

Public Perceptions of State Court Impartiality and Court Legitimacy in an Era of Partisan Politics

State Politics & Policy Quarterly
2020, Vol. 20(1) 54–80
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DOI: 10.1177/1532440019883979
journals.sagepub.com/home/spa



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Abstract

Why do some people evaluate state supreme courts as more legitimate than others? Conventional academic wisdom suggests that people evaluate courts in nonpartisan ways, and that people make a distinction between how they evaluate individual court decisions and how they evaluate the court's legitimacy more broadly. We challenge this idea by arguing that people's partisan identities have a strong influence on how people evaluate the impartiality of courts, just as they do other aspects of the political world. Using original survey experiments, validated by existing observational survey data, we show that people perceive state supreme courts as being more impartial when courts issue decisions that match the ideological preferences of their preferred political party, while court decisions at odds with their party's policy goals diminish people's belief that courts are impartial arbiters of the law. We also show that the effects of citizen perceptions of impartiality erode evaluations of state court legitimacy, which makes them want to limit the independence of judicial institutions.

Keywords

political psychology, judicial behavior, judicial politics, ideology, public opinion, court legitimacy, polarization, rule of law

Public support for American political institutions is at its nadir across virtually all branches of government. As recently as January 2018, polls showed that trust for

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Congress, the presidency, both political parties, and even the national media were all below—and, in some cases, significantly below—50% (Montanaro 2018). These dismal numbers are part of a larger trend in the erosion of support for American institutions for the better part of three decades, which journalists and academics alike have tied to our increasingly partisan politics (Binder 2003; Geer 2008; Hibbing and Theiss-Morse 1995; Jacobson 2003; Ramirez 2009). However, despite the growing hyper-partisanship in the United States, the scholarly consensus holds that neither partisanship nor ideology has much of an effect on how people evaluate the legitimacy of the federal judiciary (Caldeira and Gibson 1992; Gibson 2007; Gibson and Nelson 2015). As a result, they still enjoy broad public support, with approval for the courts still well above that of other political institutions. Why have courts been able to protect themselves, at least partially, from the bleak partisan trends that have eroded support for other American political institutions?

In a society deeply devoted to the rule of law, we might hope partisanship has little to do with how people see their judicial branch of government. With but a few exceptions, past research has largely concluded just that, at least when it comes to the Supreme Court. Past studies of the Supreme Court find no substantial connection between the ideological goals of partisans and how people evaluate the legitimacy of courts (Gibson and Nelson 2015). Instead, what scholars have noted is that there is only a tenuous linkage between how people evaluate the legitimacy of the courts and their satisfaction with individual court decisions (Caldeira and Gibson 1992; Durr, Martin, and Wolbrecht 2000; Mondak and Smithey 1997).

Indeed, it makes sense that scholars have wanted to maintain this distinction between how people evaluate courts as institutions and how they evaluate the decisions courts make. The willingness of people to respect the courts and their decisions irrespective of their partisan commitments is critical for maintaining the judiciary's influence in the American political system (Tyler 1990; Tyler et al. 1997). The courts simply cannot function if their legitimacy is questioned every time they issue a decision about which people disagree. This is especially true given that many believe it is the responsibility of courts to stand up to a public that might want to take away the rights and liberties of unpopular minorities. However, when courts are forced to rely only on the support of co-partisans, they will not only have difficulty maintaining the rule of law, but also in providing legal protections for minority rights against the specter of majority tyranny (Gibson and Nelson 2014; 2015).

In recent years, though, there is a growing body of evidence suggesting that there are, in fact, ideological differences in how liberals and conservatives look at the Court (Citrin and Egan 2009; Gibson 2007; Hetherington and Smith 2007). The most significant recent contribution to this emerging literature is Bartels and Johnston's (2013, 185) study, which found that subjective ideological disagreement is an important predictor of how people assess the Court's legitimacy. The authors found that even disagreement with a single Supreme Court decision can have a corrosive effect on evaluations of the Court's legitimacy.

In this article, we approach the question of how political identities influence assessments of court legitimacy, albeit we take a slightly different tack. We ask what governs

people's evaluations of their state courts? Is the legitimacy of state supreme courts independent of the rulings they make? We argue that people will use party to evaluate high appellate courts in the same fashion as they do other political institutions when strong partisan cues are present and when citizens are aware enough to pick up on those cues. These cues manifest as an established track record of courts handing down consistently liberal or conservative decisions. These cues have become all the more salient as liberals and conservatives have sorted overwhelmingly into the Democratic and Republican parties, respectively, and as the two parties have become more concerned with the attainment of ideological policy goals (Bafumi and Shapiro 2009; Hetherington 2009; Levendusky 2009). We leverage variation in the ideological tenor of state supreme courts to examine how ideological disagreement with court decisions can color how people evaluate the fairness and legitimacy of state courts.

We know significantly less about how citizens assess the legitimacy of state courts than we do about the Supreme Court. Although some have looked at how personal interactions with state courts either improve or erode state court legitimacy (Benesh 2006; Benesh and Howell 2001; Wenzel, Bowler, and Lanoue 2003), most of the work in the state court literature has focused on the role that the method of judicial selection plays in how citizens assess state court legitimacy. In particular, scholars have investigated whether judicial elections affect court legitimacy (Cann and Yates 2008; Gibson 2008; 2012; Kelleher and Wolak 2007; Wenzel, Bowler, and Lanoue 2003).

The most important contribution in the literature on state court legitimacy is Gibson's (2012, 85) study, which finds that attitudes toward the Kentucky supreme court are "not dependent upon the respondent's ideological or partisan self-identification." Like his findings on the U.S. Supreme Court, Gibson (2012, 85) argues that "institutional legitimacy crosses partisan and ideological lines. However, Gibson's work is by no means definitive, especially as his study is focused on a single state (Bonneau and Cann 2015).

We add to this literature by looking specifically at the way *partisanship* is linked to how citizens evaluate state courts. We explore this linkage in two ways. First, we conduct a survey experiment that manipulates the ideological tenor of a state court to show how partisans react differently in how they evaluate the court's impartiality—and its legitimacy—in response to its decisions on a range of issues. Second, we then partially replicate and validate those results using observational survey data from a nationally representative sample of the population. Indeed, contrary to past research, our findings reveal that the ideological tenor of state courts does affect how partisans evaluate courts when they are aware of what they are doing. We find that Democrats evaluate a court's legitimacy more harshly as the court becomes more conservative, while Republicans evaluate state courts more harshly as state courts become more liberal. This evidence from high appellate state courts provides some insight into why the Supreme Court might be unique not just as a national political institution, but as a judicial institution as well.

The rest of this article is organized into five parts. First, we will situate our work within a broader discussion of the literature on court legitimacy. Second, we will layout our theory for how we think partisanship should influence the way citizens evaluate

court legitimacy. Third, we layout our experimental research design and discuss our results. Fourth, we then replicate our results using observational survey data. Finally, we conclude with a discussion of the implications of our results for the study of both the judiciary and broader political institutions.

