Accountability for Court Packing
Supplemental Information

Contents

A   Survey Details

The empirical evidence we present in this paper comes from three surveys: a 2018 CCES module, a July 2018 MTurk survey, and a July 2019 MTurk survey. In this appendix, provide technical details about the survey samples and the survey instruments.

A   Sample Demographics

	Internet Samples					Face to Face
	2018 CCES	2018 MTurk	2019 MTurk	Berinsky, Huber, & Lenz	ANES-P 2008-09	ANES 2008
% Female	56%	50%	48%	60%	58%	55%
% White	74%	80%	81%	84%	83%	79%
% Black	10%	9%	14%	4%	9%	12%
% Hispanic	11%	12%	12%	7%	5%	9%
Mean Age (Yrs)	48	39	38	32	50	47
Ideology (7 pt.)	3.9	3.5	3.6	3.4	4.3	4.2
Education	39% Col Grad	59% Col Grad	60% Col Grad	14.9 yrs	16.2 yrs	13.5 yrs
	31% Some Col	32% Some Col	32% Some Col			

Table A1: Comparison of Sample Demographics. ANES-P is the American National Election Panel Study conducted by Knowledge Networks and the ANES is the American National Election Study. Data for the latter 3 columns come from Table 3 in Berinsky, Huber and Lenz (2012).

B   CCES Additional Information

The 2018 CCES experiment described in the body of the paper was a 2x2 fully-crossed experiment. χ^2 tests provide no evidence that the randomization failed on the basis of a number of demographic and political characteristics including gender ($p=.95$), race ($p=.28$), ethnicity ($p=.72$), education ($p=.65$), partisanship ($p=.11$), ideology ($p=.67$), home ownership ($p=.79$), and Trump approval ($p=.16$).

The full text of the four treatments follows:

- **Republican-Bureaucratic**: An incumbent Republican Senator from a nearby state who is seeking reelection in November is campaigning on a plan that would expand the size of the federal judiciary, adding 64 new federal circuit court (appellate) judges (a 37% increase), and 189 new district court (trial) judges (a nearly 30% increase). He plans to introduce this bill in the U.S. Senate, if the Republicans win control of Congress in November. Legal experts from both parties have discussed the Senator's proposal and agree that this proposal is an attempt to enhance the efficiency of the federal judiciary, enabling courts to better manage a backlog of cases.

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- **Democrat-Bureaucratic**: An incumbent Democratic Senator from a nearby state who is seeking reelection in November is campaigning on a plan that would expand the size of the federal judiciary, adding 64 new federal circuit court (appellate) judges (a 37% increase), and 189 new district court (trial) judges (a nearly 30% increase). He plans to introduce this bill in the U.S. Senate, if the Democrats win control of Congress in November. Legal experts from both parties have discussed the Senator's proposal and agree that this proposal is an attempt to enhance the efficiency of the federal judiciary, enabling courts to better manage a backlog of cases.

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C 2018 MTurk Additional Information

We conducted a survey of 2,500 Amazon Mechanical Turk respondents in July 2018. The experiment on this survey was an expanded version of the vignette included on the CCES; the vignette included control conditions for both the proposer and rationale treatments, making the experiment a 3x3 full-crossed design.

The full text of the experimental treatments follows:

- **Control-Control**: An incumbent Senator from a nearby state who is seeking re-election in November, 2018, recently introduced a bill in the U.S. Senate that would expand the size of the federal judiciary, adding 64 new federal circuit court (appellate) judges (a 37% increase), and 189 new district court (trial) judges (a nearly 30% increase).

- **Democratic-Control**: An incumbent Democratic Senator from a nearby state who is seeking reelection in November, 2018, recently introduced a bill in the U.S. Senate that would expand the size of the federal judiciary, adding 64 new federal circuit court (appellate) judges (a 37% increase), and 189 new district court (trial) judges (a nearly 30% increase).

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Respondents in this survey were asked their partisanship on a 3-point, rather than a 7-point scale. As a result, we have no data on the percentage of respondents who are "leaners" and therefore must exclude a large number of respondents (about 25%) who indicated that they are political independents. To recover as many respondents as possible, we treat as "Copartisans" liberal independents who read about a Democratic incumbent and conservative independents who read about a Republican independents; liberal independents who read about a Republican proposal and conservative independents who read about a Democratic proposer are classified as outpartisans. The results are similar without this change; however, the confidence intervals are somewhat larger due to the lower number of respondents.

