cdot)$ is the continuation value on dimension j with dimension-free precedent.

Now, consider dimension-linked precedent. For each period t, each realization of the vector of states $\vec{\theta}_t$ and each permissible set characterized by $\max \vec{\mathcal{R}}_t^j = \vec{a}$, the $n-$dimensional claim $\vec{a}_t$ must satisfy:

$$\sum_{j}^{n} -(a_t^j - \kappa^C - \theta_t^j)^2 + \beta V^j(\vec{a}_t, \vec{1}) \geq \sum_{j=1}^{b} -(a^j - \kappa^C - \theta_t^j)^2 + \beta V^j(\vec{a}, \vec{a}) \tag{C.4}$$

Fixing the set of precedents, $V^j(\vec{a}, \vec{a}) = V^j(a^j, a^j)$. Further, fixing the series of authority claims, $V^j(\vec{a}_t, \vec{1}) = V^j(a^j, 1)$ since the claims are independent across dimensions by definition of dimension-free precedent. Hence, when the first set of n-equalities is satisfied (condition (C.3)), the second unique inequality (condition (C.4)) also necessarily holds. Hence, any feasible series of claims under dimension-free precedent is also feasible under dimension-linked precedent.

Obviously, the reverse is not necessarily true. We cannot guarantee that satisfying condition (C.4) implies the n conditions implied by (C.3) hold. Indeed, there can be series of claimed where for some realization of the states and some sets of precedents, condition (C.4) holds while satisfying some of the constraints in (C.3) strictly and violating some of the others. As it is well-known, a single constraint helps compared to n separate constraints. □

Proof of Remark C.2

Using the proof of Remark C.1, with dimension-free precedent, the court's tolerance threshold on dimension k must satisfy (ignoring all arguments but the type of precedents df):

$$-(\overline{a}_t^k(df) - \kappa^C - \theta_t^k)^2 + \beta V^k(\overline{a}_t^k(df), 1) = -(a^k - \kappa^C - \theta_t^k)^2 + \beta V^k(a^k, a^k), \tag{C.5}$$

with $\overline{a}_t^k(df) < 1$ given our assumption on θ_t^k.

With dimension-linked precedent, the court's tolerance threshold on dimension k is either full authority (in which case $\overline{a}_t^k(df) < \overline{a}_t^k(dl)$) or must satisfy:

$$\begin{aligned}
& -(\overline{a}_t^k(dl) - \kappa^C - \theta_t^k)^2 + \beta V^k(\overline{a}_t^k(dl), 1) - (1 - \kappa^C - \theta_t^j)^2 + \beta V^j(1,1) \\
& = -(a^k - \kappa^C - \theta_t^k)^2 + \beta V^k(a^k, a^k) - (a^j - \kappa^C - \theta_t^k)^2 + \beta V^j(a^j, a^j) \\
\Leftrightarrow \quad & -(\overline{a}_t^k(dl) - \kappa^C - \theta_t^k)^2 + \beta V^k(\overline{a}_t^k(dl), 1) \\
& = -(a^k - \kappa^C - \theta_t^k)^2 + \beta V^k(a^k, a^k) + \Big((1 - \kappa^C - \theta_t^j)^2 - \beta V^j(1,1) - (a^j - \kappa^C - \theta_t^k)^2 + \beta V^j(a^j, a^j)\Big)
\end{aligned} \tag{C.6}$$

We can write the function $V^k(\cdot,\cdot)$ as a function of authority claim in dimension k only since once full authority has been acquired on dimension j, dimension k becomes the only dimension in which the court's decision matters. Notice that the function $G(a_t^k) = -(a_t^k(dl) - \kappa^C - \theta_t^k)^2 + \beta V^k(a_t^k(dl), 1)$ must satisfy $G'(\overline{a}_t^k(df)) < 0$ and $G'(\overline{a}_t^k(dl)) < 0$, otherwise the politician could increase her claim and the court would still uphold it, contradicting the assumption that she makes a maximally admissible claim. Further, the term in parenthesis in Equation C.6 is strictly negative. Combining both, we obtain that $\overline{a}_t^k(df) < \overline{a}_t^k(dl)$.[21]

C.3 Judicial Turnover

In this appendix, we evaluate the effects of judicial appointments, albeit in a very reduced form. For problems mentioned in the main text (the difficulty to pin down behaviours without a defining the equilibrium being played), we restrict attention to the maximally feasible equilibrium. It is well known that presidents tend to use their appointment powers to create a more accommodating judiciary. What happens when the ideal point of the court is allowed to change? Quite obviously, the more a judge is aligned with the executive (higher κ^C), the more authority the office-holder can obtain each period.