Situating the Debate on Court Legitimacy

The concept of institutional legitimacy has its roots in research going back to the mid-twentieth century on political support. Easton (1975, 444) argued that support for political systems is defined by a “reservoir of favorable attitudes or good will that helps members to accept or tolerate outputs to which they are opposed or the effects of which they see as damaging to their wants.” In proffering this definition, Easton further clarified the concept by making a distinction between diffuse and specific support. Whereas specific support is defined as “satisfaction with the performance of a political institution” (Gibson and Caldeira 1992, 1126), diffuse support is independent of political outputs or performance. Diffuse support speaks more to a person’s attachment to the institutions themselves. Baird (2001, 334) offers the best distillation of diffuse support by arguing that it is “the belief that, although at times specific policies can be disagreeable, the institution itself ought to be maintained—it ought to be trusted and granted its full set of powers.” While a person’s specific support for an institution can suffer short-term fluctuations based on the day-to-day actions of government, diffuse support is viewed as durable and something that persists throughout a person’s life. This distinction between specific and diffuse support is important for clarifying the distinction between two types of evaluations. Whereas performance evaluations provide a measure of specific support, institutional legitimacy is rooted in diffuse support.

Although maintaining legitimacy is important for the healthy functioning of all political institutions, it is especially critical for the courts given that they are considered weak institutions that cannot rely on any of the coercive powers bestowed onto the other two branches of government (Gibson 2008). The only influence judges have is their reasoned judgment, which is only as compelling as the legitimacy that underwrites it. A court’s legitimacy provides a reservoir of goodwill that protects the judiciary from any possible backlash created from any single decision.

One reason why court legitimacy has been so high historically is because people see it as an impartial arbiter of the legal and political conflicts, especially at the level of the U.S. Supreme Court. This impartiality is grounded in the perception that the courts operate using procedurally fair methods according to the rule of law—that is, people’s assessments are informed “by evidence of even-handedness, factuality, and the lack of bias or favoritism” (Tyler 2001, 422). In other words, courts are perceived as apolitical institutions composed of judges who make decisions based on law, not politics. Scholars have found that people believe their courts, and the judges who sit on them, make decisions based in law and can legitimately strike down laws that are inconsistent with the core democratic principles found in the Constitution (Casey 1974; Scheb and Lyons 2000). This belief that the rule of law drives court

decision-making is instilled in all of us at a young age through a collection of stories told to school children that promote a positive, largely heroic image of the Supreme Court that makes it different from other political institutions (Donnelly 2009).

Some have argued that one of the reasons why prior literature has not uncovered a consistent connection between a person's ideological and partisan commitments and their view of court legitimacy is because, while a partisan's ideological goals may influence a person's level of specific support for an institution performance, the linkage between diffuse support and specific support for the courts has remained relatively tenuous. It is difficult to erode diffuse support given its origins in early childhood socialization. However, the impermeability of diffuse support has recently come under attack. Bartels and Johnston (2013) offer the most forceful broadside against the idea that Supreme Court legitimacy is independent of its ideological outputs. "Contrary to conventional wisdom," the authors argue, "a potent ideological foundation underlies Supreme Court legitimacy vis-à-vis subjective ideological disagreement with the Court's policymaking" (Bartels and Johnston 2013, 197).

Although they acknowledged Bartels and Johnston's (2013) contribution to the debate over the ideological determinants of court legitimacy, Gibson and Nelson (2014) nevertheless offered a strong rebuke of their core findings by offering two major criticisms of their measurement strategy—one directed at their observational study and the other at their experimental design. In their observational study, the item Bartels and Johnston (2013, 189) used to gauge perceived ideological disagreement asks, "Judging by its recent decisions, do you think the Supreme Court is generally liberal, generally conservative, or is it making decisions on a case-by-case basis?" Bartels and Johnston create an ordinal measure that assumes that those who selected that the Court makes decisions on a "case-by-case basis" believe it is ideologically moderate. However, Gibson and Nelson challenge this assumption by suggesting that it could just as easily mean people think the Court engages in nonideological decision-making. This coding decision is especially problematic considering 53% of the respondents in that survey fell into that category, suggesting that a majority believed the Court was nonideological. Moreover, because Bartels and Johnston looked at perceived disagreement with only one Supreme Court case in their experimental design, Gibson and Nelson argue that they are not measuring ideological disagreement at all; rather, they are only measuring policy disagreement.

In addition to making a contribution to our knowledge of the determinants of state court legitimacy, we also contribute to the ongoing debate about the ideological underpinnings of court legitimacy more broadly in three ways. First, we develop an experimental study that manipulates the ideological tenor of a state court across a *range of issues* to see how partisans alter their evaluation of state court legitimacy. We, then, use a nationally representative survey to verify that the results we observe are also present outside of an experimental setting by leveraging variation in ideological output of state supreme courts.

Finally, we shift our focus beyond ideology by incorporating ideological disagreement into a larger partisan framework. We focus on partisanship because it is the primary sociopsychological construct that tethers the mass public to the American

political system, and we argue that polarization has conditioned people to interpret ideological signals in partisan ways. We argue that there should be a strong connection between a person's partisan identity and court legitimacy if partisans perceive the courts to be no longer operating as impartial arbiters of the rule of law.

Ultimately, we argue that partisanship can influence public perceptions of the judicial branch by altering the way people perceive their political reality, including their perceptions of political fairness. Indeed, some have also already even acknowledged that the perception of procedural fairness is key to understanding levels of high court legitimacy—that is, perceived fairness is a product of a running tally of assessments of the fairness of court decisions (Baird 2001). The relative lack of evidence for the effect of partisanship on the evaluation of court legitimacy, we argue, is simply a product of scholarly focus on the U.S. Supreme Court—an institution that does not send enough perceptible ideological signals that people can translate into partisan cues (Bartels and Johnston 2013). Put differently, the ideological tenor of the Supreme Court is perhaps one of the most difficult for people to assess, and so it may be the case that people tend not to evaluate the Supreme Court based on partisanship due to what the Court itself is doing, not because courts are inherently special and immune to being evaluated in a partisan light.

Partisanship, Impartiality, and State Court Legitimacy

The influence of party on public evaluations of political institutions depends on the partisan cues available to the public. Scholars have found people evaluate the president (Burden and Hillygus 2009; Jacobson 2007), congressional candidates (Jacobson 2013), and even Congress as an institution (Bond and Fleisher 2000; Kimball 2005) significantly more favorably when they are of (or controlled by) their preferred party. Even approval of governors is dependent on whether individuals are co-partisans (Jacobson 2006). In fact, any issue that becomes politicized can generate polarizing, partisan effects in public opinion (Zaller 1992).

After all, party identification has been called the “unmoved mover” of American politics (Campbell et al. 1960; Johnston 2006). It is the chief determinant of a person's vote choice; it informs people's attitudes on salient political issues; and it structures the way people process and accept new information (Bartels 2002; Taber and Lodge 2006). As the authors of *The American Voter* famously wrote a half-century ago, “identification with a party raises a perceptual screen through which the individual tends to see what is favorable to his partisan orientation” (Campbell et al. 1960, 133). This perceptual filter is so strong that partisans are more likely to engage in motivated reasoning (Taber and Lodge 2006); they are more likely to fall victim to both political misinformation (Nyhan and Riefler 2010) and conspiracy theories (Miller, Saunders, and Farhart 2016) when they conform to their prior beliefs; and they are even more likely to believe accusations of electoral fraud when their preferred candidate loses (Edelson et al. 2017).