Though the random assignment to treatment mitigates the need to account for respondent-specific factors, a substantial portion of our analysis depends on the alignment of the respondent's partisanship with the proposer's. Analyses on this front therefore need to control for observable characteristics on which respondents may differ. We therefore included a battery of respondent-level characteristics. We measured the respondents' gender (50.1% female), age (38.7 years old, on average), race (9.0% black, 20.3% nonwhite), ethnicity (12.1% Hispanic), education (measured on an 8-point scale with 58.7% college graduates and 29.4% having completed some college), social class (55.79% own their home), ideology (51.4% describing themselves as liberal; 30.0% describing themselves as conservative), and partisanship (40.0% Democrat, 26.6% Republican). Also, we included a 5-item political knowledge scale and two standard measures of specific support for the Court (Gibson and Nelson 2015). Befitting the high level of political knowledge typical of online convenience samples, the average respondent answered 3.9 of the 5 questions correctly.

There is no evidence that assignment to treatment was systematically related with any of these factors. Chi-squared tests of independence with gender ($p = 0.15$), race ($p = 0.38$), ethnicity ($p = 0.84$), education ($p = 0.97$), social class ($p = 0.28$), ideology ($p = 0.78$), partisanship ($p = 0.80$) and knowledge ($p = 0.61$) all render us unable to reject the null hypothesis of independence between our treatment and the respondent characteristic.

D 2019 MTurk Additional Information

The July 2019 MTurk experiment described in the body of the paper was a 3x3 fully-crossed experiment that adjusted the language we used to describe the incumbent Senator's politicized motivations:

- **Control-Control**: Imagine that an incumbent Senator from a nearby state who is seeking reelection in November, 2020, is campaigning on a plan that would expand

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B   Measurement

A   Measurement of the Outcome Variable

Across each of our three samples, our outcome variable, *Proposer Support* is created using the scores from a factor analysis of three items, scaled from 0 to 1 such that higher values indicate more support for the fictitious incumbent senator seeking to pack the U.S. federal judiciary. Here, we provide more details on the construction of this outcome variable across our three samples.

	2018 CCES		2018 MTurk		2019 MTurk	
	% Support	Loading	% Support	Loading	% Support	Loading
Proposal Support	34%	0.81	35%	0.82	26%	0.88
Job Performance	23%	0.76	27%	0.78	44%	0.87
Vote Choice	24%	0.74	27%	0.65	40%	0.68
Cronbach's α	0.83		0.77		0.82	

Table B2: Comparison of Outcome Variable Indicators. "% Support" indicates the percentage of respondents who gave a response supportive of the incumbent senator. "Loading" refers to the item's loading from a unidimensional factor analysis.

First, we asked respondents to rate their support for the proposal based on the respondent's answer to "To what extent do you approve of the incumbent's reform proposal?" This variable was measured on a 5-point scale in the 2018 surveys and a 4-point scale in the 2019 survey.

Second, we asked respondents to provide an evaluation of the incumbent's job performance based on the respondent's answer to "To what extent do you approve of the incumbent's job performance?" This variable was measured on a 5-point scale in the 2018 surveys and a 4-point scale in the 2019 survey.

Finally, each of the three surveys included an item about vote choice. In the CCES, we asked respondents to provide their response on a 4-point scale in response to the following question: "If you were in this state, how would you vote in the next election?" Respondents could pick an answer on a 4-point scale ranging from "I would definitely vote for the incumbent" to "I would definitely NOT vote for the incumbent." In the MTurk samples, this variable is dichotomous, based on the respondent's answer to "If you were in this state, how would you vote in the next election?" Respondents could choose "I would vote for the incumbent," "I would vote for someone other than the incumbent," or "I would not vote."

B   Measurement of Federal Court Legitimacy

We modified the standard battery of Supreme Court diffuse support items used by Gibson, Caldeira and Spence (2003), Gibson and Nelson (2015), and others to apply specifically to the full federal judiciary, on the theory that respondents might differentiate between the U.S. Supreme Court and the judiciary as a whole making a measure of Supreme Court legitimacy inappropriate for our purposes.

In each of the three surveys, we put as many items from the following battery to our respondents as we were able to given space constraints:

- Less Independent: The federal judiciary ought to be made less independent so that it listens a lot more to what the people want.

- Jurisdiction Stripping: The right of the Federal Courts to decide certain types of controversial issues should be reduced.

- Impeachment: Judges on the federal judiciary who consistently make decisions at odds with what the majority wants should be removed from their position.

- Do Away With: If the Federal Courts started making a lot of decisions that most people disagree with, it might be better to do away with the courts altogether.

Respondents were asked to provide their support on a 5-point scale. In the MTurk surveys, the response set was labeled from "Agree Strongly" to "Disagree Strongly." On the CCES, respondents were given a slider with five options with the poles labeled "I Agree Strongly" and "I Disagree Strongly."

	2018 CCES	2018 MTurk		2019 MTurk	
	% Support	% Support	Loading	% Support	Loading
Less Independent	31%	47%	0.72	45%	0.80
Jurisdiction Stripping	–	53%	0.78	51%	0.78
Impeachment	–	50%	0.80	49%	0.80
Do Away With	–	–		60%	0.80
Cronbach's α		0.84		0.88	

Table B3: Comparison of Federal Judiciary Legitimacy Indicators. "% Support" indicates the percentage of respondents who gave a response supportive of the federal judiciary (a pro-legitimacy response). "Loading" refers to the item's loading from a unidimensional factor analysis.

