

Law and Weak Links of Independence:

A Fuzzy-Sets Analysis of Children's Ombudspersons

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Many institutions are characterized as independent. Sometimes institutions use the label of independence to thwart attempts to challenge their work and pressure their decision making. However, overall, independence is understudied, underconceptualized, and rarely measured within the law and social sciences literatures. According to literature on autonomy, characterizing institutions in terms of degrees of independence may prove more useful than merely using labels of 'independent' or 'not independent'. We agree that independence often is a matter of degree. However, we suggest that evaluation of potential 'weak links' in overall independence is important, as weakness in one aspect of independence may fundamentally weaken overall independence of an institution in a non-additive way. In this paper, we present an innovative measure of independence. We then apply this measure to twenty European children's ombudspersons to investigate whether our concept of 'weak links' is empirically substantiated. Finally, we employ Fuzzy Sets Analysis to consider weak links of independence for these children's ombudspersons. We find that, for nearly all of the ombudspersons examined, their independence can be characterized as having weak links. Our findings and discussion of degrees and weak links of independence in relation to these ombudspersons suggest a rethinking of conceptualizations and practices of independence.

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**Introduction**

Various institutions are labeled independent. Notable examples include auditors, central banks, grand juries, independent counsel, and ombudspersons. Independent implies others cannot affect the institution. An individual who directs an institution decides on the institution's objectives and how to pursue those objectives without regard to outside pressures. Leaders of many institutions insist that independence is essential to their functioning and meeting their offices' objectives. Independent institutions are often expected to fulfill special roles and may be held to higher standards than other institutions. Sometimes these institutions are characterized as having special responsibilities of trust.

In practice, questions often arise as to the degree to which an institution is independent. Some researchers contend complete independence is not possible (Johnson 1999: 309 endnote 6). The combination of extraordinary powers and responsibilities raises concerns of conflicts of interests. Responsibilities of independent institutions may affect interests of all citizens, but the opportunity to use the powers to fulfill those responsibilities present opportunities for gains to individuals and groups. A firm that audits a business corporation, for instance, is under pressure because it is paid by that corporation and can lose its business (see Frankel et al 2002; Guy and Zeff 2002). A central bank has the job of setting monetary policy independent of political pressures, but in the United States and other countries, central bank officials are expected to testify before national legislatures and meet with executive officials. A government independent counsel may have the responsibility of investigating the official who set up its office. A grand jury may decide whether a lawsuit can proceed, but it is instructed by the prosecutor whose case they are hearing. An ombudsperson may monitor the government which established it, but its budget is set and provided by that government. Each of these examples begs the question of what independence means and alludes to what potential weaknesses in independence might mean for an institution's overall functioning.

This paper makes two contributions. First, an innovative measure of independence is introduced and evaluated by assessing degrees of independence of children's ombudspersons. Often labeled independent, children's ombudspersons typically seek to promote children's interests and rights, serving as children's champions. Second, examining children's ombudspersons of twenty European countries, we employ an innovative methodological approach, Fuzzy Sets Analysis (FSA), to examine weak links of independence. A weak link may compromise a children's ombudsperson's independence. We code legislation establishing and governing these children's ombudspersons according to separate components of independence, then evaluate overall scores of independence. Using FSA, we discuss weak links of independence, then contrast degrees with weak links of independence.

## **Background**

### Defining Independence

Before pursuing these goals, it is essential that we define independence. The American Heritage Dictionary of the English Language (1969) offers various definitions of independence, including:

- Freedom from control or influence of another or others.
- Not dependent on or affiliated with a lawyer or controlling group, system, or the like; separate.
- Financially self-sufficient; self-supporting.

In her work on the Central Bank of Russia, Johnson (1999: 309 endnote 1) states that other researchers conceive of independence as "insulation" from others' pressures on the central bank. For instance, Gilardi (2002: 874) suggests can mean insulation from democratic accountability. To move policy goals beyond voters' interests, governments will delegate to independent institutions to promote credibility (Gilardi 2002: 876). Non- or less-than-independent officials are interested in revising policies in response to external changes rather than maintaining policies (Gilardi 2002: 875). They have short-term perspectives imposed by democratic processes (Gilardi 2002: 876).

Perhaps one reason it is difficult to define independence is because the kinds of institutions for which independence is considered important are qualitatively different organizations. Research devoted to independence is often institution-specific. As an example, in consideration of the work of Frankel,

Johnson, and Nelson (2002) on auditors, Kinney and Libby (2002: 107) focus on the economic bond of auditors and their clients. The economic bond is the payment an auditor expects in return for his or her work, which is to audit the client's accounts for third party information. If unable to resist a client's pressure, an auditor's report is less likely to be independent. Their concern is "independence impairment, or reduced willingness to resist client-induced biases in reported earnings..." (2002: 109).

In his study of democratic accountability and independence of central banks, Elgie (1998: 55) describes two kinds of independence: political and economic. Political independence arises when a government cannot interfere in the central bank's work. Economic independence occurs when a central bank can make policy choices without government intrusion. Manfield (1999: 285) offers a similar idea in focusing on "freedom from" and "freedom to." As an example, an independent institution has the freedom from the executive branch and this branch's concerns over voters' preferences. An independent institution has the freedom to choose policy instruments strictly based on its institutional objectives (Manfield 1999: 285).

Independence does not seem to mean the absence of accountability. In their research on independence of the judiciary, Wynn and Mazur (2004: 1) distinguish between independence and accountability. Judicial independence means a judge is immune from inappropriate pressures in making his or her decision. Accountability, on the other hand, is found when judges respond to public opinion. Wynn and Mazur (2004) contrast federal judges, with tenure and salary protection, with some state judges who are elected. Federal judges, according to Wynn and Mazur (2004), are independent, while state judges who are elected are accountable.

Carruthers' important work on autonomy is useful for thinking about independence. Carruthers (1994: 21) states that,

An autonomous organization is independent and self-governing. Its decisions are not determined externally, and so it formulates its own policies. It can pursue general goals (such as "reproduce capitalism") as it sees fit, and may even articulate its own goals. Autonomy is related directly to external control. An organization controlled externally (by a group,

organization, social class, or whatever) lacks autonomy; if it is free from external constraints, it is autonomous.

Although few researchers investigate how independence and autonomy differ (but see Doming 199?), Carruthers characterizes independence is a characteristic of an autonomous organization. According to Carruthers, in addition to being independent, an autonomous institution is self-governing. Carruthers (1994: 21) contends no organization completely is autonomous due to recognition of inevitable constraints placed on an organization by its environment. Instead, organizations are characterized by degrees (his italics) of autonomy.