This understanding of partisanship as a form of social identity has forced scholars to reinterpret mass polarization as a form of affective polarization tied to increasing

social distance between Democrats and Republicans. According to this view, strong partisans tend to view the political opposition, lawmakers and rank-and-file partisans alike, as less trustworthy, and they are willing to assign ulterior motives to the behavior of those who affiliate with the opposition party (Iyengar and Westwood 2015; Munro, Weih, and Tsai 2010). Most importantly, they are also more likely to perceive any information that does not comport with their view of the world as unfair or hostile to their preferred party. This trend has been well documented in the political communication literature on the hostile media effect, which explains the phenomenon where even balanced media coverage of a candidate is viewed as hostile by the candidate's co-partisans because they believe their preferred candidate deserves more favorable coverage than they are getting (Feldman 2017). The implication here is that partisans "feel emotionally connected to the welfare of the party" and when they believe the party is threatened, "they become angry and work to help conquer the threat" (Mason 2015, 129). Furthermore, intergroup emotions theory argues that strong group identifiers should experience more anger than weak identifiers (Mackie, Thierry, and Smith 2000), and so the strongest partisans experience the most perceptual bias.

What does this all have to do with court legitimacy? Like diffuse support itself, partisanship is socialized early in life and is relatively stable throughout a person's lifetime. Unlike diffuse support, however, partisanship also conditions the way people perceive, and make sense of, their political world, including perceptions of impartiality and fairness. When courts hand-down decisions that undermine the political goals of their preferred party, partisans tend to reflexively perceive that decision to be unfair or evidence that the court is behaving in biased ways. Because the perception of impartiality is the key factor that underwrites an institution's legitimacy (Tyler and Rasinski 1991), the partisan lens people use to filter the information they use in their assessment of the courts ought to erode state court legitimacy if partisans see their court consistently handing down decisions that threaten the goals of their party.

What are the political goals of the party that courts are undermining? One of the most noteworthy trends in the growth in polarization over the last four decades has been the ideological sorting of the two parties with liberals and conservatives sorting into the Democratic and Republican Parties, respectively (Hetherington 2009). The net result of this convergence of partisan and ideological affinities is an electorate where partisan loyalties are "more strongly driven by liberal/conservative ideological concerns" (Bafumi and Shapiro 2009, 3). In other words, the political goals of each party are built around the achievement of ideological policy victories. When a court continually undermines the ideological goals of partisans, it is viewed as a threat to the group itself (Mason 2015; 2018). As a result, the feeling of group threat ought to eventually lead Republican partisans to want to limit the judicial authority of a consistently liberal court and vice versa for Democratic partisans dealing with a consistently conservative court.

However, this type of motivated thinking does not happen with the Supreme Court because it is atypically nonpartisan for most Americans, and people rely less on party identification in evaluating nonpartisan officials of any branch (Schaffner, Streb, and Wright 2001). When partisan cues are present, though, we argue that citizens will rely

on them when forging their evaluations of even the judicial branch. One arena where partisan cues in the judiciary are more salient is among state supreme courts. For example, the Texas Supreme Court is composed of nine conservative Republican justices that consistently issue decisions that reflect that ideological viewpoint. Conversely, until recently, the New Mexico Supreme Court was composed of five liberal Democrats. In states like those, differences between Democrats and Republicans in how they view their courts, we argue, should be quite stark. As a result, we hypothesize that in states where the state supreme court issues consistently conservative opinions, Democrats ought to evaluate the court far less favorably, both in terms of its impartiality and in their overall level of institutional legitimacy, whereas the reverse should be true of Republicans, who ought to view the court quite favorably. Conversely, we suspect the opposite to be true in states where the court is quite liberal. We argue that Democrats ought to evaluate those courts more favorably than Republicans.

However, our entire theory presumes that citizens are aware enough of what courts are doing to receive those signals in the first place. Political awareness is an essential component of opinion formation (Zaller 1992). After all, people's attitudes are a function of the bits of information they have at the disposal when forming an opinion of an issue. As a result, only those who are politically aware of the courts have the opportunity to form an opinion of the courts and respond to their actions. As people become more aware of the behavior of the courts, moreover, their opinion of the court tends to solidify, making them even more prone to motivated reasoning once that opinion has been cemented into their mind (Taber and Lodge 2006). As a result, we suspect our hypothesized partisan differences in evaluations of court legitimacy will be most visible as a person's level of court awareness goes up.

This hypothesized effect carries an important implication for the judicial politics literature. Greater awareness of the courts has long been associated with higher levels of overall support for the courts, leading scholars to conclude "to know courts is to love them" (Caldeira and Gibson 1992; Cann and Yates 2016; Gibson, Caldeira, and Baird 1998; Gibson and Nelson 2014). Our theory qualifies this long-held contention by making the power of court awareness conditional on both the behavior of the courts and the partisan priors of politically aware citizens, because we argue that our hypothesized partisan effects ought to be most pronounced among the most politically aware.

We are not the first to challenge the long-held belief that to know the court is to love it. Johnston and Bartels (2010) show that differential media exposure can either undercut or bolster perceived court legitimacy depending on whether people are exposed to sensationalist or sober media coverage, respectively. Indeed, sensationalist media paints the courts as more partisan than they really are, and the negative effect of sensationalist media exposure on evaluations of court legitimacy is strongest among the most politically aware. However, they do not actually have a measure of court behavior; the only thing that matters for them is the way the media covers the court.

Like Johnston and Bartels (2010), we argue that knowledge of the courts can lead to an erosion of court legitimacy, but we contend that the ideological tenor of the courts' output is what is most important. Johnston and Bartels argue sensationalist media coverage leads people to perceive a more partisan court, which erodes

legitimacy evaluations across the board. However, we contend that the content of the messages sent matter more than the tone. We argue that the ideological signals the courts send leads partisans to either a more positive or a negative evaluation of the courts. When the courts act in partisan ways, it leads co-partisans to view the courts as more impartial and more legitimate but it does the opposite for out-partisans. Moreover, this effect gets stronger as a person's awareness goes up.

Experimental Research Design

For the first stage of our analysis investigating the effect a person's partisan identification has on the way they evaluate the legitimacy of state courts, we designed a survey experiment of 1,713 participants using Qualtrics, an online survey tool. We recruited participants from Amazon's Mechanical Turk (MTurk) in December 2015. MTurk is a crowd-sourcing platform used by social scientists with increasing frequency, because it allows them to collect reliable experimental data relatively inexpensively. Moreover, research has found that MTurk samples are often more representative than in-person and student samples, which have long been a staple of political science research. They also perform relatively well against high-quality internet panels and probability samples used by the American National Election Study (Berinsky, Huber, and Lenz 2012; Buhrmester, Kwang, and Gosling 2011). Finally, even when there are demographic divergences between MTurk studies and other samples, those surveyed still "share the same psychological dispositions as counterparts in the mass public" (Clifford, Jewell, and Waggoner 2015, 1).