Table B3 displays summary information about our items and the unidimensional factor analysis scales we use in the MTurk samples to measure this concept. In both cases, the scales are quite reliable, with high α values.

As a measure of construct validity, we compared the results of our scale to a standard measure of Supreme Court diffuse support comprised of six items used by Gibson and Nelson (2015):

- If the U.S. Supreme Court started making a lot of decisions that most people disagree with, it might be better to do away with the Supreme Court altogether.

- The right of the Supreme Court to decide certain types of controversial issues should be reduced.

- The U.S. Supreme Court gets too mixed up in politics.

- Judges on the U.S. Supreme Court who consistently make decisions at odds with what a majority of the people want should be removed from their position as judge.

- The U.S. Supreme Court ought to be made less independent so that it listens a lot more to what the people want.

- It is inevitable that the U.S. Supreme Court gets too mixed up in politics; therefore, we ought to have stronger means of controlling the actions of the U.S. Supreme Court.

This measure of Supreme Court diffuse support is reliable: $\alpha = 0.89$. The six items load onto a single factor with an average factor loading of 0.75. Our measure of federal judiciary legitimacy correlates with this measure of Supreme Court legitimacy at $r = 0.84$, suggesting that, as expected, these two measures are highly (though not perfectly) correlated.

- The right of the federal courts to decide certain types of controversial issues should be reduced.

- Judges on the federal judiciary who consistently make decisions at odds with what the majority wants should be removed from their position.

- The federal judiciary ought to be made less independent so that it listens a lot more to what the people want.

The three items are strongly reliable with $\alpha = 0.84$. Moreover, they scale on a single dimension with factor loadings of 0.72, 0.78, and 0.80. We therefore use as our measure of Federal Court Legitimacy the factor score from a unidimensional factor analysis. Scored from 0-1, the variable has a mean of 0.59 and a standard deviation of 0.27.

C Measurement of Political Knowledge, MTurk Samples

The two MTurk samples included a 5-question court knowledge battery mirroring the one used by Gibson and Nelson (2015). The questions were:

- Some judges in the U.S. are elected; others are appointed to the bench. Do you happen to know if the justices of the U.S. Supreme Court are

  - Elected
  - Appointed to the Bench

- Some judges in the U.S. serve for a set number of years; others serve a life term. Do you happen to know whether the justices of the U.S. Supreme Court serve...

  - For a Set Number of Years
  - For a Life Term

- Do you happen to know which of the following institutions has the last say when there is a conflict over the meaning of the Constitution?

  - The U.S. Supreme Court
  - The U.S. Congress
  - The President

- As you may know, the U.S. Supreme Court issues written opinions along with its decisions in most major cases it decides. We wonder if you know about how many decisions with opinions the Court issues each year. Would you say it writes

  - Less than one hundred decisions with opinions each year.
  - Around five hundred decisions with opinions.
  - A thousand decisions with opinions or more per year.

- When the U.S. Supreme Court decides a case, would you say that

  - The decision can be appealed to another court.
  - Congress can review the decision to see if it should become the law of the land.
  - The decision is final and cannot be further reviewed.

C   Multivariate Model Results

As mentioned in the text of the paper, the predicted probability panels in Figures 1, 2, and 3 are based on multivariate linear regression models. Though the paper relies on experimental data, one's diffuse support for the federal judiciary is not randomly assigned. Therefore, in order to appropriately estimate the conditional effects of the experimental treatments as federal court legitimacy varies, it is important to account for respondents' political and demographic influences that might affect both the outcome variable and support for the federal judiciary. Thus, in this appendix, we present the results of multivariate regression models that account for these influences. Additionally, we also show that our conclusions about the direct effects of the experimental treatments hold when we account for respondents' political and demographic characteristics.

Because our data come from different surveys with different survey instruments, the exact model specification varies by survey. However, in each specification, we account for respondents' demographic characteristics (e.g., gender, race, and age), their political characteristics (e.g., their ideology), their political sophistication (e.g., political knowledge and education), and their specific support for the federal judiciary (e.g., job performance satisfaction and policy congruence). We measure performance satisfaction based on respondents' answers to the question "How well do you think the federal judiciary does its main job in government?," a four-item scale where higher values reflect more positive evaluations. We measure policy congruence based on respondents' answers to the question "In general, how would you describe the decisions made by the federal judiciary? Are they generally too liberal, too conservative, or about right in their decisions?" This variable is a five-point likert scale, the modal category suggests that the federal judiciary is judged, on average, to be "about right" in many people's opinions. In each of the models we present, all independent variables are scored from 0-1 such that higher values indicate larger values of the concept.