### Degrees of Independence

When discussing independent institutions, most of us resort to ambiguous terms. We may conclude that a central bank really is independent, except for having to testify before a legislature. Carruthers (1994) concludes degrees of autonomy exist, and many students of independence make the same conclusion. Important contributions to studies of independence have been made through introducing indices of independence. These indices are built on components of independence. Our approach to independence as consisting of degrees is informed by this research.

In his work on independent regulatory agencies (IRAs), Gilardi (2002: 881-883) proposes a measure of independence that is divided into five dimensions: agency head status, management board members' status, agency's relationship with government, financial and organizational autonomy, and extent of regulatory powers. Gilardi's (1998: 69-75) index is based on thirty-seven components, thirty of which measure political and seven which measure economic independence. Gilardi's index implies that degree of independence in each dimension matters in terms of overall IRA independence.

Elgie (1998: 69-70) offers a detailed measure of central bank independence that follows his two major subcategories of independence, political and economic. Factors within these subcategories are each scored according to degree of independence. These factors include terms of entering and leaving the office for the bank governor and other bank leadership positions, degree of government involvement in bank decision-making, and degree of bank independence in determining mission and fiscal policy.

Cukierman, Webb, and Neyapti (1992: 358-359) also measure central bank independence, focusing on terms of entering and leaving the office, independence in policy formation and lending practices, and goals of the institution. In consideration of goals or objectives of central banks, Cukierman and colleagues note that conflicting goals reduce independence. In this sense, they recognize and measure potential conflicts of interest. Alesina and Summers (1993) also examine political and economic independence of central banks. Their study examines sixteen of the OECD countries. Their political component considers appointment process, appointment tenure, and the government's role in the work of the central bank, including whether government can influence central bank policy, and whether the central bank has some of its goals stated in statute, in this case, price stability. Their economic component is from the work of Grilli, Masciandaro, and Tabellini (1997). The economic component from Grilli and colleagues' (366-367) work considers the influence of government in an independent institution's work and the kind of work an independent institution can undertake. For each of these researchers' measures, each separate factor of independence is scored, yielding total scores of independence that vary by degree.

### Weak Links

Independence is typically conceived as a matter of degrees, as discussed above. Another conceptual approach is weak links. Rather than a question of more or less, independence may consist of necessary components. If one of these components is compromised, independence may be compromised. Suppose a children's ombudsperson is capable of setting her office's goals, determining her office's organization, and possesses formal qualities of independence, but her office's budget is set and paid for by a government official in the executive branch. This children's ombudsperson may experience or perceive pressure from the executive branch if she fails to pursue government's objectives. She may feel compelled to prioritize some goals over others or worse, force the children's ombudsperson to drop a goal because it conflicts with the executive branch's interests.

Important work has been undertaken on the idea of weak links, along with two similar concepts, substitutability and compensation (Ragin 2000: 322; Goertz 2006: 109). Charles Ragin (2000: 322-327) offers an example from welfare state studies. Suppose the research literature indicates generous public

pension development occurs when strong, left-leaning, political parties are in government or when strong trade unions are able to exert pressure on corporatist partners, or a combination of moderately strong left-leaning parties and moderately strong trade unions. First, either strong left-leaning parties or strong trade unions can attain generous public pensions. The idea of substitutability is that either strong left-leaning parties or strong trade unions can attain generous public pensions; one can substitute for the other. The idea of compensation is that moderately strong left-leaning parties, with the support of very strong trade unions, can attain generous public pensions. Compensation means both are needed. The idea of weak links is that one must have both strong left-leaning parties and strong trade unions to attain public pensions. Without both, generous public pensions will not be attained. Substitutability means that although one element of a case is weak, another part may substitute. Compensation allows for one characteristic to compensate for the other. Weak links is when a component is necessary; without that component, the goal is not reached.

Weak links have been studied for thinking about causation. According to Goertz (2006: 107), when considering weak causal links, the idea of minimum is appropriate. The minimum approach would take the minimum of two scores because these scores represent some aspect of a type. For instance, on a scale of ten, moderately strong left-leaning parties are scored 5, and moderately strong trade unions are scored 5. give example. One is scored 0, indicating ..., and another is scored 5, indicating...., the minimum approach (principle?) states...

Although independence has been considered as a matter of degree, we conceive of independence differently. Independence is a characteristic that can be compromised and weakened. Although an institution may have many strong independent characteristics, if one characteristic is weak, overall independence may be compromised. That is, one characteristic cannot compensate for another characteristic. Another characteristic, for example, formal qualities, cannot substitute for the ability to set the office's goals. Consequently, because one component of independence cannot be substituted for another, and one component cannot substitute for another, the minimum approach is appropriate (Goertz 2006: 111).

## **Components of Independence**

Based on previous work, especially of Gilardi (2002) and Elgie (1998), measuring independence requires consideration of various components of independence. Gilardi (2002: 880) states that no satisfying operationalization exists of independence of independent regulatory authorities, so he bases his on the work of Cukierman and colleagues (1992). Our index has its starting point the work of Gilardi (2002) and consequently Cukierman and colleagues (1992), as well as Elgie (1998) Alesina and Summers (1993).

Four components make up our measure of independence. These four separate components are each multi-faceted. Based on the literature on independence and our research of children's ombudspersons, these four components emerge as necessary to an institution's overall independence. The first component entails independence in doing work, which includes deciding on what work to undertake and how to conduct this work. The conceptualization of this component is a unique contribution to the literature on measurement of independence, as it concerns overall independence in doing the work for which the independent institution is responsible. No other measure reviewed conceptualized independence in doing one's work as distinct in this way. The second component is how the individual enters and exit the institution. How an individual takes and leaves an office may depend on another's actions. Third, control of the office's management and functioning once an individual holds an office is an important component of independence. Finally, the fourth component is formal qualities signifying independence. Our rationale for these four components and their conceptualizations is based in a thorough review of the literature of measures of independence, other conceptual research on independence, as well as our continuing research of children's ombudspersons.

Perhaps a fundamental feature of independence is independence in doing one's work. We conceptualize four aspects that influence independence in doing work: setting goals, using powers, formal obligations to other actors or institutions, and holding other posts. The latter two are considered by other researchers in their measures of independence; the former two are innovations in our measure that build

on the literature. The most common formal obligation noted in these measures is the requirement of submitting annual reports to government (e.g. Gilardi 2002). Such obligations to external actors may comprise a breach in autonomy, thus resulting in impaired independence. We have expanded this concept of obligations to include obligations on the levels of both national and international actors. Conceptually and empirically, it is important to consider not only obligations of independent institutions to within-nation actors, but also mandates of compliance with international actors, treaties and laws. Holding other posts is considered within several measures of independence (e.g. Elgie 1998; Cukierman et al 1992; Gilardi 2002) and is generally considered to decrease independence in doing one's work due to potential and perceived conflicts of interest. Holding other posts may reduce the office holder's independence through divided loyalties.

