

On the Nature of Support for the Rule of Law

Abstract

This paper uses original 2016 CCES data to investigate the nature of support for the rule of law. Weaving together seemingly unrelated work on national identity and procedural justice, dogmatism and political tolerance, and the external locus of control and moral disengagement, we argue that support for the rule of law can be explained by some of the ways people see themselves and their lives vis-à-vis society. For instance, we find that when people perceive that they lack control over their life, support for the law unravels. Our most novel hypothesis corroborates Thucydides' idea that a particular need to be affirmed by others in society makes the idea of the law more appealing. We then show that attachment to the rule of law as an abstract idea translates into support for (most) concrete applications, even as we chose politically controversial examples, and is (mostly) more predictive than party identification. In cases where abstract support for the law is not harnessed in support of concrete laws, we find that racial resentment plays an important role, particularly if the law is perceived to help or harm racial or ethnic minorities. We conclude by speculating how our findings connect to decades of other research on group identity, threat, and system support.

What makes people believe that the rule of law should supersede other considerations, such as solving social problems, legal injustices, or doing what is morally right? Though we have known for some time that support for the rule of law is relatively widespread in the U.S. and other western democracies (Gibson 2007; Gibson and Caldeira 1996), this is more bizarre than we might think. How did it come to pass that so many ordinary people value the law over their own sense of fairness?

This turns out to run deeper than the idea of the law; support for legal procedures and institutions is also puzzling high. National judiciaries in very different contexts tend to be quite popular (Gibson, Caldeira, and Baird 1998), even when they make disagreeable decisions (Caldeira 1987; Gibson, Caldeira, and Spence 2003). Another mystery is that procedural justice is virtually always more salient than a person's desired outcome (Lind and Tyler 1988). Yet only a minority – in virtually every western democracy – is willing to extend political liberties to groups they dislike (Gibson 2006). Though we provide no definitive answers to these mysteries, they inspired our analysis here: what is the source of our support for the law as an abstract idea, and under what conditions do these abstract beliefs lead to support for concrete applications of the rule of law?

There are three main literatures related to the sources of the rule of law. One area is focused on the actions of officials or governments largely in the field of law and economic development, such as Bingham (2010), Gowder (2016), Tamanaha (2004), and Møller and Skaaning (2014). Another is in the fields of social or political psychology, such as Gibson and Caldeira's (1996) seminal article on measuring and testing the connection between various dimensions of rule by law. Some work in this area have focused on the difficult task of connecting public support for the rule of law with political and economic outcomes such as Gibson and Gouws's (1997) work on the

rule of law in South Africa's transition. Another area of scholarship uses thought experiments (Olson 1993) or historical analytic narratives (Weingast 1997) to ask how democracy or the rule of law could have come into being in the first place. Much of this work relies on our contemporary understanding of economic rationality to deduce what could have happened to serve as the departure from our past reliance on violence to induce political order (e.g. North, Wallis, and Weingast 2009).

Inspired by these thought experiments, we are focused on what we can learn from contemporary political psychology to imagine what may have aided these transitions, before contemporary socialization had a chance to take root. Thinking of a notable example, something allowed John Adams to become popular enough to be elected to office in Boston, and eventually president, despite his legal defense of British soldiers in the Boston Massacre.¹ Though we cannot go back and survey public opinion in the 1770s, we might use our understanding of what underlies support for the law – and controversial applications of the law – to deepen our understanding of what it was that made the idea of the law to be popular in the first place.

We argue that understanding how we think of ourselves and our connection to the greater society might give us some hints. Thinking in broad conceptual terms, scholars have identified a number of ways in which people's sense of themselves influence their support for universal principles: procedural justice, self-esteem (Tyler and Lind 1992), and national ("superordinate") identity (Huo et al. 1996), psychological insecurity and tolerance (Gibson 2006), and self-efficacy and moral disengagement (Bandura 2015), to name a few. From those literatures, we test a set of

¹ Later, he was even invited to give the commemoration for those who lost their lives during the Boston Massacre (Reid 1974).

relatively novel hypotheses that how people conceive of their connection to the larger society translates into their support for the law. In essence, we find that the rule of law is supported by those whose think of themselves as belonging to the greater society, particularly when their identification with society as a whole supersedes their identification with a subgroup. When people feel good about themselves and their lives – and indeed feel that they personally benefit from their connection to the greater political system – their esteem for the rule of law is higher.

More specifically, we also find that people who are more upset by the violation of social norms support the law more. Perhaps the law gives these people a way to connect to the greater society, and therefore, those with a greater need to belong feel a greater attachment. Interestingly, we find that a lack or loss of a sense of efficacy or a feeling that the political system undermines their personal lives leads to much lower support for the law. This is consistent with Bandura's (2015) argument that an external locus of control causes people to depart from conventional morality. Moreover, we argue that the impact of beliefs about conformity depends on the level of group loyalty: authoritarians have support for the dominant hierarchy and therefore support the law more, but dogmatic people, who are more loyal to the truth as it exists for a subgroup, are less likely to accept the law when it conflicts with their morality. All this points to a broader conclusion that respect for the law is a function of people's understanding of themselves, their lives, and their relationship with the rest of society.