	(1)	(2)	(3)	(4)
Copartisan	0.24*	0.24*	0.20*	0.19*
	(0.02)	(0.02)	(0.03)	(0.03)
Federal Court Legitimacy	-0.02	-0.03	-0.06	-0.07*
	(0.02)	(0.02)	(0.03)	(0.03)
Copartisan x Federal Court Legitimacy			0.09	0.09*
			(0.05)	(0.05)
Job Performance Satisfaction		0.03*		0.03*
		(0.01)		(0.01)
Federal Judiciary Policy Congruence		0.06		0.06
		(0.04)		(0.04)
Black		-0.01		-0.01
		(0.03)		(0.03)
Hispanic		0.06		0.06
		(0.06)		(0.06)
Education		-0.00		-0.00
		(0.01)		(0.01)
Female		-0.02		-0.02
		(0.02)		(0.02)
Age		-0.15*		-0.15*
		(0.03)		(0.03)
Own Home		0.01		0.01
		(0.02)		(0.02)
Ideology (5-point)		-0.07		-0.07
		(0.04)		(0.04)
Born Again		-0.02		-0.02
		(0.02)		(0.02)
Intercept	0.33*	0.24	0.35*	0.25
	(0.02)	(0.13)	(0.02)	(0.13)
R^2	0.22	0.27	0.23	0.27
N	822	808	822	808

Table C1: Linear regression results underlying Figure 1, 2018 CCES sample. Standard errors in parentheses. * indicates $p < 0.05$.

	(1)	(2)	(3)	(4)
Copartisan	0.07*	0.07*	0.02	-0.00
	(0.02)	(0.02)	(0.04)	(0.04)
Outpartisan	-0.03*	-0.03*	0.00	-0.01
	(0.02)	(0.02)	(0.04)	(0.04)
Federal Court Legitimacy	-0.14*	-0.11*	-0.15*	-0.14*
	(0.02)	(0.03)	(0.04)	(0.04)
Copartisan x Federal Court Legitimacy			0.08	0.12*
			(0.06)	(0.06)
Outpartisan x Federal Court Legitimacy			-0.06	-0.04
			(0.06)	(0.06)
Confidence in Federal Judiciary		-0.21*		-0.21*
		(0.03)		(0.03)
Federal Judiciary Policy Congruence		-0.01		-0.01
		(0.01)		(0.01)
Court Knowledge		-0.14*		-0.15*
		(0.03)		(0.03)
Black		0.04		0.04
		(0.02)		(0.02)
Hispanic		0.01		0.01
		(0.02)		(0.02)
Education		0.03		0.03
		(0.03)		(0.03)
Female		-0.00		-0.00
		(0.01)		(0.01)
Age		-0.00*		-0.00*
		(0.00)		(0.00)
Own Home		0.01		0.01
		(0.01)		(0.01)
Ideology		0.01		0.00
		(0.02)		(0.02)
Intercept	0.55*	0.75*	0.56*	0.77*
	(0.02)	(0.04)	(0.03)	(0.05)
R^2	0.05	0.13	0.05	0.13
N	1774	1596	1774	1596

Table C2: Linear regression results underlying Figure 2, July 2018 MTurk sample. Standard errors in parentheses. * indicates $p < 0.05$.

	(1)	(2)	(3)	(4)
Copartisan	0.12*	0.12*	-0.02	0.00
	(0.02)	(0.02)	(0.05)	(0.05)
Outpartisan	-0.11*	-0.11*	-0.03	-0.02
	(0.02)	(0.02)	(0.05)	(0.05)
Federal Judiciary Legitimacy	-0.27*	-0.13*	-0.30*	-0.16*
	(0.03)	(0.04)	(0.06)	(0.06)
Copartisan x Federal Judiciary Legitimacy			0.24*	0.21*
			(0.08)	(0.08)
Outpartisan x Federal Judiciary Legitimacy			-0.13	-0.15
			(0.08)	(0.08)
Job Performance Satisfaction		0.17*		0.18*
		(0.04)		(0.03)
Federal Judiciary Policy Congruence		0.02		0.01
		(0.04)		(0.04)
Female		-0.02		-0.02
		(0.02)		(0.02)
Ideology		0.00		-0.00
		(0.03)		(0.03)
Court Knowledge		-0.12*		-0.12*
		(0.03)		(0.03)
Age		-0.05		-0.06
		(0.05)		(0.05)
Black		0.06*		0.06*
		(0.02)		(0.02)
Hispanic		0.10*		0.10*
		(0.03)		(0.03)
Education		0.06		0.06
		(0.04)		(0.04)
Intercept	0.63*	0.48*	0.65*	0.50*
	(0.02)	(0.05)	(0.03)	(0.06)
R^2	0.17	0.27	0.20	0.29
N	851	840	851	840