Independence in setting goals is necessary for independence in doing work. If the office holder cannot set goals, she may effectively share power and her independence is weakened. As discussed above, independent institutions are often entrusted with special responsibilities and powers. It logically follows that independence in using these powers to work toward the fulfillment of their mission is paramount. Can others demand that the office holder receive their approval before proceeding with her work or using specific powers? If so, it may be evidence that the independence of the institution is impaired.

Another important component of independence is how an individual enters and leaves office. Appointment by a single individual indicates dependence on the appointer, suggesting less independence. In contrast, an individual who is nominated and elected by way of a democratic process does not depend on a single individual. While some researchers contend an institution that is not directly elected is more independent (Thatcher 2002: 127), it is not clear why an appointment process encourages independence. Ultimately, consensus does not exist in the literature on measures of independence that resolves which form of entering office ought to be considered the process that maximizes independence. However, interestingly, all reviewed measures (including Cukierman et al 1992; Elgie 1998; Gilardi 2002; Grilli et al 1991; Alesina and Summers 1993) consider how officials are appointed as well as dismissed. In our

conceptualization, appointment by a formal process involving multiple actors represents greater independence than appointment at the discretion of one external actor.

Other aspects of entering and staying in office are renewability, dismissal, and term length. Most other measures of independence include consideration of dismissal and term length, yet few students of independence consider renewability an important aspect of overall independence. If an individual can seek another term, her interests may be divided between serving goals of her constituents and groups who are gatekeepers to securing another term. An individual who can serve more than one term may take into account how her decisions and actions influence opportunities for a second term. An individual facing only one term may have less concern for others' opinions, and is thus more independent. If the office holder can be dismissed at the discretion of a single individual, to some degree she must consider that individual in doing her work. An individual is more independent if it is up to a group's discretion; the group must form a consensus before dismissing the office holder. Therefore, a formal process, from which an office holder can predict her dismissal, offers more independence to the office holder.. On the other hand, a long term in office may present an opportunity to exercise powers without concerns for external authorities.

A third component of independence is control of office. Elgie (1998) and Gilardi (2002) include measures of budgetary concerns in their indices of independence, highlighting the importance of fiscal considerations and control to institutional independence. In his study of Latin American ombudsmen, Uggla (2004: ?) notes that the legislature can interfere with the functioning of a human rights' ombudsman through manipulation of the ombudsman's budget. Dodson and colleagues (2001: 65-66) suggest that the minimal allocations made by the government of El Salvador to the Procurator for the Defense of Human Rights not only indicate a lack of priority allotted to the Ombudsman's work, but may be in reaction to specific cases pursued by the Ombudsman that caused embarrassment to government officials. Across the board, control over office is acknowledged as important to independent institutions.

We consider three aspects of control of office important to overall independence: source of budget, control of budget, and control of the office's internal organization. Among the most important

features of independence is the source of an office's budget. If an office must rely on an external source for its funds, its independence may be weakened. The external source may turn off the well of resources if it disapproves of the independent institution's work. If the institution must share control over its budget with an external source, its independence may be weakened. Dictation of how resources are used may effectively control decisions made by the institution. Similar to appointment, if the institution cannot organize its internal arrangements, for instance through hiring employees, the institution may effectively share its decision making with an external body.

Finally, formal qualities may signal an institution's independence. Legislation establishing an office defines an institution. If this legislation states explicitly that the institution is independent, this signals to others an institution's independence. At the very least, this aspect of formal independence has symbolic importance. A stated mission that indicates an institution has objectives for which independence is essential may serve as a signal, too. Several researchers of independence (e.g. Elgie 1998, Cukierman et al 1992) include consideration of mission in their measures, indicating that having a single mission entails greater independence than having a plurality of missions. The implication is that with a plurality of missions, an institution is more likely to face a conflict of interest.

An office that is separate, that is, not part of another institution, may signal independence, compared to an office that formally is part of another institution. Several researchers' measures of independence indicate the decline of an institution's independence as a result of being too closely tied to other organizations, including government. In his research on human rights' ombudsmen in Latin America, Ugglá (2004) suggests that traditions of centralized bureaucratic authority within Latin American countries impair the independence of recently developed human rights ombudsmen to influence government. Dodson and colleagues (2001: 51-52) note that the development of "an autonomous human rights watchdog agency" in El Salvador entailed the creation of the new office as a part of the executive branch of government. Dodson and colleagues note that the human rights office may be influenced by the competing partisan interests and priorities of political actors.

## Analysis

### Degrees of Independence

Our Independence Index consists of fourteen separate criteria, parceled into four components or domains of independence. We code each component using a four-point scale. A four on this scale indicates a higher level of independence, with a one representing a lower level of independence. The one-two-three-four criteria differ according to individual component. For purposes of this paper, we first present coding of the different components, then total index scores of independence of each children's ombudsperson. We first examine the fourteen components (see Table 2).

**Table 2: Independence Index (N=20)**

Children's Ombudsperson	Goal	Power	Obligation	Posts	Appoint	Dismiss	Term	Term Length	Budget Source	Budget Control	Organization	Independence	Mission	Separate Office	Independence Index
Belgium	4	3	2	4	3	2	3	3	2	3	3	4	4	4	44
Croatia	4	4	2	2	3	2	1	4	2	4	1	4	4	4	41
Denmark	3	4	2	1	1	3	3	3	2	3	1	4	4	4	38
England	2	2	2	1	1	1	3	1	1	2	4	3	4	4	31
Greece	2	4	3	3	3	1	1	3	2	4	2	4	3	3	38
Hungary	4	4	3	4	3	3	3	4	2	3	3	4	2	1	43
Iceland	3	4	3	4	1	3	3	3	1	2	4	4	4	4	43
Ireland	4	2	2	2	3	3	3	4	2	3	1	4	4	4	41
Latvia	3	4	2	4	3	3	3	3	2	4	4	4	2	1	42
Lithuania	3	4	2	4	2	2	3	3	2	4	3	4	4	4	44
Luxembourg	4	4	2	2	1	2	3	3	2	1	4	4	4	4	40
Malta	4	4	2	3	1	2	1	2	2	3	2	4	3	4	37
N. Ireland	4	3	2	1	2	2	3	3	2	3	3	3	4	4	39
Norway	4	4	2	1	3	3	3	3	3	3	3	4	4	4	44
Poland	3	4	2	4	3	3	3	3	2	3	2	4	4	4	44
Portugal	4	3	3	3	3	3	3	3	3	4	3	4	2	1	42
Scotland	4	4	2	1	3	3	3	1	2	3	3	4	4	4	41
Slovenia	4	4	2	3	2	3	3	4	2	3	3	4	2	1	40
Sweden	4	4	2	1	2	3	3	1	2	3	4	3	4	4	40
Wales	3	2	3	1	2	2	4	4	2	4	4	3	4	4	42
	Doing Work			Entering/ Leaving Office				Control Work			Formal Qualities				

We first note the range of scores. For the Independence Index, the lowest possible score is 14 (a score of 1 on each component) and the highest possible score is 56 (a score of 4 on each component). None of the examined children's ombudspersons receive the highest or lowest possible Index scores. Among the thirteen children's ombudspersons we examine, the English children's ombudsperson receives the lowest score, 31. Three children's ombudspersons receive the highest examined scores of 44: Lithuania, Norway, and Poland. The mean score is about 40.7, while the median is 41 and the standard deviation approximately is 1.41.