Nevertheless, as with all MTurk studies, participants ultimately select into the survey, which means the data are the result of a convenience sample, and so one ought to be cautious about the generalizability of the inferences we make with these data alone. However, MTurk still provides a powerful tool that allows researchers to capitalize on the chief strength of experimental methods: identifying causal effects through the use of random assignment and experimenter control over treatment (Mutz 2011). Causal inference is especially important here because it allows us to identify the unique effect of court decisions apart from other potentially confounding influences on how people evaluate both court impartiality and court legitimacy.

We implemented a 3×3 factorial design with two treatment conditions, which means participants were randomly assigned to one of the nine possible treatment conditions in which we manipulated both the overall ideological output of the state supreme court, as well as the level of judicial consensus on the court in making those decisions. For the ideological output treatment, respondents were exposed to either a court that issued four decisions that would please most Democrats, four decisions that most Republicans would favor, or a balanced court that issued two decisions that Democrats would tend to like and two decisions that self-identified Republicans would tend to like.¹

The chief strength of this type of design is that we provide respondents with a summary of a generic state court's decisions throughout its entire term. Respondents are not reacting to a single decision like in previous research (Bartels and Johnston 2013;

Table 1. Experimental Factorial Design for Explaining Evaluations of State Court Legitimacy.

	Unanimous decisions	Divided decisions	No voting information
Liberal Court	1	2	3
Conservative Court	4	5	6
Balanced Court	7	8	9

Salamone 2014; Zink, Spriggs, and Scott 2009), and, therefore, the experiment better mirrors reality and avoids the pitfall of what happens when people's overall assessments of a political institution are based on a single decision (see Gibson, Caldeira, and Spence 2003). The experimental vignettes were framed around short newspaper articles that offered a round-up of the major court decisions made by a generic state supreme court. There were four issues discussed in each vignette: police search warrant requirements, protection of employee pensions, regulations on the natural gas industry, and police officer use of deadly force. These issues were chosen to span a range of different issue areas—for example, scope of government, environmental issues, police use of force, civil liberties, and so on.²

Once exposed to the treatments, each participant was given a posttreatment survey that included instruments used to measure the participants' evaluation of the court in the vignette. We have two dependent variables of interest: a measure of the participant's perception of the court's impartiality and the participant's evaluation of state high court's legitimacy. The relationship between perceived court impartiality and court legitimacy has not always been dealt in the literature with much conceptual or operational precision. Although researchers have long suggested that impartiality is a key underpinning of judicial legitimacy (Gibson 2008), Gibson and Caldeira (2011) suggested that the two concepts are nevertheless distinct. On one hand, the perception of court impartiality reflects people's attitudes about the process by which judges engage in decision-making—that is, whether decisions are a product of legalistic principles that are fair and sanitized of partisan politics, or reflect corrupting influences, ideological biases, and/or the policy preferences of the judges themselves. However, on the other hand, legitimacy reflects a person's belief that, even if decisions are made that they occasionally disagree with, the institution itself ought to be maintained (or supported) with its full authority and powers (Baird 2001).

We developed our two measures of impartiality and legitimacy with this distinction in mind, and an empirical analysis of the components of the two indexes (discussed below) supports our contention that the two measures are tapping into different latent concepts. When we look at unrotated principal component factor analysis of all the questions from both batteries, it reveals two factors with eigenvalues above the conventional threshold of 1.000. The first factor had an eigenvalue of 6.021, and it captured all the questions in our legitimacy battery. The lowest oblique-rotated loading in the factor was .596. The second factor had an eigenvalue of 1.817, and it captured all the questions in the impartiality battery. The lowest oblique-rotated loading in the factor was .481. The correlation between the two factors was .495.

Our measure of impartiality is an averaged index of questions tapping into multiple dimensions of perceptions of that particular court's impartiality. The questions include the extent to which respondents believed the court: (1) was fair and impartial when issuing its rulings, (2) considered the opinions of people who shared the respondent's viewpoints on the issues presented, (3) strictly followed the law when making its decisions, (4) legislated from the bench rather than interpreted the law, as well as (5) whether the judges' rulings were based on their political views and (6) whether that court was fair and objective in their rulings or more politically motivated. Each of the six components was rescaled from 0 to 1, and then the mean of the six items was taken, which would then also range from 0 to 1, where 0 represents low levels of perceived impartiality and 1 represents high levels of perceived impartiality ($\alpha = .829$).

We also created an averaged index for our measure of court legitimacy using a modified legitimacy index developed by Gibson and colleagues. The questions gauged the degree to which participants believed: (1) that state supreme court should be abolished, (2) the authority of that court should be reduced, (3) that court was too political, (4) that court should be less independent, (5) whether judges on that court should be removed for bad decisions, (6) the court should be more accountable, and (7) the judges on that court can be trusted to decide cases in a way that is in the best interests of the people ($\alpha = .892$).³

We measured the respondent's partisanship using the standard seven-point measure with strong Republicans coded 7 and strong Democrats coded 1.

Experimental Results

We begin our investigation by looking at citizen perception of state court impartiality. In general, when those assessments are averaged across treatment conditions, the participants in our sample are relatively lukewarm about their assessment of the impartiality of the state court in our hypothetical newspaper articles ($\mu = .498$, $\sigma = .242$). On average, strong Democrats believed the court was most impartial ($\mu = .524$), while strong Republicans are slightly more skeptical of the court's impartiality ($\mu = .479$). Political Independents were the most skeptical of the impartiality of the court ($\mu = .459$); however, again, the difference was small.

Moving to the empirical test of our hypothesis, we are interested in how the partisanship of the respondents interacted with the ideological output of the state court in the vignette they read. This means that we are modeling an interaction between the partisan identities of our respondents with the treatment they were given. To do this, we ran an ordinary least square (OLS) regression.⁴ As expected, we see clear heterogeneous treatment effects based on the respondent's partisanship. Figure 1 shows this heterogeneous effect visually. For those respondents exposed to the treatment condition where the state court handed down four liberal decisions, Republicans evaluated the impartiality of the court far more harshly than Democrats ($\beta = -.040$, $SE = .006$, $p < .001$). Whereas strong Democrats rated the impartiality of the court in this condition with an average value of .684, strong Republicans only gave an average response of approximately .414. That is a min-max change of .270, which is more than a

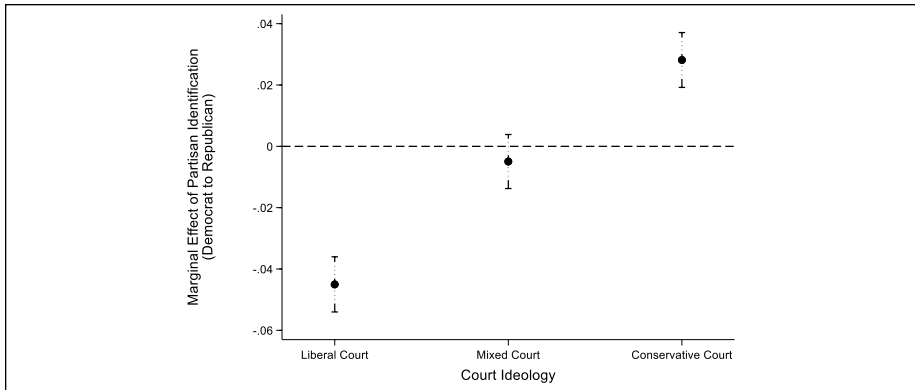


Figure 1. Effect of court ideology on perceived impartiality among partisans.

standard deviation difference in the range of our impartiality measure. We see the exact opposite story emerge when we look at the treatment condition where the state court handed down uniformly conservative opinions ($\beta = .033$, $SE = .006$, $p < .001$). Strong Republicans evaluated the impartiality of the state court in this condition far more favorably than strong Democrats, with each registering an average score of .458 and .289, respectively. This is about three-fourths a standard deviation difference on the range of our impartiality measure.