A more interesting question, though, concerns how an incumbent judge alters his behavior in anticipation of his subsequent replacement. To study this matter, suppose that a judge with ideal point κ^C learns he is to be replaced next period by a judge with ideal point κ^N (where N stands for new judge). Denote $\overline{a}(\theta, a; \kappa^N)$ the incumbent judge's tolerance threshold after he learns that he will be permanently replaced in the next period by a judge with ideal point κ^N. The following result shows that, compared to the case when he is not replaced, the incumbent judge is more stringent if he is to be replaced by someone who is more favorable to the executive, and more lenient otherwise.

[21] In fact, because dimension k becomes the only dimension for which authority can grow, we then have that the continuation values for dimension free and dimension linked precedent are identical fixing the permissible set (this is not true until full authority is acquired on dimension j). Hence, we know that $G'(a_t) < 0$ for all $a_t > \overline{a}_t^k(df)$ by the usual reasoning from the baseline model (Lemma A.3).

Proposition C.3. *If* $\kappa^N > \kappa^C$*, then* $\overline{a}(\theta, a; \kappa^N) \leq \overline{a}(\theta, a)$*, with strict inequality if and only if* $\theta < \widehat{\theta}(a)$*.*

If $\kappa^N < \kappa^C$*, then* $\overline{a}(\theta, a; \kappa^N) \geq \overline{a}(\theta, a)$ *with strict inequality if and only if* $\theta < \widehat{\theta}(a)$*.*

This finding identifies an inter-temporal tradeoff associated with judicial appointments. On the one hand, packing the court with a constitutionally like-minded judge is beneficial for the executive in the long run. In the short run, however, it comes at some cost. Incumbent judges, after all, become less favorable to the office-holder as they anticipate greater expansion of authority in the future. Should the politician appoint judges with a more restrictive view of executive authority, however, she can expect the incumbent judge to assume a more accommodating posture. Once the less favorable replacement judge takes office, however, the executive will claim less authority than she otherwise would if the incumbent judge had remained on the bench.

Proof of Proposition C.3

Throughout, we assume that the executive plays a maximum grab strategy. Before proceeding with the proof, denote $V^C(a, 1; \kappa^N)$ the continuation value of a judge with ideal point κ^C when a judge with ideal point κ^N decides on authority extension this period and in the following ones. Note that $V(a, 1) = V^C(a, 1; \kappa^C)$. Denote further $\overline{a}^N(\theta, a)$ the tolerance threshold of the replacement judge after he takes over the court and let $\widehat{\theta}(\cdot)$ now be a function of κ: $\widehat{\theta}(a; \kappa) \equiv \frac{\frac{1+a}{2} - \kappa}{1-\beta}$.

Using $H(\cdot)$ defined in Equation A.7 and a similar reasoning as in the proof of Lemma 3, it can easily be shown that $\overline{a}^N(\theta, a) \leq \overline{a}(\theta, a)$ if and only if $\kappa^N < \kappa^C$ (with strict inequality whenever $\theta < \widehat{\theta}(a; \kappa^N)$), and $\overline{a}^N(\theta, a) \geq \overline{a}(\theta, a)$ if and only if $\kappa^N > \kappa^C$ (with strict inequality whenever $\theta < \widehat{\theta}(a; \kappa^C)$).

Ignoring all arguments but κ^N, When the court is not changing hands, the tolerance threshold is defined by:

$$-(a - \theta - \kappa^C)^2 + \beta \frac{E_\theta\big(-(a - \theta - \kappa^C)^2\big)}{1 - \beta} = -(\overline{a} - \theta - \kappa^C)^2 + \beta V(\overline{a}, 1)$$

In turn, the tolerance threshold of a judge about to be replaced—denoted $\overline{a}(\kappa^N)$ when other arguments are ignored—is defined by:

$$-(a-\theta-\kappa^C)^2+\beta\frac{E_\theta\big(-(a-\theta-\kappa^C)^2\big)}{1-\beta}=-(\overline{a}(\kappa^N)-\theta-\kappa^C)^2+\beta V^C(\overline{a}(\kappa^N),1;\kappa^N)$$