We can characterize the twenty children's ombudspersons as independent to different degrees. Considering the overall independence scores, the English children's ombudsperson is less independent than the other dozen this paper examines. Lithuania, Norway, and Poland are more independent than the other European children's ombudspersons we examine. Yet not one children's ombudsperson is fully independent or fully not independent based on their scores on the Independence Index.

#### Introducing the Fuzzy-Sets Analysis Approach

A contribution this paper makes is to consider weak links of independence. To make this contribution, we employ ideas often used with a new methodological approach, the fuzzy-set approach (Ragin 2000). As is true for Qualitative Comparative Analysis, the fuzzy-set approach is based on understanding cases as configurations of parts. The fuzzy-set approach also allows social phenomena to belong partially or entirely to different categories. The fuzzy-set approach enables researchers to evaluate a children's ombudsperson as neither completely independent nor completely dependent, but in terms of degrees of independence. We also use this advantage to consider weak links of independence.

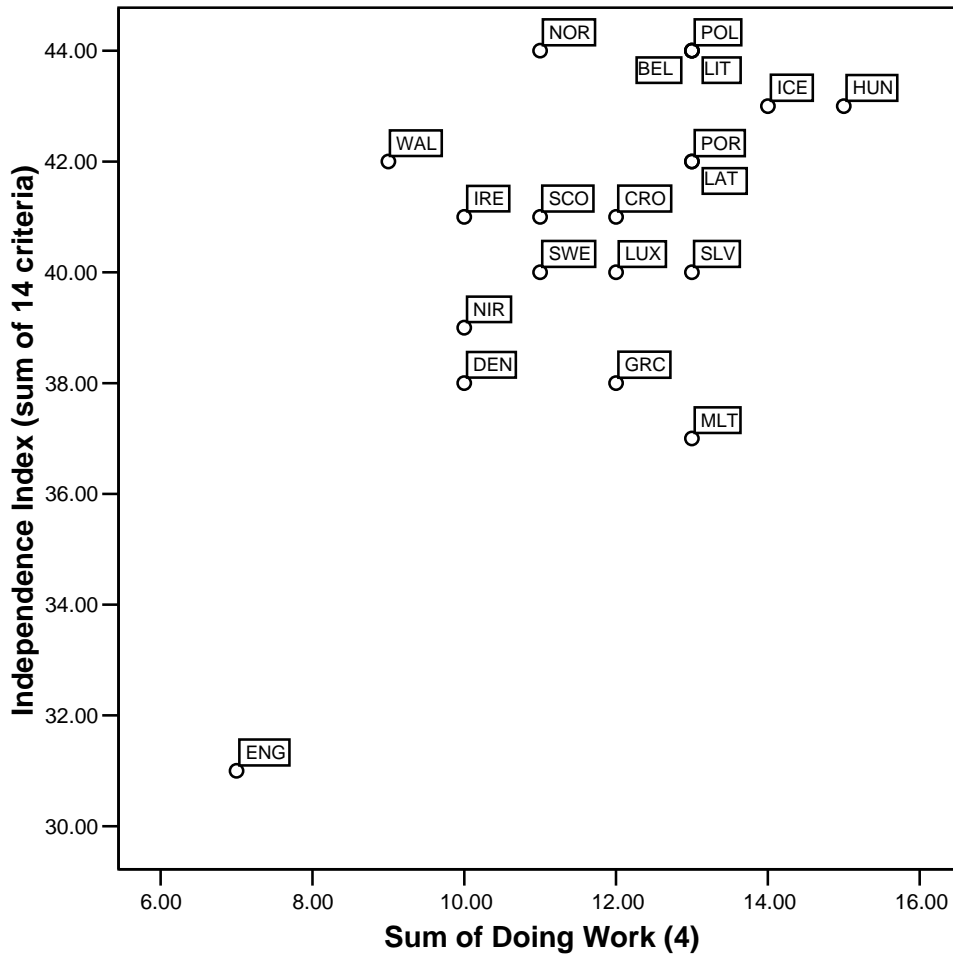
Before proceeding with the fuzzy-set analyses, two basic principles of fuzzy sets, the intersection and union of sets, are reviewed. First, when fuzzy sets intersect (logical and), the membership value of an element in the intersection is the minimum value of its separate membership scores in the constituent sets. Second, when fuzzy sets are joined (logical or), the membership value of an element in the union of sets is the maximum of its separate membership scores in the constituent sets. The minimum principle says that a case conforms to the ideal type by the minimum value of its scores in the relevant sets.

For this paper, we will contrast the maximum and the minimum, but use the minimum as the basis for determining the degree to which a case conforms to an ideal type as well as weak links. It is important to remember that to make this assessment, the evaluation is combinatorial. All components of a case are considered to identify the level at which it conforms to an ideal type. The minimum principle states that the level of conformity of a case to an ideal type is set by the minimum value of scores for the case. The minimum is analyzed because a case is treated as a member of the set defined by an ideal type only if it has all of the elements identified as part of an ideal type.