Interestingly, we see absolutely no statistically significant partisan differences in how Democrats and Republicans evaluated the court when it handed down a mix of liberal and conservative decisions ($\beta = -.005$, $SE = .004$, $p < .272$). This finding supports the idea that when a court does not send strong or consistent ideological cues, then people do not evaluate the impartiality of the court in a partisan fashion.

So far, we have found strong support for our expectation that the ideological output of state courts will alter the way partisans evaluate their perceptions of the state's highest court of appeal, at least when it comes to how they perceive the impartiality of those institutions. However, do we see the differential assessment of court impartiality among partisans spillover into their assessment of court legitimacy as well? Basic descriptive statistics of perceived legitimacy reveal a similar story to what we observed when looking at perceived court impartiality, albeit with a higher overall mean and smaller standard deviation ($\mu = .563$, $\sigma = .214$). Strong Democrats register the highest average evaluation of state court legitimacy across all treatment conditions ($\mu = .592$), whereas strong Republicans come in comparatively lower ($\mu = .533$). This finding comports with the observation in previous studies that conservatives tend to be less supportive of courts than liberals (Hetherington and Smith 2007).

When it comes to the heterogeneous effect of the treatment based a respondent's partisanship, the exact same story emerges with how they evaluate the legitimacy of the court in the vignettes as with how they assessed the impartiality of the court. Democrats support liberal courts ($\beta = -.021$, $SE = .006$, $p < .002$); Republicans support

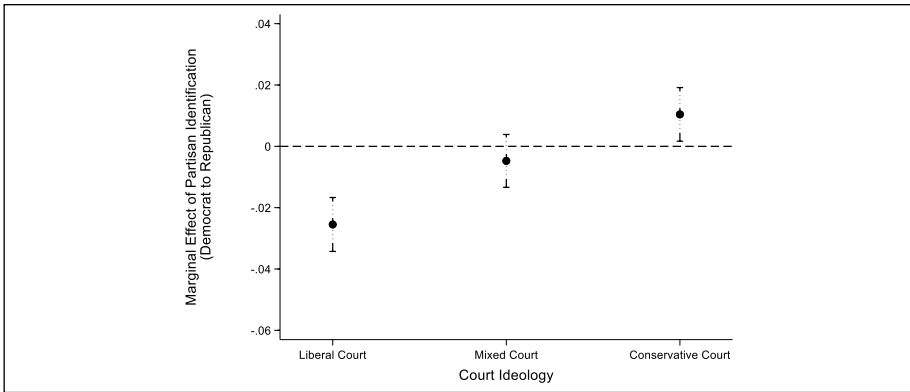


Figure 2. Effect of court ideology on perceived legitimacy among partisans.

conservative courts ($\beta = .015$, $SE = .006$, $p < .016$). However, again, partisanship is completely unrelated to the legitimacy of the more ideologically balanced court ($\beta = -.005$, $SE = .004$, $p < .281$). The only difference is that the size of these partisan effects is strongly attenuated. Figure 2 shows this smaller effect. As with impartiality, the largest heterogeneous effect was with the liberal court treatment. Strong Democrats rated the legitimacy of the state court at .663, whereas strong Republicans registered only an average of .510, which is a difference of only about three-fourths a standard deviation of the dependent variable. Similarly, for the conservative court treatment, strong Democrats rated the average legitimacy of the state court at about .474 but strong Republicans averaged .536. That is a relative meager, albeit still statistically significant, difference of a little more than one-fourth a standard deviation of the legitimacy measure.

These smaller effects make sense when one considers that questions related to institutional legitimacy have proven to be as durable as they are, which is almost certainly a function of the fact that those core values are socialized early in life. Nevertheless, it is noteworthy that partisanship influenced the perceived legitimacy of the state court at all. To see whether the change in legitimacy was tied to the larger change we see in perceived impartiality, we did a Sobel–Goodman mediation analysis to see whether the effect of our experimental treatment on state court legitimacy was actually the result of respondents' perception of the court's impartiality. Table 2 shows that is indeed the case. Ninety-three percent of the effect of the treatment on legitimacy is mediated by perceived impartiality.

The 2006 Annenberg Study

The results from our survey experiment show strong support for our theoretical expectations. Nevertheless, given the limited generalizability of an MTurk sample and the general caution encouraged by relying solely on survey experiments (Barabas and Jerit

Table 2. Mediated Effect of State Court Ideology on Evaluation of Court Legitimacy.

	Perceived impartiality
Direct	-.000
Mediated	-.006*
Total	-.007*
Proportion mediated	.933
N	1,704

* $p < .05$

2010), we next seek to replicate our results using a nationally representative survey. For the next stage of our analysis, we use the 2006 Annenberg Judicial Independence Survey, which contains a nationally representative sample of 1,002 U.S. adults. The survey is well suited for our purposes as it is one of the few representative surveys that asks people various questions about their attitudes toward state courts and judges. As this survey was fielded more than a decade ago, it also provides a more stringent test of our theory given the fact that partisan polarization has only increased since 2006. However, even this survey is limited in that it only includes a battery of questions gauging people's perceptions toward the impartiality of their state courts. Absent, unfortunately, is a battery of questions tapping into state court legitimacy. As a result, whereas we were able to test each step of our theory in our experiment, we can only test the first step with the observational survey data—that is, we can only look at the effect of state court decision-making on perceptions of court impartiality.

Perceived Court Impartiality

Because the questions used for the impartiality index for the experiment mirrored the questions used in this survey, the construction and scaling of the measure is the exact same. We used an index of six different questions to capture the concept of perceived impartiality. These items do not scale together as neatly as with the experiment, albeit still relatively well ($\alpha = .616$).⁵

Court Conservatism

To capture judicial ideology, we follow the convention of using the ideology of the median justice on that court. To construct this measure, we use Windett, Harden, and Hall's (2015) judicial ideology scores. The development of these scores not only take into account the actual votes of the judges on these courts but also map them onto a common space using the CF scores developed by Bonica and Woodruff (2015). These ideology scores significantly outperform the previous measures in making out-of-sample predictions of justices' votes (Windett, Harden, and Hall 2015). As these scores actually incorporate the votes of the justices in their creation and allow for the possibility of changing ideology over time, the median justice's score should reflect the overall

ideological direction of the court's decisions to a significant degree due to both the median voter theorem (Black 1948; Downs 1957) and the predictive accuracy of the attitudinal model of judicial decision-making (Segal and Spaeth 2002). This measure effectively ranges from -1 to 1 , where scores closer to -1 indicate an extremely liberal median justice and 1 indicates an extremely conservative median justice. A score of 0 denotes a moderate median judge.