Table C3: Linear regression results underlying Figure 3, July 2019 MTurk sample. Standard errors in parentheses. * indicates $p < 0.05$.
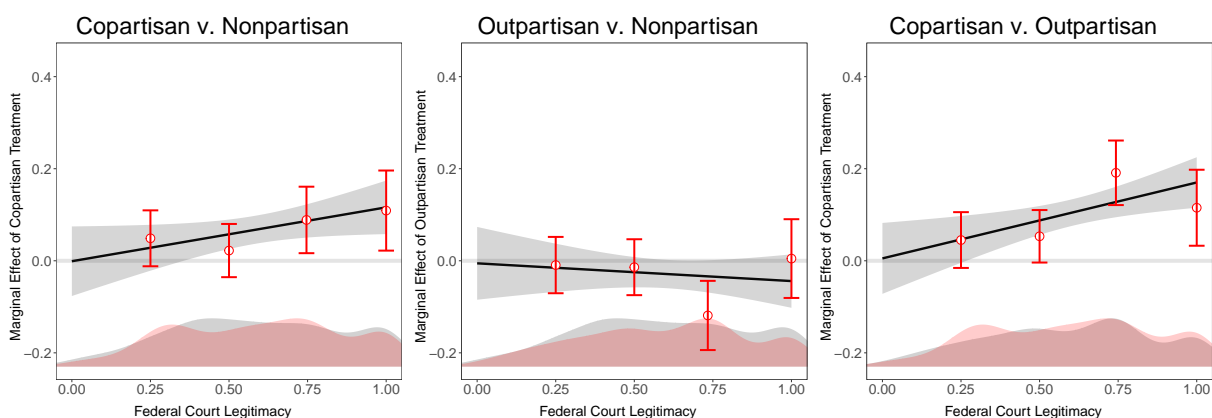
D MARGINAL EFFECTS PLOTS

Our third hypothesis involves the conditional effects of our partisanship treatments as loyalty to the federal judiciary varies. We discuss in the text of the paper the most relevant marginal effect: the marginal effect of judicial legitimacy for each value of the partisanship treatment, providing the exact p-values for these effects in the paper. In the interest of transparency, we present in this appendix the other marginal effect: the effects of the experimental treatments as support for the federal judiciary varies. Following best practices, we present both the traditional linear estimate and the Hainmueller, Mummolo and Xu (2019) binned estimator.

Figure D1: Heterogeneous Treatment Effects: CCES
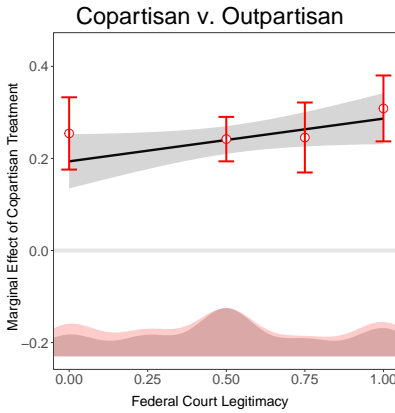
The panel shows the marginal effect of the Copartisan treatment as Federal Court Legitimacy varies. The solid line and associated 95% confidence interval is the traditional linear marginal effect; the point estimates and associated 95% confidence intervals are the Hainmueller, Mummolo and Xu (2019) binned estimator, showing the estimated effect for each quartile of legitimacy. Higher values of the outcome indicate more support for the proposer. Results come from Model 4 in Table C1.

Figure D2: Heterogeneous Treatment Effects: 2018 Mechanical Turk Sample

The marginal effects of the treatments as Federal Court Legitimacy varies. The solid line and associated 95% confidence interval is the traditional linear marginal effect; the point estimates and associated 95% confidence intervals are the Hainmueller, Mummolo and Xu (2019) binned estimator, showing the estimated effect for each quartile of legitimacy. Higher values of the outcome indicate more support for the proposer. Results come from Model 4 in Table C2.