We can show using a similar reasoning as in the proof of Lemma A.4 that $V^C(\cdot)$ exists and is continuous. Note that $\overline{a}=1$ whenever $\theta\geq\widehat{\theta}(a;\kappa^C)$ whether or not the judge is replaced since $V(1,1)=V^C(1,1;\kappa^N)=\frac{E_\theta\left(-(1-\theta-\kappa^C)^2\right)}{1-\beta}$. We focus on the cases when $\theta<\widehat{\theta}(a;\kappa^C)$ in what follows. We first show that $V^C(a,1;\kappa^N)<V(a,1)$ for all $a\in[0,1)$ when $\kappa^N>\kappa^C$. To do so, suppose that when the set of precedents is $[0,a]$, the justice characterised by ideal point κ^C is forced to accept authority claim $\overline{a}^N(\theta,a)$ in that period before the game resuming as normal. Her continuation value is then: $\hat{V}(a,1)=\int_{-\overline{\theta}}^{\widehat{\theta}(a;\kappa^N)}\Big(-(\overline{a}^N(\theta,a)-\kappa^C-\theta)^2+\beta V(\overline{a}^N(\theta,a),1)\Big)dF(\theta)+\int_{\widehat{\theta}(a;\kappa^N)}^{\overline{\theta}}\Big(-(1-\theta-\kappa^C)^2+\beta V(1,1)\Big)dF(\theta)$. Given $\overline{a}^N>\overline{a}$ and using the proof of Lemma A.3, $\hat{V}(a,1)<V(a,1)$. Repeating the process, we obtain that:

$$\begin{aligned}V(a,1)>\hat{V}(a,1)>\int_{-\overline{\theta}}^{\widehat{\theta}(a;\kappa^N)}&\Bigg(-(\overline{a}^N(\theta,a)-\kappa^C-\theta)^2\\&+\beta\Big(\int_{-\overline{\theta}}^{\widehat{\theta}(\overline{a}^N(\theta,a);\kappa^N)}\big(-(\overline{a}^N(\tilde{\theta},\overline{a}^N(\theta;a))-\kappa^C-\tilde{t})^2+\beta V(\overline{a}^N(\tilde{\theta},\overline{a}^N(\theta;a));1)dF(\tilde{\theta})\\&+\int_{\widehat{\theta}(\overline{a}^N(\theta,a);\kappa^N)}^{\overline{\theta}}\big(-(1-\tilde{\theta}-\kappa^C)^2+\beta V(1,1)\big)dF(\tilde{\theta})\Big)\Bigg)dF(\theta)\\&+\int_{\widehat{\theta}(a;\kappa^N)}^{\overline{\theta}}\Big(-(1-\theta-\kappa^C)^2+\beta V(1,1)\Big)dF(\theta)\end{aligned}$$

Note that in this process, the authority claim implemented in two subsequent periods is the same as if the court is controlled by a judge with ideal point κ^N and the incumbent plays a maximum grab strategy, before a judge with ideal point κ^C takes control again. Hence, repeating the process again k times with k very large (and using the fact that we have continuity at infinity with the discount factor β), we can get arbitrarily close to $V^C(a,1;\kappa^N)$. Since inequalities are all strict along the way, we obtain $V(a,1)>V^C(a,1;\kappa^N)$.

By Lemma A.3, we know that (i) at $a_t=\overline{a}$, $-(a-\theta-\kappa^C)^2+\beta\frac{E_\theta\left(-(a-\theta-\kappa^C)^2\right)}{1-\beta}=-(a_t-\theta-\kappa^C)^2+\beta V(a_t,1)$ and (ii) for all $a_t>\overline{a}$, $-(a-\theta-\kappa^C)^2+\beta\frac{E_\theta\left(-(a-\theta-\kappa^C)^2\right)}{1-\beta}>-(a_t-\theta-\kappa^C)^2+\beta V(a_t,1)$.

Combining $V(a,1) \geq V^C(a,1;\kappa^N)$ (strictly if $a<1$) with the two properties above, we obtain that $-(a-\theta-\kappa^C)^2+\beta\frac{E_\theta\left(-(a-\theta-\kappa^C)^2\right)}{1-\beta} > -(a_t-\theta-\kappa^C)^2+\beta V^C(a_t,1;\kappa^N)$ for all $a_t \geq \overline{a}$. Hence, it must be that $\overline{a}(\kappa^N) < \overline{a}$ as claimed.