Respondent Partisanship

The Annenberg survey uses a five-point party identification measure that we have coded to range from -2 to 2 , where -2 indicates a self-identified Democrat, 2 denotes a self-identified Republican, and 0 indicates a respondent who identifies as a pure Independent—that is, she does not lean to either major party.

Judicial Awareness

Judicial awareness is a key part of our theory. Citizens need to actually be aware of what the courts are doing to receive partisan cues. In our experiment, participants are actively made aware of the treatment we care about, so awareness is assumed. However, in the real world, exposure to your explanatory variable of interest is not guaranteed. As such, we suspect that not everyone will be able to rely on partisanship to evaluate the impartiality of state courts, not because they choose not to, but simply because they are not aware of their state supreme courts at all. To deal with this possibility, we use a measure of judicial knowledge to gauge the likelihood that respondents in the survey are aware of state courts enough to receive partisan cues. We measure *judicial awareness* using all five available objectives, factual questions related to courts (both national and state level) and one subjective assessment about court knowledge contained within the survey. Each of the six components was rescaled from 0 to 1 , added together, and rescaled to range from 0 to -1 .

State-Level Controls

Three state-level controls may have relevance toward how people perceive their state courts: the violent crime rate, level of judicial transparency, and the state's method for its selection of state judges. The first two of these variables are meant to capture some aspect concerning the overall *performance* of the state court system. People may blame the state criminal justice system, including the courts themselves, if crime rates go up or if they see news stories about corruption within the judiciary (which we try to capture with judicial transparency), which could affect overall perceptions of state courts as being fair and impartial. The violent crime rate from 2005 was acquired from the FBI Uniform Crime Reporting Program. A measure of judicial transparency comes from the 2012 State Integrity Investigation. Higher scores on this measure indicate greater transparency and accountability for judges in that state.⁶ We also control for a measure of court unanimity to control for the possible legalistic influences affecting

public evaluations of state high courts. We did this by taking Hall and Windett's (2013) dataset of all state supreme court decisions between 1995 and 2010, and we took the proportion of decisions on the state court of last resort that were unanimous in the five years preceding the Annenberg survey.

Finally, we control for whether a state uses elections for their selection of judges. In the existing literature, most (if not all) models predicting public attitudes toward the state judicial system include some version of this variable; some scholars have found a negative effect (Benesh 2006; Cann and Yates 2016), others an overall net positive effect (Gibson 2012), and still others no effect at all (Kelleher and Wolak 2007). If the presence of judicial elections interjects politics into an institution people believe should remain apolitical, then omitting a variable featured so prominently in the literature (often with some effect) could easily lead one to suspect any of our results are a product of omitted variable bias. We control for the presence of judicial elections to ensure that any observed effect of a court's output is independent of the state's electoral politics surrounding the courts.

Individual-Level Controls

We control for two individual-level explanations for support for state courts identified in past research. The first is a respondent's personal experience with local courts (Benesh 2006). People who have good or bad experiences with courts at a local level might infer that the entire state court system is like that court or simply base their opinion of state courts primarily on that experience. There are two kinds of experience that have different predicted effects on people's attitudes toward the judiciary: "high stakes, low control" and "low stakes, high control." High stakes, low control experience refers to the experience one has as either a defendant or plaintiff in a court case. Whether they win or lose, the outcome is high stakes for the people involved, and they have little personal control over the outcome of the case. This kind of experience has been found to lower people's confidence in the state court system relative to those with no experience with state courts at all (Benesh 2006). Respondents who have low stakes, high control experience with the courts have served as a juror. Jurors have low stakes in the outcome of the case, because they are not personally affected by it, but they also have a high degree of control over the outcome (because they decide). This type of experience has been found to increase public confidence in state courts (Benesh 2006).

The second individual-level control is a respondent's differential media exposure (Johnston and Bartels 2010). This is a measure of how much the respondent reports being exposed to sensationalist media (talk show radio and cable news) relative to traditionalist media (newspapers and network news) with higher values indicating more exposure to sensationalist media. More exposure to sensationalist media has been found to lower support for courts, most likely because sensationalist media tend to portray courts in a more partisan, less legalistic light (Johnston and Bartels 2010).

Survey data results. Our goal with this empirical test is to see whether our experimental results generalize to the broader American population. To do this, we estimated linear

multilevel random-intercept, random-coefficient models to investigate the role of partisanship in assessing the perceived impartiality of state supreme courts. These types of models are ideal for working with nested-data structures, where individual-level observations are clustered within states. They allow us to see how contextual variation at the state level can help explain individual-level attitudes about state courts more broadly. They also allow researchers to deal adequately with the inherent problems that hierarchical data create for a model's residuals, which makes hypothesis testing unreliable when using just OLS regression (Rahn and Rudolph 2005; Steenbergen and Jones 2002). Although a random-intercept model allows the intercept of a model to vary across states, a random-coefficient model allows individual-level predictors of perceived court impartiality to vary across states as well. We can then explain that variance in individual-level coefficients using cross-level interactions. In this case, we are estimating random coefficients for a respondent's partisan identification and their level of judicial awareness to see how those predict perceptions of state court impartiality when interacted with the court's ideological leanings for each state.

Table 3 contains the results for the two models. The results from the first model suggest that partisan loyalties might play some role in how people evaluate the impartiality of state courts when we simply interact respondent party identification with court conservatism, but that interaction is only marginally significant statistically at the .1 level ($\beta = .022$, $SE = .014$, $p < .107$). However, as we suggested above, one reason why people may not be picking up on ideological cues from their state courts is because they simply are not aware of their state supreme court at all. If they were aware, maybe they would use partisan cues. In other words, we want to tease out these observationally equivalent propositions. Per our theory, we introduced a three-way interaction that also included our measure of court awareness. The results are displayed in Table 3 (Model 2). As we suspected, the results from the second model suggest people do use partisanship in their evaluations of courts when they are aware of the courts and their behavior ($\beta = .104$, $SE = .042$, $p < .014$). Indeed, for those with low awareness of the courts, there is no relationship between partisan identification and court conservatism. That is, for those largely uninformed about the judicial branch of government, they are unlikely to notice ideological cues coming from their state high court. For those who are informed of the judicial branch, though, we see that for partisans, the ideological tenor of the court does influence how they evaluate the impartiality of the court when they make judicial decisions. These results hold even with the addition of demographic controls—see Table 3 (Model 3).

Figure 3 is a plot of the marginal effects of court conservatism for Democrats and Republicans across the entire range of judicial knowledge. The gray vertical line is the mean value of knowledge (.433). For low knowledge partisans, court ideology has no statistically significant effect on how impartial they view their state courts. These people seem not to pick up on any ideological cues coming from their state high court. However, for partisans with only slightly above-average knowledge of the judicial branch, increasing court conservatism increases perceptions of court impartiality for Republicans and decreases perceptions of court impartiality for Democrats. These marginal effects increase the more knowledgeable one is about the judiciary. In other

Table 3. Predicting Perceptions of State Court Impartiality.