Figure D3: Heterogeneous Treatment Effects: 2019 Mechanical Turk Sample
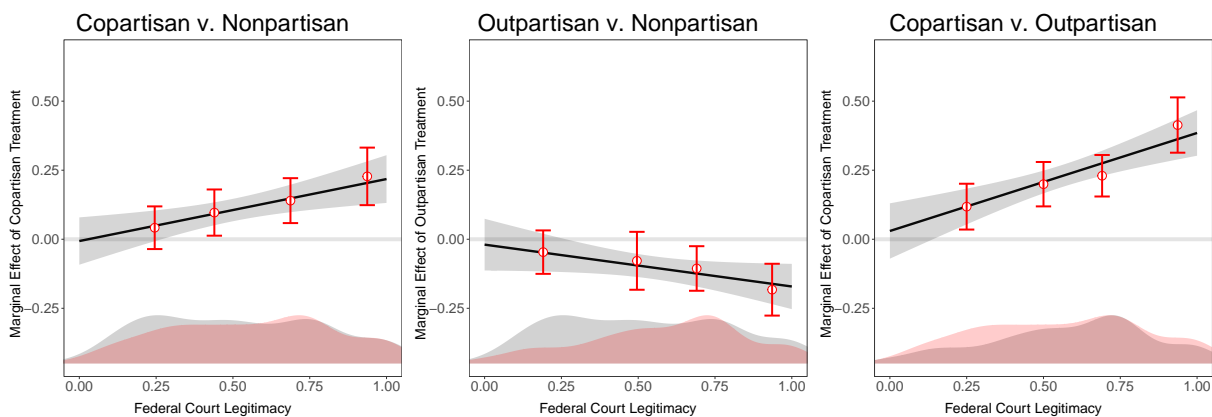
The marginal effects of the treatments as Federal Court Legitimacy varies. The solid line and associated 95% confidence interval is the traditional linear marginal effect; the point estimates and associated 95% confidence intervals are the Hainmueller, Mummolo and Xu (2019) binned estimator, showing the estimated effect for each quartile of legitimacy. Higher values of the outcome indicate more support for the proposer. Results come from Model 4 in Table C3.

E   Single-Indicator Results

In this appendix, we provide figures, mirroring Figures 1, 2, and 3 in the paper, that use each individual indicator as the outcome variable for the analysis. Figure E1 provides the results from the CCES, Figure E2 presents the results from the 2018 MTurk experiment, and Figure E3 provides the results from the 2019 MTurk experiment. The overall conclusion from the figures is the stark consistency across outcome variables.