### Weak Links of Independence

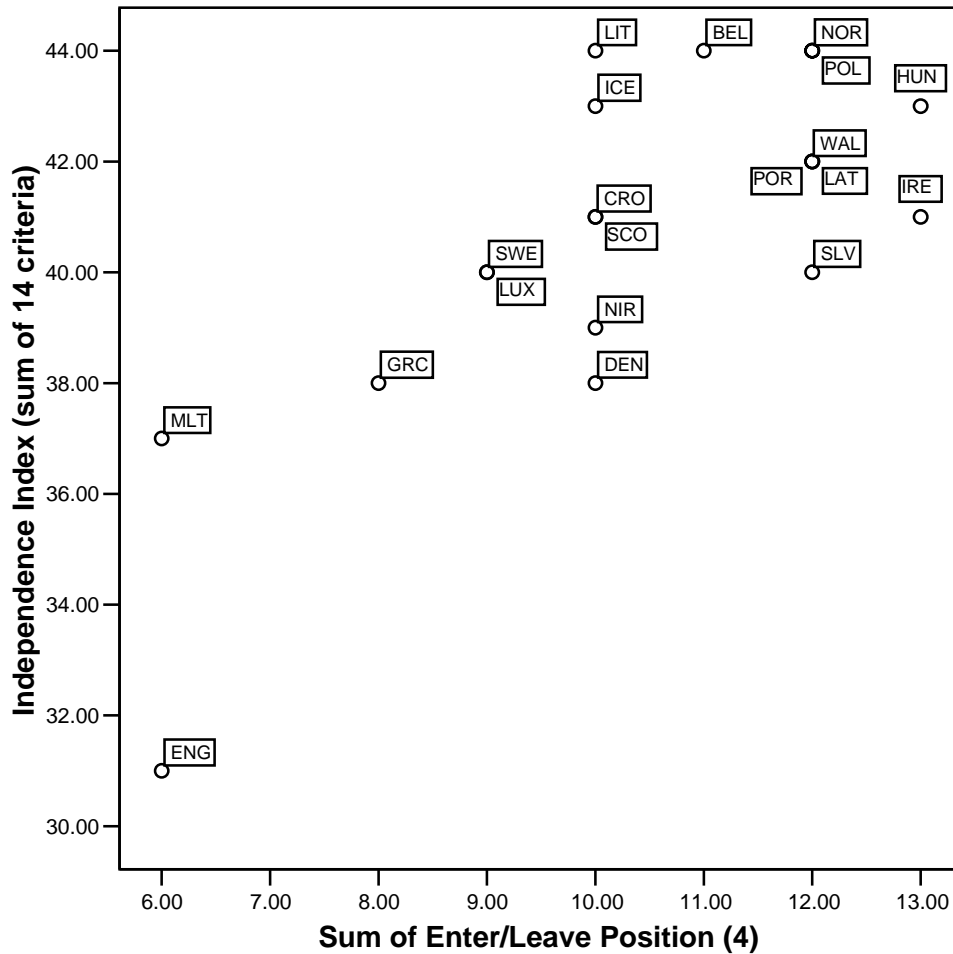
As mentioned above, an important contribution this paper makes is to apply the notion of “weak link” to the idea of independence. In addition to considering overall levels of independence, described above, we separately analyze the four separate components of independence, evaluating the different degrees of independence. We then approach these components according to minimum scores using FSA ideas to consider weak links of independence. We introduce the concept of “weak link” to the discussion of independence.

Our first component, doing work, consists of four criteria: setting goals, using powers, formal obligations, and holding other posts. Examining doing work, the range of potential scores is 4 (4 X 1 for each criteria), for low independence levels, to 16 (4 X 4), for high independence levels. The range we find is 7 (England) to 15 (Hungary). We present a figure of the children’s ombudspersons’ overall index scores with scores on this component of independence.



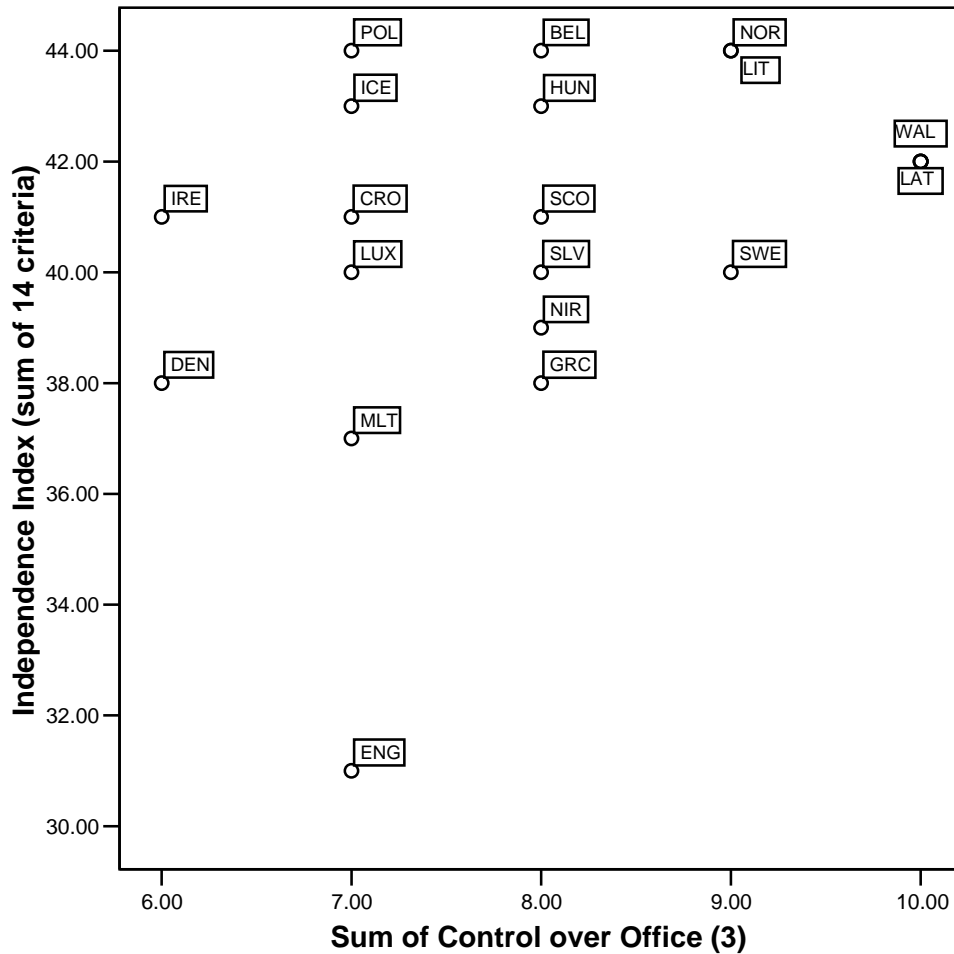
This figure indicates that one children’s ombudsman, England’s, achieves a low independence score as well as a low score on these four criteria. While this outcome is not surprising, two of the children’s ombudspersons, Iceland and Hungary, tend to score high on the four criteria that comprise ‘Doing Work’ as well as the overall index of independence.

The second component is entering and leaving office. This dimension of independence consists of appointment/election, dismissal, term renewability and term length. The range of potential scores is 4 to 16 because this component has four parts. The range we find is 6 (England and Malta) to 13 (Hungary and Ireland). We present a figure that contrasts overall index scores with scores on this group of components.



Hungary and Ireland achieve high scores on the four criteria of entering/leaving office, but do not score as high on the overall index as do Belgium (Flanders), Lithuania, Poland, and Norway. Like above, this result suggests degrees of independence rather than overall independence is found among children’s ombudspersons.