We now show that $V^N(a,1;\kappa^N) > V(a,1)$ for all $a \in [0,1)$ and $\kappa^N < \kappa^C$. Adapting the proof of Lemma A.3, $\overline{a}^N(\theta,a)$ is defined by $H^N(\overline{a}^N(\theta,a);\theta,a) = 2(\kappa^N+(1-\beta)\theta)-(a+\overline{a}^N(\theta,a)) + \beta\frac{1-\overline{a}^N(\theta,a)}{\overline{a}^N(\theta,a)-a}\int_{\widehat{\theta}(\overline{a}^N(\theta,a);a)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^N)-(\overline{a}^N(\theta,a)+1)dF(\theta)=0$ and it is strictly increasing with κ^N. Now, for all $\kappa^N \in [0,\kappa^C)$ and all $\theta < \widehat{\theta}(a,\kappa^N)$ (so $\overline{a}^N(\theta,a) \in (a,1)$), we can rewrite (ignoring arguments in the tolerance threshold, i.e. $\overline{a}^N = \overline{a}^N(\theta,a)$):

$$\begin{aligned}
H(\overline{a}^N;\theta,a) =& 2(\kappa^C+(1-\beta)\theta)-(a+\overline{a}^N) \\
&+\beta\frac{1-\overline{a}^N}{\overline{a}^N-a}\int_{\widehat{\theta}(\overline{a}^N;\kappa^C)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(\overline{a}^N+1)dF(\theta) \\
=& 2(\kappa^C+(1-\beta)\theta)-(a+\overline{a}^N) \\
&+\beta\frac{1-\overline{a}^N}{\overline{a}^N-a}\int_{\widehat{\theta}(\overline{a}^N;\kappa^C)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^C)-(\overline{a}^N+1)dF(\theta) \\
&-\Bigg[2(\kappa^N+(1-\beta)\theta)-(a+\overline{a}^N) \\
&+\beta\frac{1-\overline{a}^N}{\overline{a}^N-a}\int_{\widehat{\theta}(\overline{a}^N;\kappa^N)}^{\overline{\theta}} 2((1-\beta)\theta+\kappa^N)-(\overline{a}^N+1)dF(\theta)\Bigg] \\
=& 2(\kappa^C-\kappa^N)+\beta\frac{1-\overline{a}^N}{\overline{a}^N-a}\int_{\widehat{\theta}(\overline{a}^N;\kappa^N)}^{\overline{\theta}} 2(\kappa^C-\kappa^N)dF(\theta) \\
&+\beta\frac{1-\overline{a}^N}{\overline{a}^N-a}\int_{\widehat{\theta}(\overline{a}^N;\kappa^C)}^{\widehat{\theta}(\overline{a}^N;\kappa^N)} 2((1-\beta)\theta+\kappa^C)-(\overline{a}^N+1)dF(\theta) \\
&>0
\end{aligned}$$

The second equality uses the fact that $H^N(\overline{a}^N(\theta,a);\theta,a)=0$. The third equality comes from the fact that $\widehat{\theta}(a;\kappa)=\frac{\frac{1+a}{2}-\kappa}{1-\beta}$ decreasing with κ and $\kappa^C>\kappa^N$. The inequality comes from $\kappa^C>\kappa^N$ and $2((1-\beta)\theta+\kappa^C)-(\overline{a}^N+1)>0$ for all $\theta \geq \widehat{\theta}(\overline{a}^N;\kappa^C)$.

Hence, for all $\kappa^N \in [0,\kappa^C)$, $H(\overline{a}^N;\theta,a)>0$. Now, using the exact same process as for the case when $\kappa^N>\kappa^C$, but with reversed inequalities, we can show that $V^C(a,1;\kappa^N)>V(a,1)$. Then, using the same reasoning as above, it can be checked that this inequality and the properties of the tolerance threshold imply that $\overline{a}(\theta, a; \kappa^N) \geq \overline{a}(\theta, a)$ with strict inequality whenever $\theta < \widehat{\theta}(a; \kappa^C)$. □

C.4 Turnover with party-dependent probability of election

As in Subsection 6.3, we assume that at the beginning of each period, before θ_t is realised, Nature determines the identity of the officeholder, which can be either P_l or P_r. Following a long tradition in the literature (e.g., Persson and Svensson 1989), in this Appendix, the probability of being in office is party-dependent. It is common knowledge that the probability that P_r is selected by Nature is i.i.d. over time and is equal to $\pi \geq 1/2$ each period.