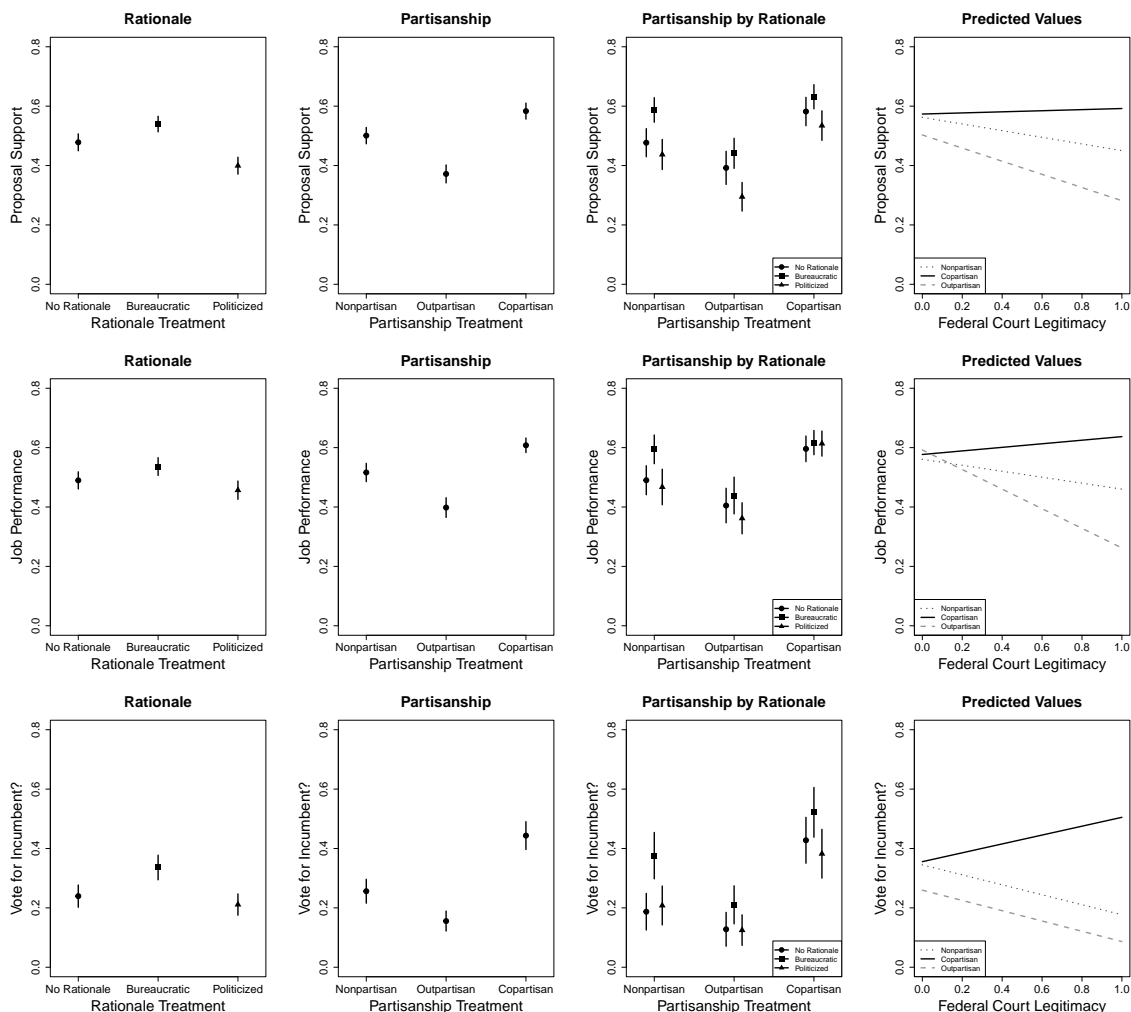Figure E1: Experimental Results: CCES (Single-Indicator Analyses)
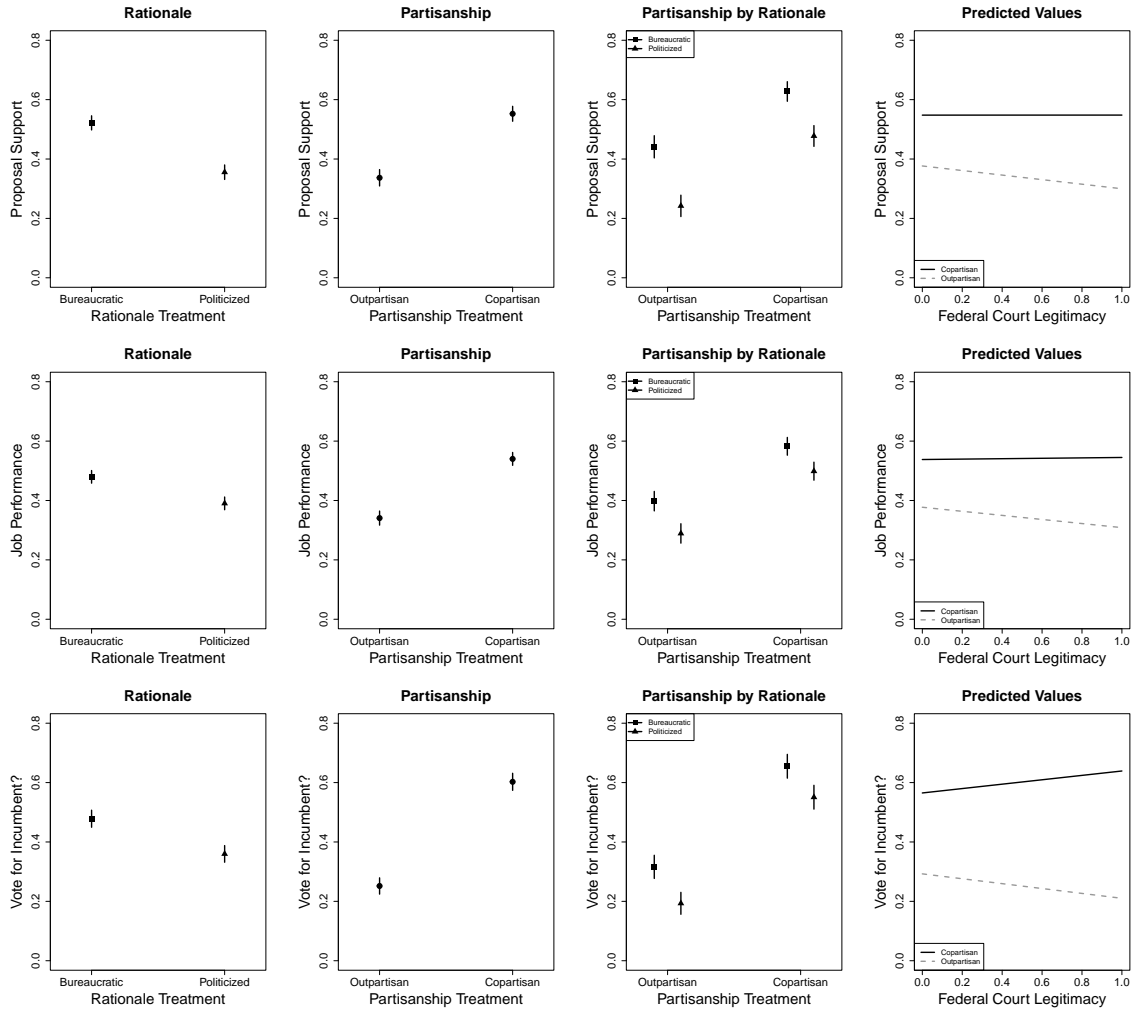
The first three columns display the average value of the outcome variable across the experimental conditions. The last column shows the predicted value of the outcome variables as Federal Court Legitimacy varies, using the same model specification as shown in Model 4 of Table C1. The whiskers represent 95% confidence intervals. Higher values of the y-axis indicate more support for the proposer or proposal. The top row shows the results for the Proposal Support outcome, the middle row provides results for the Job Performance outcome, and the bottom row displays the results for the Vote Choice outcome.