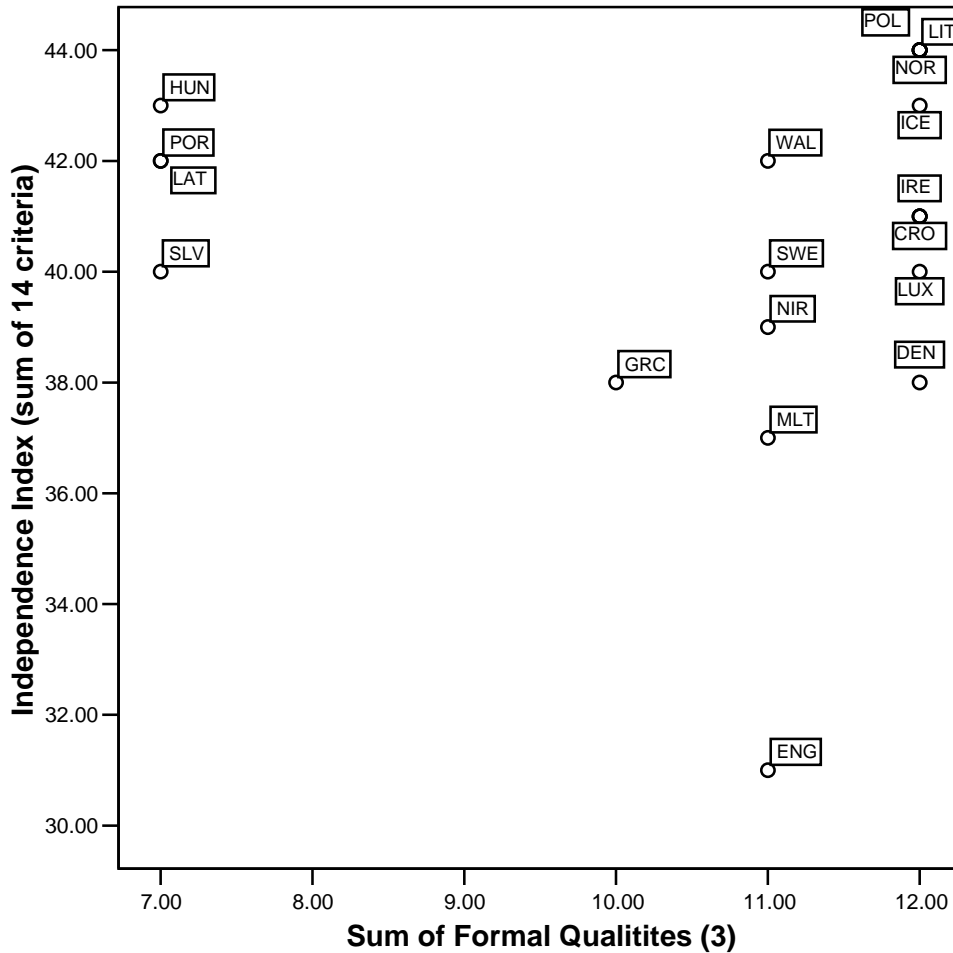
The third component is controlling the children’s ombudsperson’s office. The potential range is 3 (3 criteria X 1) to 12 (3 criteria X 4). The three criteria are source of budget, control of budget, and control of internal organization. The range we find is 6 (Denmark and Ireland) to 10 (Latvia, Portugal, and Wales). We present a figure to contrast overall index scores with scores on this group of components.



This figure suggests that, among the examined children’s ombudspersons this paper examines, important variation exists among the ability of the children’s ombudspersons in controlling their offices. The English children’s ombudsperson, which has the lowest level of independence, enjoys a higher level of independence in controlling his office, compared to the children’s ombudspersons of Denmark and Ireland. Although not enjoying high independence levels as Belgium (Flanders), Lithuania, Norway, and Poland, the children’s ombudspersons of Latvia and Wales enjoy more independence in controlling their offices.

The final component is formal qualities. Like controlling the children’s ombudsperson’s office, the potential range is 3 (3 components X 1) to 12 (3 components X 4). The three criteria are formal statement of independence, mission of institution, and whether the institution is part of another institution. The range we find is 7 (Hungary, Latvia, Portugal, and Slovenia) to 12 (Belgium (Flanders), Croatia,

Denmark, Iceland, Ireland, Lithuania, Luxembourg, Norway, Poland, and Scotland). We again contrast overall independence scores with scores on the group of components indicating formal qualities of independence.



This figure reveals that many of the examined children’s ombudspersons possess formal qualities of independence, but the picture is bifurcated. Sixteen of the children’s ombudspersons have formal qualities that signal independence, including England, which the Independence Index indicates is significantly less independent than the other children’s ombudspersons.

As discussed above, it is important to consider whether a high score on the index means independence and a low score means lack of independence. Instead, if one component is weakened, is independence compromised? We employ principles of fuzzy-sets analysis to examine different features of independence. To undertake these analyses, we will compare maximum and minimum scores for the

groups of components. To reiterate, the membership value of an element in the intersection is the minimum value of its separate membership scores in the constituent sets. Second, when fuzzy sets are joined (logical or), the membership value of an element in the union of sets is the maximum of its separate membership scores in the constituent sets. The maximum principle says that a case conforms to the ideal type, in this analysis independence, by the maximum value of its score in the relevant sets. The minimum principle says that a case conforms to the ideal type by the minimum value of its scores in the relevant sets.

### Weak Links

Is overall independence fundamentally weakened if one component of an institution is compromised? We first contrast the maximum and minimum membership scores, then focus on the minimum. We convert scores to fuzzy scores. For purposes of this analysis, a score of 4, fully independent, is 1. A score of 1, fully not independent, is 0. A score of 2 or 3, ambiguous evidence of independence, is .5. The minimum membership in the set is evaluated for these analyses of independence. We separately examine the four qualities of independence. We start with doing work.

**Table 2: Doing Work**

Children's Ombudsperson							
	Coal	Power	Obligation	Pos's	Min	Max	
<b>Belgium</b>	1	0.5	0.5	1	0.5	1	<b>Belgium</b>
<b>Croatia</b>	1	1	0.5	0.5	0.5	1	<b>Croatia</b>
<b>Denmark</b>	0.5	1	0.5	0	0	1	<b>Denmark</b>
<b>England</b>	0.5	0.5	0.5	0	0	0.5	<b>England</b>
<b>Greece</b>	0.5	1	0.5	0.5	0.5	1	<b>Greece</b>
<b>Hungary</b>	1	1	0.5	1	0.5	1	<b>Hungary</b>
<b>Iceland</b>	0.5	1	0.5	1	0.5	1	<b>Iceland</b>
<b>Ireland</b>	1	0.5	0.5	0.5	0.5	1	<b>Ireland</b>
<b>Latvia</b>	0.5	1	0.5	1	0.5	1	<b>Latvia</b>
<b>Lithuania</b>	0.5	1	0.5	1	0.5	1	<b>Lithuania</b>
<b>Luxembourg</b>	1	1	0.5	0.5	0.5	1	<b>Luxembourg</b>
<b>Malta</b>	1	1	0.5	0.5	0.5	1	<b>Malta</b>
<b>N. Ireland</b>	1	0.5	0.5	0	0	1	<b>N. Ireland</b>
<b>Norway</b>	1	1	0.5	0	0	1	<b>Norway</b>
<b>Poland</b>	0.5	1	0.5	1	0.5	1	<b>Poland</b>
<b>Scotland</b>	1	1	0.5	0	0	1	<b>Scotland</b>
<b>Slovenia</b>	1	1	0.5	0.5	0.5	1	<b>Slovenia</b>
<b>Sweden</b>	1	1	0.5	0	0	1	<b>Sweden</b>
<b>Wales</b>	0.5	0.5	0.5	0	0	0.5	<b>Wales</b>
	<b>Doing Work</b>						