	Model 1	Model 2	Model 3
Court conservatism	.012 (.017)	.030 (.031)	.030 (.031)
Party identification	.007 (.004)	.009 (.010)	.009 (.010)
Judicial knowledge	.045 (.032)	.043 (.031)	.048 (.034)
Court Conservatism × Party Identification	.022 (.014)	-.024 (.024)	-.023 (.024)
Party Identification × Judicial Knowledge	—	-.003 (.022)	-.003 (.022)
Court Conservatism × Judicial Knowledge	—	-.039 (.060)	-.034 (.065)
Court Conservatism × Party Identification × Judicial Knowledge	—	.104* (.042)	.097* (.041)
State-level controls			
Judicial integrity	-.045 [†] (.025)	-.042 (.026)	-.035 (.023)
Violent crime rate	-.050 [†] (.030)	-.052 [†] (.029)	-.048 (.031)
Judicial elections	.004 (.016)	.004 (.016)	.001 (.016)
Court unanimity	.041 (.038)	.053 (.037)	.042 (.040)
Individual-level controls			
Differential media exposure	-.066* (.034)	-.067* (.034)	-.083* (.035)
Experience (low stakes, high control)	-.021 (.023)	-.022 (.024)	-.022 (.025)
Experience (high stakes, low control)	-.028 (.019)	-.027 (.018)	-.026 (.019)
Age	—	—	-.022 (.032)
Female	—	—	-.001 (.016)
Education	—	—	.014 (.029)
Nonwhite	—	—	-.009 (.018)
Constant	.411* (.046)	.402* (.045)	.415* (.045)
Variance components			
Variance (Party Identification)	.000* (.000)	.000* (.000)	.000* (.000)
Variance (Knowledge)	—	.006* (.009)	.007* (.009)
Variance (Constant)	.000* (.000)	.002* (.002)	.001* (.002)
Covariance (Party Identification, Constant)	-.000 (.000)	-.000 (.000)	-.000 (.000)
Covariance (Knowledge, Constant)	—	-.003 (.004)	-.003 (.004)
Covariance (Party Identification, Knowledge)	—	-.000 (.001)	.000 (.001)
N	994	994	959

Note. Multilevel regression estimates and standard errors in parentheses. Survey weights used in all models.

[†]p < .10. *p < .05.

words, the effect of party on public perceptions of court impartiality increases as one goes from having moderate levels of knowledge to having the maximum level of court knowledge. Party plays a critical role in how highly knowledgeable people evaluate their state courts.

What these effects look like in terms of predicted values can be seen in Figure 4. The predicted values of court impartiality for both high knowledge Democrats and Republicans overlap to a significant degree across the range of court ideology but

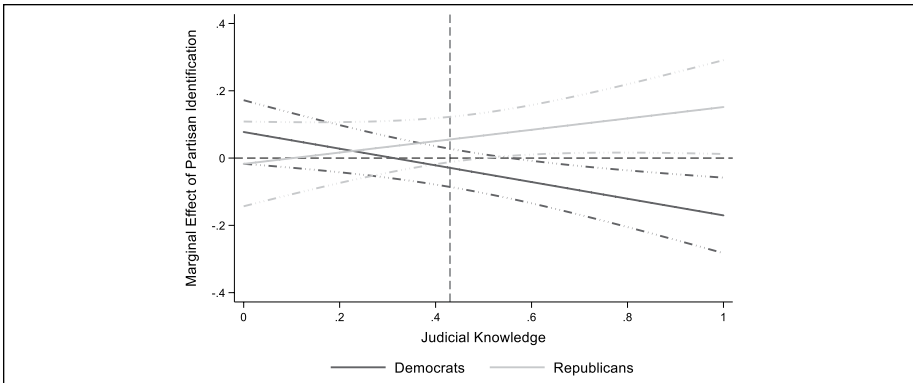


Figure 3. Effect of court ideology on perceived impartiality among partisans.

diverge when courts are ideologically extreme. In other words, Democrats living in states with an extremely conservative state high court will have *different* perceptions of court impartiality than Republicans. The same holds true for Republicans living in states with an extremely liberal state high court. For those with no knowledge of the judicial branch, the predicted values for both Democrats and Republicans across the entire range of state high court ideology are statistically indistinguishable from each other. The differences in predicted values are substantively important: a high knowledge Democrat is more likely to believe their very liberal court is impartial (.553) compared with a similarly situated Republican (.258), a statistically significant difference of .295 on a 0 to 1 scale, which constitutes a 1.500 standard deviation difference. Likewise, a high knowledge Republican is more likely to believe their very conservative court is impartial (.561) compared with a similarly situated Democrat (.212), a statistically significant difference of .349, or a difference of 1.776 standard deviations along the range of our dependent variable. Roughly speaking, similarly situated Democrats and Republicans living in states with ideologically extreme state high courts have a *substantial* difference in perceived court impartiality that is one-third of the scale of the dependent variable. High knowledge Democrats and Republicans living in a state with a moderate court have extremely similar predicted values (compare .383 with .410), and the difference is not statistically significant. None of the differences in predicted values among low knowledge respondents are statistically significant. These findings all comport with the results found in our experiment.

Discussion

Public perceptions of court impartiality are influenced by the decisions courts make. When courts act in a partisan manner by issuing decisions in a consistently liberal or consistently conservative direction, the American public evaluates courts through a partisan lens. The findings here suggest that as the ideological tenor of state supreme

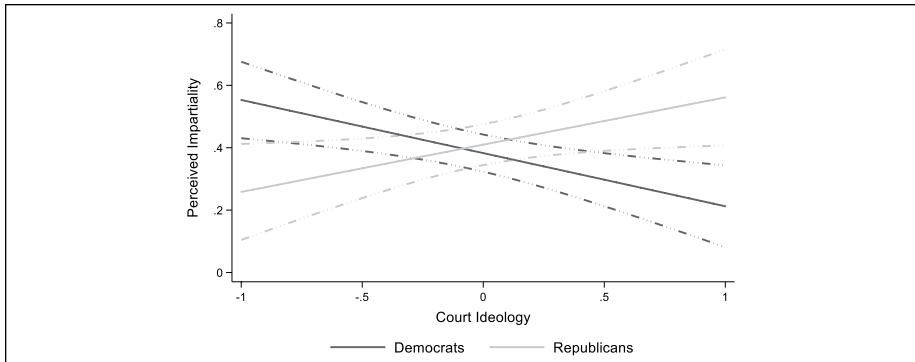


Figure 4. Predicted values of perceived impartiality among partisans at maximum knowledge.

courts become more extreme, it alters the way people perceive it as an impartial arbiter of the rule of law, but it does so in heterogeneous ways. Both the experimental and the survey evidence suggest that as courts become increasingly liberal in the decisions they issue, Democrats tend to view those courts as more impartial and Republicans view them as considerably less impartial, at least when those people are aware of the courts' behavior. The reverse is also true as state courts become increasingly more conservative.

Moreover, the experimental evidence also demonstrates that this lack of perceived impartiality has spillover effects that ultimately erode the overall legitimacy of judicial institutions. Although this finding could not be tested directly using the observational survey data, the results here suggest that the long-established contention among scholars that institutional legitimacy is rooted in perceptions of procedural fairness ought to lend some weight to the idea that the linkage between specific and diffuse support may not be as tenuous as the bulk of the academic literature suggests (Gibson and Nelson 2014; 2015; Kelleher and Wolak 2007). As a result, these findings help validate the core findings offered by Bartels and Johnston (2013) in their research on the U.S. Supreme Court, albeit with different measures of disagreement.