Like in the main text, the utility function of politician $J \in \{P_l, P_r\}$,

$$U_J(y_t) = \begin{cases} v(y_t) & \text{if } J \text{ is in office} \\ -v(y_t) & \text{otherwise} \end{cases}$$

The rest of the model remains unchanged. In particular, we assume that the court cares only about constitutional considerations and the state of the world (i.e., the court's ideal level of authority κ^C does not depend on the officeholder's identity).

As before, the court's problem remains the same as in the baseline model, and ny constraint on authority can only come from change of personnel in office. Our first result shows that electoral competition in itself is not sufficient to curb the growth of executive authority. Whenever the election is well balanced (i.e., P_l's chances of getting into office are not so different than P_r's), in any equilibrium, executive authority grows to its highest feasible level.

Proposition C.4. *There exists $\overline{\pi} > 1/2$ such that if $\pi \in [1/2, \overline{\pi})$, any equilibrium satisfies $\lim_{t\to\infty} \mathcal{R}_t = [0, 1]$ with probability 1.*

Before the identity of the officeholder is revealed, P_l would like to commit to curb the authority of the executive office, since her chances of winning are low. Once she assumes office, however, this commitment proves untenable. At that time, after all, P_l trades off the present benefit of having more authority to implement her preferred policy and the future cost of ceding more authority prospectively to her opponent. When the likelihood that P_l remains in power is not too low relative to P_r's, however, the present benefit of increased authority dominates the future cost, and P_l always chooses an authority claim that is upheld by the court.

Proposition C.4 suggests that P_l may choose to constrain the executive if she is electorally disadvantaged but wins office unexpectedly. The next result stipulates this fact formally. When P_r is sufficiently likely to return to office in the next period, at the first possible opportunity P_l will choose to constrain the authority of the executive office by soliciting a court rejection.

Proposition C.5. *If $\beta > 1/2$, there exists $\pi' \geq \overline{\pi}$ such that if $\pi > \pi'$, in equilibrium, an electorally disadvantaged officeholder P_l chooses an action that is rejected by the court whenever possible (formally, chooses an authority claim a_t such that $d_t(a_t, \theta_t, \mathcal{R}_t, \mathcal{W}_t) = 1$ whenever $\theta_t < \widehat{\theta}(a)$).*

The possibility of political turnover can serve as a constraint on the executive when the judiciary itself has no effect. The judicial constraint is only secondary because the court cannot impose limits on executive authority on its own. It needs to be presented with a policy it deems sufficiently unsatisfactory today to reject it, despite its loss of future flexibility. But with strategic officeholders, this happens only if there is the possibility of turnover.

The possibility of political turnover is necessary, but not sufficient. As we stressed above, limits on executive authority arise in equilibrium only if a highly disadvantaged party or candidate, by chance, rises to power. When electoral competition is well balanced, the officeholder, whatever her identity, increases the scope of authority to do more today. Further, the complexity of the model does not allow us to rule out the possibility that a disadvantaged P_l claims full authority today whenever circumstances permit (i.e., $\theta_t \geq \widehat{\theta}(a)$).[22] Hence, even a highly disadvantaged politician may choose to claim new authority.

Proofs

Proof of Proposition C.4

To prove the proposition, we denote $W_J(\theta, a, 1, K)$ the continuation value of politician $J \in \{P_l, P_r\}$ when the state is θ, the maximum of the permissible range is a ($\max \mathcal{R}_t = a$), no previous claim has

[22]The choice for P_l is then (broadly speaking) between waiting by making no authority claim or obtaining full authority for the office. Since the payoff from waiting is indeterminate absent further assumptions (especially, regarding P_r's strategy), it becomes difficult to judge which of the two choices provides the highest expected payoff.

been rejected, and politician $K \in \{P_l, P_r\}$ is in office (assuming the existence). Let $a^*(\theta, a, 1, K)$ a prescribed equilibrium authority acquisition when the state is θ, $\max \mathcal{R}_t = a$, and $K \in \{P_l, P_r\}$ is in office.