For the group of components that indicate independence in doing work, maximum scores indicate nearly all of the children's ombudspersons enjoy high independence levels. The exceptions are Wales and England. In comparison, seven of the twenty children's ombudspersons we examine have minimum scores of 0 for one of the doing work components. If independence in doing work is essential, the children's ombudsperson of England raises concerns considering its maximum score, which is ambiguously independent. Considering minimum scores, not one of the children's ombudspersons is fully independent in doing work, and seven are fully not independent in doing their work.

Another feature of independence is how an individual enters the office of children's ombudspersons, how long the children's ombudsperson can serve, and the degree to which he or she is independent of involuntary dismissal.

**Table 3: Entering and Leaving Office**

Children's Ombudsperson	Appoint		Dismiss		Term Length		Min	Max
	1	0.5	0.5	0	0.5	0		
Belgium	1	0.5	0.5	0.5	0.5	0.5	1	Belgium
Croatia	0.5	0.5	0	1	0	0	1	Croatia
Denmark	0	0.5	0.5	0.5	0	0	0.5	Denmark
England	0	0	0.5	0	0	0	0.5	England
Greece	0.5	0	0	0.5	0	0	0.5	Greece
Hungary	0.5	0.5	0.5	1	0.5	0.5	1	Hungary
Iceland	0	0.5	0.5	0.5	0	0	0.5	Iceland
Ireland	0.5	0.5	0.5	1	0.5	0.5	1	Ireland
Latvia	0.5	0.5	0.5	0.5	0.5	0.5	0.5	Latvia
Lithuania	0.5	0.5	0.5	0.5	0.5	0.5	0.5	Lithuania
Luxembourg	0	0.5	0.5	0.5	0	0	0.5	Luxembourg
Malta	0	0.5	0	0.5	0	0	0.5	Malta
N. Ireland	0.5	0.5	0.5	0.5	0.5	0.5	0.5	N. Ireland
Norway	0.5	0.5	0.5	0.5	0.5	0.5	0.5	Norway
Poland	0.5	0.5	0.5	0.5	0.5	0.5	0.5	Poland
Scotland	0.5	0.5	0.5	0	0	0	0.5	Scotland
Slovenia	0.5	0.5	0.5	1	0.5	0.5	1	Slovenia
Sweden	0.5	0.5	0.5	0	0	0	0.5	Sweden
Wales	0.5	0.5	1	1	0.5	0.5	1	Wales
	<b>Entering/Leaving</b>							

Considering maximum scores, we note that five children's ombudspersons, Croatia, Hungary, Ireland, Slovenia, and Wales, are fully independent when entering and leaving their office. Focusing on the minimum scores, in contrast to the maximum scores, Croatia is fully not independent when entering and leaving her office, as is true for the children's ombudspersons of Denmark, England, Greece, Iceland, Luxembourg, Malta, Scotland, and Sweden.

Another important feature of independence is the degree to which the children's ombudsperson can control the daily workings of the office.

**Table 4: Controlling Office**

Children's Ombudsperson	Budget Source		Budget Control		Organization		
	Min	Max	Min	Max	Min	Max	
Belgium	0.5	0.5	0.5	0.5	0.5	0.5	Belgium
Croatia	0.5	1	0	0	0	1	Croatia
Denmark	0.5	0.5	0	0	0.5	0.5	Denmark
England	0	0.5	1	0	0	1	England
Greece	0.5	1	0.5	0.5	0.5	1	Greece
Hungary	0.5	0.5	0.5	0.5	0.5	0.5	Hungary
Iceland	0	0.5	1	0	0	1	Iceland
Ireland	0.5	0.5	0	0	0.5	0.5	Ireland
Latvia	0.5	1	1	0.5	0.5	1	Latvia
Lithuania	0.5	1	0.5	0.5	0.5	1	Lithuania
Luxembourg	0.5	0	1	0	0	1	Luxembourg
Malta	0.5	0.5	0.5	0.5	0.5	0.5	Malta
N. Ireland	0.5	0.5	0.5	0.5	0.5	0.5	N. Ireland
Norway	0.5	0.5	0.5	0.5	0.5	0.5	Norway
Poland	0.5	0.5	0.5	0.5	0.5	0.5	Poland
Scotland	0.5	0.5	0.5	0.5	0.5	0.5	Scotland
Slovenia	0.5	0.5	0.5	0.5	0.5	0.5	Slovenia
Sweden	0.5	0.5	1	0.5	0.5	1	Sweden
Wales	0.5	1	1	0.5	0.5	1	Wales
	<b>Control Work</b>						

Focusing on the maximum score, half of the children's ombudspersons are fully independent in controlling their offices. The other children's ombudspersons are characterized as ambiguous. The minimum scores, however, give a different picture. Not one of the children's ombudspersons can be considered as fully independent in controlling their offices. In fact, the minimum score highlights the importance of considering weak links of independence. Four (Croatia, England, Iceland, and Luxembourg) of the children's ombudspersons that are fully independent when considering the maximum score are fully not independent when considering their minimum scores.

Formal qualities represent our final component of independence.