Figure E2: Experimental Results: 2018Mechanical Turk Sample (Single-Indicator Analyses)
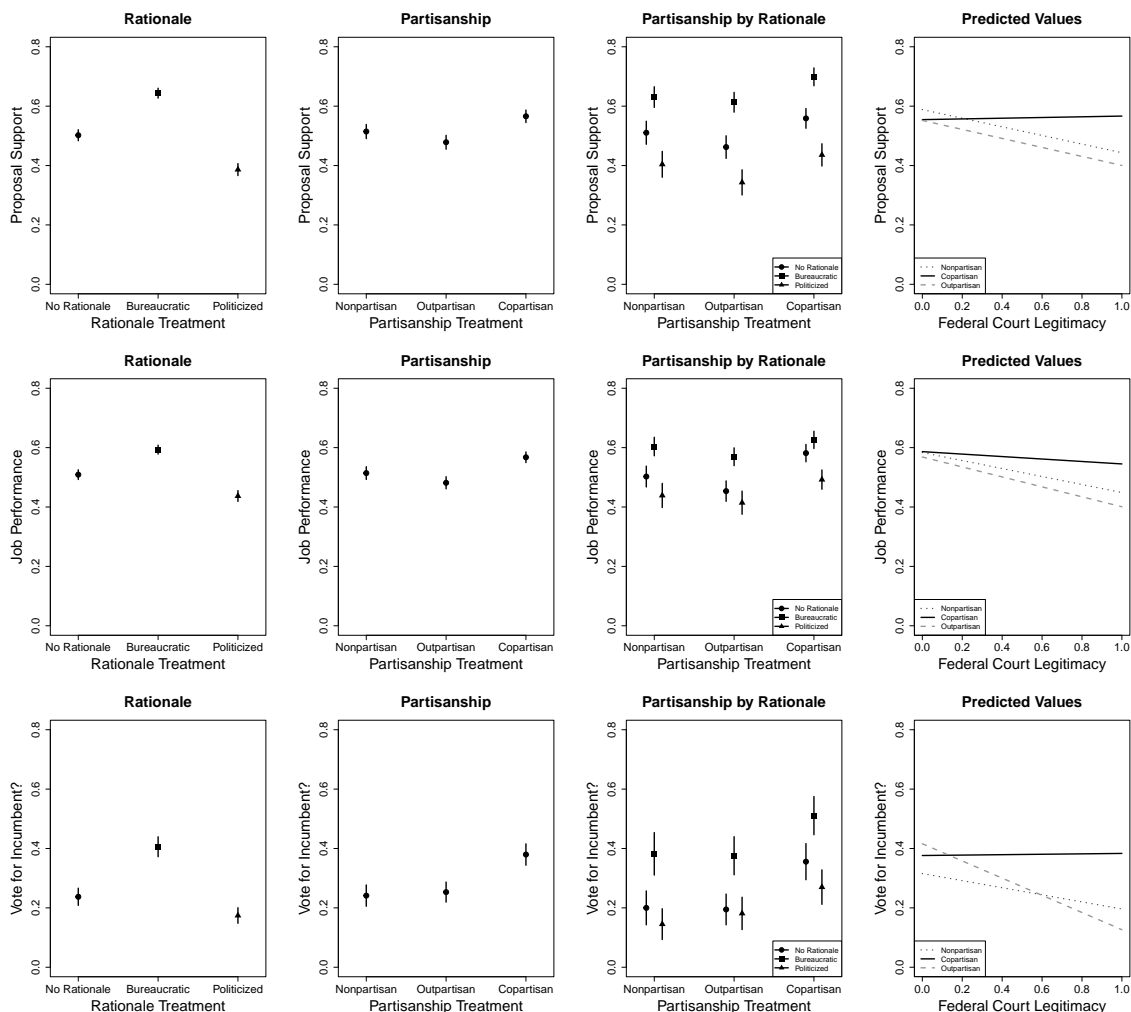
The first three columns display the average value of the outcome variable across the experimental conditions. The last column shows the predicted value of the outcome variables as Federal Court Legitimacy varies, using the same model specification as shown in Model 4 of Table C2. The whiskers represent 95% confidence intervals. Higher values of the y-axis indicate more support for the proposer or proposal. The top row shows the results for the Proposal Support outcome, the middle row provides results for the Job Performance outcome, and the bottom row displays the results for the Vote Choice outcome.

Figure E3: Experimental Results: 2019 Mechanical Turk Sample (Single-Indicator Analyses)

The first three columns display the average value of the outcome variable across the experimental conditions. The last column shows the predicted value of the outcome variables as Federal Court Legitimacy varies, using the same model specification as shown in Model 4 of Table C3. The whiskers represent 95% confidence intervals. Higher values of the y-axis indicate more support for the proposer or proposal. The top row shows the results for the Proposal Support outcome, the middle row provides results for the Job Performance outcome, and the bottom row displays the results for the Vote Choice outcome.

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