To prove the result, we first suppose that there exists $a \in [0, 1]$ and θ such that P_l's equilibrium strategy satisfies $d(a^*(\theta, a, 1, P_l), \theta, a, 1) = 1$. That is, there exists some authority stock and some state of the world so that the left-wing incumbent oversteps her authority so as the court rejects the authority grab and blocks future grab. We show that there exists a profitable deviation whenever π is sufficiently close to 1/2.

To do so, suppose that for some $t \geq 1$, P_l is in power with authority stock a and the state is θ. If P_l follows her prescribed strategy, her expected payoff is:

$$W_{P_l}(\theta, a, a, P_l) = v(a) - \frac{\beta}{1-\beta}(2\pi - 1)v(a) \tag{C.7}$$

Using a similar reasoning as in the proof of Proposition 2, it can be shown that there exists $\overline{a}(\theta, a)$ such that the court upholds the executive action if $a \leq \overline{a}(\theta, a)$.[23] Given the prescribed equilibrium strategy (the court must reject P_l's claim), obviously, $\overline{a}(\theta, a) < 1$. Consider the following deviation strategy by P_l. In period t, P_l chooses $\widehat{a}_t = \overline{a}(\theta, a)$. Then, in period $t + k$, $k \geq 1$, for each possible authority stock a_{t+k} and state of the world θ_{t+k}, P_l when in office chooses the same authority grab as P_r would if in power and denote this value $\widehat{a}_{t+k}(\theta_{t+k}, a_{t+k})$. Notice that for this particular deviation, we do not make any prediction about how P_r and the court react to the deviation strategy proposed. The reaction, however, is well defined since we assume that the equilibrium exists and we just look for a necessary condition for its existence.[24]

Denote $\widehat{a}_{t+k}$ the realized authority acquisition in period $t + k$ and noting that it is fully determined

[23]Recall that we focus on Markov Perfect Equilibrium. Hence, the court only considers the state variables in its decision—(a) the identity of the current officeholder (which is inconsequential), (b) the authority stock a, and (c) the state θ_t—taking into *future* players' strategies.

[24]Notice that the one-shot deviation principle does not necessarily holds in this setting since the game is not a proper infinitely-repeated game due to the variations in the authority stock a and state of the world θ.

by previous states of the world, the expected payoff from the prescribed deviation is:

$$\begin{aligned}\widehat{W}_{P_l}(\theta,a,1,P_l) =&v(\overline{a}(\theta,a))+\beta E_{\theta_{t+1}}\big(\pi(-v(\widehat{a}_{t+1}(\theta_{t+1},\widehat{a}_t))+(1-\pi)v(\widehat{a}_{t+1}(\theta_{t+1},\widehat{a}_t)))\big)\\ &+\beta^2 E_{\theta_{t+1},\theta_{t+2}}\big(\pi(-v(\widehat{a}_{t+2}(\theta_{t+2},\widehat{a}_{t+1}))))+(1-\pi)v(\widehat{a}_{t+2}(\theta_{t+1},\widehat{a}_{t+1})))\big)+\dots\\ =&v(\overline{a}(\theta,a))-(2\pi-1)\sum_{k=1}^{\infty}\beta^k E_{\theta_{t+1},\dots,\theta_{t+k}}\big(v(\widehat{a}_{t+k}(\theta_{t+k},\widehat{a}_{t+k-1})\big) \qquad \text{(C.8)}\end{aligned}$$

Notice that P_l's expected payoff from deviating is decreasing with $v(\widehat{a}_{t+k}(\cdot))$ in each subsequent period. Hence, P_l's payoff from deviating satisfies: $\widehat{W}_{P_l}(\theta,a,1,L)\geq v(\overline{a}(\theta,a))-(2\pi-1)\sum_{k=1}^{\infty}\beta^k v(1)=v(\overline{a}(\theta,a))-(2\pi-1)\frac{\beta}{1-\beta}v(1)$.

Consequently, a necessary condition for the postulated equilibrium to exist is:

$$v(\overline{a}(\theta,a))-v(a)-(2\pi-1)\frac{\beta}{1-\beta}(v(1)-v(a))\leq 0$$

Denote $\widehat{\pi}(a,\theta)=\frac{1}{2}+\frac{1}{2}\frac{1-\beta}{\beta}\frac{v(\overline{a}(\theta,a))-v(a)}{v(1)-v(a)}$. such that this necessary condition is never satisfied if $\pi<\widehat{\pi}(a,\theta)$. Given $\beta<1$ and there exists $\varepsilon(a,\theta)>0$ such that $v(\overline{a}(\theta,a))-v(a)>\varepsilon(a,\theta)$ (by Proposition 2), $\widehat{\pi}(a,\theta)>\frac{1}{2}$.