So what if support for courts is grounded in partisan evaluations, some might ask? As long as that support comes from partisans in the *majority*, courts can operate relatively unencumbered. Nevertheless, widespread belief in the impartiality of courts is an important sentiment for courts to try to maintain. In states where courts are ideologically extreme, a sizable minority of the population *does not* view them as impartial. Based on our experimental evidence, this finding does not bode well for overall levels of legitimacy in those states. Lacking widespread legitimacy, these courts face a difficult task of maintaining the rule of law. People who view their courts as legitimate are more likely to defer to the court's decisions (Tyler and Huo 2002). The implication is that people might also be more likely to disobey decisions from courts if they do not view their courts as legitimate, and they will be more willing to undermine the independence of the courts as well.

There are three other implications of this article. First, conventional academic wisdom has long asserted that knowledge is often one of the most consistent predictors of support for courts. Knowledge has been found to increase public perceptions of U.S. Supreme Court legitimacy (Caldeira and Gibson 1992), high court legitimacy in other countries (Gibson, Caldeira, and Baird 1998), and even the legitimacy of state high courts (Cann and Yates 2016). This common finding has led to the conclusion that “to know the court is to love the court.” For Gibson and Caldeira (2011), this long-standing finding creates a significant puzzle because people who know the court are also more likely to acknowledge that judges engage in ideological decision-making, which ought to undermine court legitimacy. However, they reconcile this paradox by concluding that “the American people seem to accept that judicial decision-making can be discretionary and grounded in ideologies, but also principled and sincere” (Gibson and Caldeira 2011, 214). The results from this article further clarify this paradox by demonstrating what can happen when courts behave ideologically, albeit not in a principled fashion. Across the entire ideological spectrum, people tend to view ideologically balanced courts as the most impartial, on average. However, when people are aware of the court *and* are strong partisans, their evaluation of court impartiality—and, by extension, court legitimacy—shifts dramatically as courts become more ideologically extreme. For example, high levels of support coming from knowledgeable Vermont Democrats is far more likely to be grounded in satisfaction with the high court’s output than due to an appreciation for the legalistic symbols for the high court in that state. Conversely, when Texas Democrats grow more aware of courts and find that they are routinely deciding cases at odds with their partisan goals, then that knowledge can just as likely lead to a diminished assessment of court legitimacy.

The second additional implication of this article is linked to the first. Although this article was focused on attitudes toward state supreme courts, this study may provide some insight into how people think about the Supreme Court. Until now, some have speculated that because the U.S. Supreme Court issues roughly half-liberal half-conservative decisions, partisanship ought not predict differences in level of support (Bartels and Johnston 2013; Gibson and Nelson 2015). The results here lend some weight to the idea that this speculation might be true. For people living in states with moderate courts or even courts that lean slightly conservative or liberal, partisanship plays little role in how impartial those courts are perceived, even among the most knowledgeable citizens. However, significant differences emerge between strong Democrats and strong Republicans in how they view ideologically extreme courts. Ideologically extreme courts like Vermont or Texas appear to have support from only one segment of the population—the majority in that state. The partisan minority does not believe those state courts are impartial and, as such, they do not afford those courts the same degree of legitimacy.

The implication of these findings for the U.S. Supreme Court is clear: If the Court started heavily issuing consistently liberal or consistently conservative decisions, its legitimacy could also wane, especially as some subsection of the population would routinely believe that the ideological tenor of the Court is evidence that it is no longer behaving impartially. This lends credence to the concern among many Supreme Court

justices that they must protect the Court's image to maintain the perception of impartiality.

Relatedly, Kelleher and Wolak (2007) found that support for state courts was lower, on average, than support for the Supreme Court. The results from this article might provide an explanation for why that is the case. The moderation of the Supreme Court insulates public confidence from backlash against any single decision; however, for many more ideologically extreme state supreme courts, the persistent partisan signals being sent will routinely leave some in the population chronically dissatisfied. Put differently, to frame this implication within the concept of positivity bias, political minorities in states with ideologically extreme state courts are experiencing "sustained dissatisfaction." Courts that constantly issue decisions that are displeasing to some segment of the public might be willing to remove their support for their court because experiencing sustained dissatisfaction with a court's output dispels the myth that the court is a place where any person can receive a fair hearing (Gibson and Caldeira 2009). These findings here are consistent with what would happen *if* people were to have such repetitive negative experience with their courts.

Finally, this article provides evidence that partisan polarization can have negative consequences for how people evaluate the legitimacy of political institutions, even political institutions, like courts, that were thought to be relatively immune to such consequences. Partisanship permeates throughout the entire American political system, and it casts a long shadow over American politics, a shadow that extends all the way to how people evaluate the legitimacy of this country's core institutions, even those institutions deemed the protectors of the rule of law. A partisan public is a skeptical public, but the core institutions of a democracy cannot persist without unwavering support of both those who agree with the outcomes they produce *and* those who do not always agree. Protracted partisan warfare can ultimately undermine the very institutions that make democracy work.

Authors' Note

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Declaration of Conflicting Interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

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Notes

1. Although not germane to this article, for the judicial consensus treatment, respondents were exposed to a court that issued all four decisions unanimously (7-0), all four decisions in a divided manner (4-3), or a “control” court where no information about how the judges voted was provided. Table 1 provides a visual representation of the factorial design.
2. The full text of the vignettes can be found in Online Appendix C of the supplemental file. Nearly 70% of the total sample correctly assessed their court’s ideological tenor in our manipulation check, and more than 70% correctly assessed the outcomes of the decisions made by the court (see Table F.1 in Online Appendix F). Although we would have liked for a higher proportion of respondents to correctly pass the manipulation check, the failure to treat introduces noise in the measurement that actually makes it more difficult to assess a causal effect. In this sense, it creates a more stringent test for our theory. As a result, we kept those participants in the sample and proceeded with our analysis relying on the principle of the intention to treat.
3. Given the distinction we are creating between the process by which people believe judges make decisions and support for the institutions judges serve, one might criticize the Gibson measure of legitimacy because it includes questions that tap into court decision-making. While we carry out our analysis with the Gibson’s complete indexed measure of legitimacy—for the sake of continuity with the wider literature—we also ran models with the impartiality items of the index excluded. The results of our models were virtually the same. See Online Appendix Table A.3 in the supplemental file.
4. See Online Appendix A of the supplemental file for full ordinary least square (OLS) models, including additional robustness checks.
5. Unfortunately, the referent in the impartiality battery here was slightly different than in the experiment. In the experiment, we asked participants specifically about the state supreme court they read about. However, the questions in the observational data ask about state courts and judges, broadly speaking. Although the ambiguity of the referent in the survey is less than ideal, we have no reason to suspect why it would introduce a systematic bias into the measure. As a result, it likely just adds statistical noise, making it harder to find statistical significance.
6. Both Texas and Oklahoma have two courts of last resort. We used the statistics for both states’ Supreme Court, although the findings reported remain the same after substituting the values for both states’ other court of last resort, the Court of Criminal Appeals.

Supplemental Material

Supplemental material for this article is available online.

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