**Table 5: Formal Qualities**

Children's Ombudsperson	Independence		Separate Office		Max	
	Mission		Min			
Belgium	1	1	1	1	1	Belgium
Croatia	1	1	1	1	1	Croatia
Denmark	1	1	1	1	1	Denmark
England	0.5	1	1	0.5	1	England
Greece	1	0.5	0.5	0.5	1	Greece
Hungary	1	0.5	0	0	1	Hungary
Iceland	1	1	1	1	1	Iceland
Ireland	1	1	1	1	1	Ireland
Latvia	1	0.5	0	0	1	Latvia
Lithuania	1	1	1	1	1	Lithuania
Luxembourg	1	1	1	1	1	Luxembourg
Malta	1	0.5	1	0.5	1	Malta
N. Ireland	0.5	1	1	0.5	1	N. Ireland
Norway	1	1	1	1	1	Norway
Poland	1	1	1	1	1	Poland
Slovenia	1	0.5	0	0	1	Slovenia
Scotland	1	1	1	1	1	Scotland
Sweden	0.5	1	1	0.5	1	Sweden
Wales	0.5	1	1	0.5	1	Wales
	<b>Formal Qualities</b>					

Some analysts may consider these qualities to be merely form over substance, that is, weak evidence of independence. Formal qualities can serve as signals of independence, as well evidence of independence. We do not discount these qualities. For example, the label of independent may be useful to the children's ombudsperson in limiting others' attempts to influence the office. The maximum score indicates all examined children's ombudspersons have formal qualities of independence. Minimum scores indicate full independence for one half of these children's ombudspersons. Latvia, Portugal, and Slovenia are not fully independent when examining formal qualities. The Latvian children's ombudsperson is part of another office, from which some individuals may conclude its decisions are not independent of the other office.

**Degrees and Weak Links? Discussion and Conclusion**

England's children's ombudsperson office receives the lowest independence score of the twenty examined children's ombudspersons. The children's ombudspersons of Belgium (Flanders), Lithuania,

Norway, and Poland receive the highest score. The other fifteen children's ombudspersons are scored in between, although most have scores closer to Belgium (Flanders), Lithuania, Norway, and Poland. Yet no case achieves a score of full independence, 56, and not one can be considered as not independent, a score of 14. These results may mirror Carruthers' (1994) contention of degrees of autonomy. However, the concept of degrees of independence only works if we understand independence in terms of a continuum approaching an ideal type.

The introduction of our measure of independence goes beyond a simple spectrum of degrees of independence and offers what we think are four conceptually important dimensions or components of independence. We believe that independence in doing one's work; independence inherent in appointment, term, and dismissal practices; independence in controlling one's office; and formal independence are each important to overall independence, but conceptually represent different aspects of independence. In the context of our measure, each component can be understood individually, and thus cases may be considered independent on one component, not independent on another component, and ambiguous on a third.

This conceptualization raises questions about whether it is appropriate to use additive total index scores of independence to characterize an institution, thus claiming degrees of independence, or whether each separate component must be considered as a distinct and meaningful aspect of independence in its own right. If careful consideration of independence along these four domains is warranted, then the consequences of weak independence in one domain for a case's overall independence are not simply additive but instead may indicate a "weak link" that serves to depreciate the independence of the whole in a non-additive way.

This paper presents preliminary research of an innovative measure of independence, which is used to examine the independence of a set of European children's ombudspersons. In our discussion of these fuzzy-sets analyses and results, we hope to shed light on the complexity of cases of children's ombudspersons in terms of their independence and raise questions about the kinds of conclusions that can be drawn from such data. We do not venture to make a claim on the relative value of the additive index

results versus careful attention to scores on each component of independence. Rather, we hope to initiate a renewed discussion of independence, its measurement, and its meanings. Future goals of this research include testing our measure on other institutions, as well as furthering our exploration of independence of children's ombudspersons by supplementing measure results with rich qualitative data from interviews with children's ombudspersons and studies of their offices.

## References

- Alesina, A. & Summers, L. H. 1993. "Central bank independence and macroeconomic performance: Some comparative evidence." 25(2) *Journal of Money, Credit and Banking* 151-162.
- Carruthers, Bruce G. 1994. "When is the State Autonomous? Culture, Organization Theory, and the Political Sociology of the State." 12(1) *Sociological Theory* 19-44.
- Cukierman, Alex, Steven B. Webb, and Bilin Neyapti. 1992. "Measuring the Independence of Central Banks and its Effects on Policy Outcomes." 6(3) *The World Bank Economic Review* 353-398.
- Dodson, M., Jackson, D. W., & O'Shaughnessy, L. 2001. "Political will and public trust: El Salvador's Procurator for the Defense of Human Rights and the dilemmas of institution-building." 2(3) *Human Rights Review* 51-75.
- Elgie, Robert. 1998. "Democratic Accountability and Central Bank Independence: Historical and Contemporary, National and European Perspectives." 21(3) *West European Politics* 53-76.
- Esping-Andersen, G. 1990. *Three Worlds of Welfare Capitalism* Princeton, New Jersey: Princeton University Press.
- Frankel, R. M., Johnson, M. F., & Nelson, K. K. 2002. "The relations between auditors' fees for nonaudit services and earnings management." 77 *The Accounting Review* 71-105.
- Gilardi, Fabrizio. 2002. "Policy Credibility and Delegation to Independent Regulatory Agencies: A Comparative Empirical Analysis." 9(6) *Journal of European Public Policy* 873-893.
- Grilli, V., Masciandaro, D. & Tabellini, G. 1991. "Political and monetary institutions and public finance policies in the industrialized democracies." 10(Oct) *Economic Policy* 342-392.
- Guy, D. M. & Zeff, S. A. 2002. "Independence and objectivity: Retired partners on audit committees." 72(7) *The CPA Journal* 30-33.
- Johnson, Juliet. 1999. "Misguided Autonomy: Central Bank Independence in the Russian Transition." Pages 293-311 in *The Self-Restraining State: Power and Accountability in New Democracies*. Edited by Andreas Schedler, Larry Diamond, and Marc F. Plattner. London, England: Lynne Rienner Publishers.
- Kinney, Jr., W. R. & Libby, R. 2002. "Discussion of: Frankel et al. (2002) 'The relation between auditors' fees for nonaudit services and earnings management'." 77 *The Accounting Review* 107-114.
- Mangano, G. 1998. "Measuring Central Bank Independence: A tale of subjectivity and of its consequences." 50(3) *Oxford Economic Papers* 468-492.
- Morris, William (ed.). 1969. *The American Heritage Dictionary of the English Language*. Boston, MA: American Heritage Publishing Co., Inc., and Houghton Mifflin Company.
- Ragin, C. 2000. *Fuzzy-Set Social Science*. Chicago, Illinois: University of Chicago Press.
- Ragin, C. 2001.
- Thatcher, M. 2002. "Delegation to independent regulatory agencies: Pressures, functions and contextual mediation." 25(1) *West European Politics* 125-147.
- Uggla, F. 2004. "The ombudsman in Latin America." 36(3) *Journal of Latin American Studies*, 423-451.
- UNICEF Innocenti Research Center. 2001. "Independent institutions protecting children's rights." 8 *Innocenti Digest* 1-29. Available: [www.unicef-icdc.org/publications/pdf/digest8e.pdf](http://www.unicef-icdc.org/publications/pdf/digest8e.pdf).
- Wynn, Jr., J. A. & Mazur, E. P. 2004. "Judicial diversity: Where independence and accountability meet." 67(3) *Albany Law Review* 775-792.