Denote $\widehat{\widehat{\pi}}(a,\theta)=\min_{a\in[0,1),\theta\in[-\overline{\theta},\overline{\theta}]}\widehat{\pi}(a,\theta)$. From the reasoning above, $\widehat{\widehat{\pi}}(a,\theta)>1/2$. Given that we have only looked at one possible deviation, there exists $\overline{\pi}\geq\widehat{\widehat{\pi}}(a,\theta)$ such that any equilibrium in which $d(\cdot)=0$ with positive probability exists only if $\pi\geq\overline{\pi}$. The contrapositive then proves the claim. □

Proof of Proposition C.5

Notice that by a similar reasoning as in the proof of Proposition 2, the court upholds $a_t=1$ if and only if $\theta_t\geq\widehat{\theta}(a)$ or $a=1$. To prove the result, we thus need to show that for all $\theta_t<\widehat{\theta}(a)$, P_l when in office proposes a_t such that $d_t(a_t,\theta_t,a,1)=1$ (existence of such action is guaranteed since $a_t=1$ is rejected).

Still using $W_J(\theta_t,a,K)$ to denote the continuation value of $J\in\{P_l,P_r\}$ when $K\in\{P_l,P_r\}$ is in office facing state of the world θ_t and permissible set $[0,a]$, this is equivalent to showing that for all $a' \geq a$ such that $d_t(a', \theta_t, a, 1) = 0$:

$$v(a) - \frac{\beta}{1-\beta}(2\pi - 1)v(a) \geq v(a') + \beta\pi E_\theta(W_{P_l}(\theta, a', P_r)) + \beta(1-\pi)E_\theta(W_{P_l}(\theta, a', P_l)) \qquad \text{(C.9)}$$

We now find an upper bound on P_l's payoff when P_r is in office. To do so, denote $\pi = 1 - \delta$, $\rho(a') = F(\widehat{\theta}(a'))$ (with $\rho(a') \in (0,1)$) and $\overline{W} = \max_{\theta,a} W_{P_l}(\theta, a, P_l)$. Consider $W^{P_r}(\delta)$ the solution to $W = \rho(a')\Big(-v(a') + \beta(1-\delta)W + \beta\delta\overline{W}\Big) + (1-\rho(a'))(-v(1))\Big(1 + \frac{\beta}{1-\beta}(1-2\delta)\Big)$. This is equivalent to assume that when P_r is in power, she makes an authority claim $a_t = 1$ whenever possible or stays put otherwise. In turn, when P_l is in power, she obtains her highest possible continuation value.

After rearranging, we obtain

$$W^{P_r}(\delta) \equiv \frac{1}{1 - \beta\rho(a')(1-\delta)}\left(\rho(a')\Big(-v(a') + \beta\delta\overline{W}\Big) + (1-\rho(a'))\frac{-v(1)(1-\beta 2\delta)}{1-\beta}\right)$$

For δ sufficiently small, a similar reasoning as in the proof of Lemma A.1 yields that P_r chooses $a_t = 1$ whenever possible and weakly grows her authority otherwise. Therefore, $W_{P_l}(\theta, a', P_r) < W^{P_r}(\delta)$. It can easily be checked that, $v(a) - \frac{\beta}{1-\beta}v(a) > v(a') + \beta W^{P_r}(0)$ (since $\beta > 1/2$). Since $W^{P_r}(\cdot)$ is continuous and weakly increasing in δ (since by definition $\overline{W} \geq -v(a')/1-\beta$), we must have that there exists $\overline{\delta} > 0$ such that $v(a) - \frac{\beta}{1-\beta}(1-2\delta)v(a) > v(a') + \beta(1-\delta)W^{P_r}(\delta) + \beta\delta\overline{W}$ for all $\delta < \overline{\delta}$ and all $a' \geq a$ not rejected. Since $v(a') + \beta(1-\delta)W^{P_r}(\delta) + \beta\delta\overline{W}$ is a strict upper bound on P_l's expected payoff from not being overruled, there exists $\underline{\pi} < 1$ such as being overruled whenever $\theta_t < \widehat{\theta}(a)$ is indeed an equilibrium strategy. □