What explains the success of criminal prosecutions against former Latin American officials accused of human rights violations? Why did some judiciaries evolve from unresponsive bureaucracies into protectors of victim rights? Using a theory of judicial action inspired by sociological institutionalism, this book argues that this was the result of deep transformations in the legal preferences of judges and prosecutors. Judicial actors discarded long-standing positivist legal criteria, historically protective of conservative interests, and embraced doctrines grounded in international human rights law, which made possible innovative readings of constitutions and criminal codes. Litigants were responsible for this shift in legal visions by activating informal mechanisms of ideational change and providing the skills necessary to deal with complex and unusual cases. Through an in-depth exploration of the interactions among judges, prosecutors, and human rights lawyers in three countries, the book asks how changing ideas about the law and standards of adjudication condition the exercise of judicial power.

EZEQUIEL A. GONZÁLEZ-OCANTOS is Associate Professor in the Department of Politics and International Relations and Professorial Fellow of Nuffield College, at the University of Oxford. He received his B.A. in Social and Political Sciences from the University of Cambridge in 2005, and his Ph.D. in Political Science from the University of Notre Dame in 2012. González-Ocantos won the American Political Science Association’s Edward S. Corwin Award for the best doctoral dissertation in the field of public law. His work has appeared in the American Journal of Political Science, Comparative Politics, Comparative Political Studies, and The International Journal of Human Rights.
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SHIFTING LEGAL VISIONS

Judicial Change and Human Rights Trials
in Latin America

EZEQUIEL A. GONZÁLEZ-OCANTOS

University of Oxford
Para mamá y la abuela Esther, en eterno agradecimiento.
Law is conservative in the same way in which language is conservative.... It seeks to assimilate everything that happens to that which has already happened.... Thus the lawyer's virtually instinctive intellectual response when he is confronted with a situation is to look for the respects in which that situation is like something that is familiar and that has a place within the realm of the understood.

Richard Wasserstrom (1968)

A rigorous science of the law is distinguished from what is normally called jurisprudence in that the former takes the latter as its object of study. In doing so, it immediately frees itself from the dominant jurisprudential debate concerning law, between formalism, which asserts the absolute autonomy of the juridical form in relation to the social world, and instrumentalism, which conceives of law as a reflection, or a tool in the service of dominant groups.

CONTENTS

List of Figures   page viii
List of Tables   ix
Acknowledgments   xi

1. From Unresponsive to Responsive Judiciaries   1
2. Legal Preferences and Strategic Litigation: A Theory of Judicial Change   27
3. Argentina: Pedagogical Interventions and Replacement Strategies in the Struggle for Human Rights   71
4. Peru: Pedagogical Interventions and Human Rights Trials in Unfriendly Territory   141
6. Comparative Perspectives on the Problem of Legal Preferences   269

Bibliography   291
Index   315

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FIGURES

2.1. Explaining the Success of Human Rights Prosecutions in Latin America  69
3.2. Number of Completed Oral Trials by Year (2006–2014)  115
3.3. Decisions on Preventive Imprisonments by the Court of Cassation before and after the President’s Threat (2007–2010)  120
3.4. Decisions on Preventive Imprisonments by the Court of Cassation before and after the Impeachment Threat (2007–2010)  120
4.3. Untenured Judges in the Peruvian Judiciary by Year (%)  168
4.4. Resources Allocated to the Judicial Branch (1980–2000)  175
4.5. Organizations Providing Training Courses for Prosecutors  190
5.1. Number of Jurisprudential Guidelines for the Interpretation of Constitutional Articles 1–29 (1917–2005)  257
6.1. Number of Citations of Inter-American Court of Human Rights Rulings in the Jurisprudence of Twelve Latin American High Courts (1994–2012)  276
# Tables

3.1. Indictments Filed in FOTs (December 2010)  
3.2. Defendants under Arrest by Prison Type (2008)  
3.3. Judicial Actors Denounced by Human Rights Organizations  
4.1. Rulings in Oral Trials Held at the National Criminal Court (2006–2014)  
4.2. Interlocutory Appeals Filed by Defendants (2004–2008)  
4.3. Prosecutors’ Perceptions of the Obstacles Faced during Investigations  
4.4. Prosecutors’ Assessment of Litigants’ Pedagogical Interventions  
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