Our analysis then confirms that abstract beliefs about the law can be harnessed in support for concrete applications of the rule of law, even when the law may be perceived to be particularly controversial. The psychological attachment to an idea such as "the law" is complex, partially because we do not know what meaning it conjures in different people's minds. Supporting "law and order," the police, or other mechanisms of social control, is not the same thing as support for

constitutional limitations for rights and liberties; these dimensions may even be negatively correlated.² We deliberately chose six ideologically polarizing examples of concrete applications of the rule of law, and yet, we show that mostly, support for the law is more predictive than party identification. Where the law was not more predictive, we noted that those particular legal applications may be racially charged. We then hypothesized and confirmed that racial resentment was central to understanding support for these items. Meant to be a pilot study of how abstract support for the law translates into some concrete applications, we are hoping this inspires other work on the contours of support for other concrete applications of the rule of law.

Conceptualizing and measuring the rule of law

Broadly speaking, we define the rule of law as the rules and procedures that bind government officials from acting arbitrarily, even if it would lead to a desirable outcome. We draw on these literatures for our conceptualization and measurement of both the rule of law in the abstract and in coming up with concrete examples. Gibson (2007, 597) helps clarify our thinking about the meaning of the rule of law, particularly the emphasis on universalism:

The essential ingredient of the rule of law is *universalism*...[if] a law generates an undesirable outcome, it ought to be changed through established procedures...not ignored. The antithesis of universalism is *particularism* ... To the extent that people are willing to follow the law only if it satisfies some external criterion, the rule of law is compromised [emphasis in original].

Likewise, Tamanaha (2004) argues that there are three main dimensions describing how the rule of law functions in a constitutional democracy: limited government, law over man, and formal legalism. At the level of the system, political actors may rationalize a *particular exception* for following a legal principle; this is outside the bounds of the rule of law. On the other hand, believing that a law ought to be changed through the proper channels is the very definition of constitutional democracy. If a political actor rationalizes ignoring a law, she usually has some

² Indeed, it would be useful to investigate the different meanings of “the law” to different people in the spirit of Fitzgerald (2013) who showed that there is substantial individual variation, but also significant cultural differences, in what the word “political” means.

reason: avoiding some injustice, or solving a problem, and therefore support for those exceptions would likewise be outside the bounds of the rule of law.

Table 1 presents the items, along with their respective levels of support for the law; note that disagreeing with these items reflects higher support. The high support for the law is consistent with Gibson’s (2007) finding that there is very high support for the rule of law in the U.S., and that this support has changed little over time. The reliability of this index is high, with a Cronbach’s alpha of .64, especially given that the index is comprised of only three questions.

law	Table 1. Measuring support for the rule of	Percent supportive ("disagree" or "strongly disagree")	N
It is not necessary to obey a law you consider unjust		67	982
Judges should make decisions based on what they consider right without regard to the law		66	984
Sometimes it is necessary to bend the law to deal with social problems		41	976

Note: Reliability analysis suggests these items have good internal consistency (alpha = .64).

The law and our social identity

Humans have been shown to behave in surprising ways when it comes to the law. Even Thucydides noticed people's indignation for "legal" wrongs. His insight is that legal wrongs are committed by "equals" as the law gives people an expectation that they will be treated with the same dignity as every other citizen. In other words, when a person experiences a legal wrong, it undermines their sense that they are connected to the rest of society, deserving of equal dignity. Legal processes are dignity inducing, whereas legal indignities communicate: "you are not one of us." Thucydides implies that the law gives people an important sense of who they are and how they are connected to the greater society. Scholarly work on what makes people accept negative legal outcomes is central to supporting Thucydides' claim. Tom Tyler and colleagues, who have been presenting evidence for decades that people care more about the process than the outcome, had always interpreted the importance of procedural justice optimistically for the future of democratic stability; even losers of electoral outcomes can perceive the outcome as legitimate (see Blader and Tyler (2015) for a review).

Huo et al. (1996) muted some of that optimism, but only for those who identify primarily with an ethnic subgroup. In a setting that we imagine to be something like a large post office in Los Angeles, they initially present an unsurprising pattern: people who are treated fairly, politely, and with dignity by their bosses were more willing to accept negative workplace outcomes. But in this study, they also discovered that those who identify primarily with their ethnic group mostly cared more about whether they got the desired outcome; the fairness of the process had little legitimizing effect.

From this finding, we suspect that universal principles, such as the rule of law, are much more relevant for those who see their identity as being connected to the larger, more universal, social fabric. When people identify more with a subgroup, violations of general societal (including

legal) norms are more likely to be interpreted through a lens that is more instrumental or material. For those who do not identify with the society as a whole, a bad legal outcome is displeasing but less damaging to a person's sense of self than to those who identify with the dominant societal norms. The importance of one's identity translates into a number of specific hypotheses in three categories: the importance of social validation, the type of conformity people value, and what people believe about their life circumstances.

The importance of social validation

We believe that people who react emotionally to the violation of social norms will have a higher respect for the rule of law. Injustice can undermine our self-esteem (Koper et al. 1993; Lerner 1987) and feeling that we belong. When procedural norms are violated, this leads to anger and depression (Hafer and Olson 1993; Parker and Kleiner 1966; Walker and Mann 1987). These violations can cause anger and moral outrage (Montada 1994; Shaver et al. 1987). Yet scholars tend to find that the salience of the process over instrumental concerns is seen most among those who expect their place in society to be reaffirmed by others (Huo et al. 1996; Tyler, Degoe, and Smith 1996).

This theory is also derived from the importance of a "relational identity," for the importance of procedures (Skitka 2003). She describes three kinds of identity salience: relational, material, and intrinsic. She argues that when a person's relational identity is salient, their sense of themselves is connected more to their social sense of themselves: they know who they are because of their sense of belonging. What is important for our theory is that she argues that when people's identity is more strongly related to their social sense of self, procedural justice will be a stronger concern than how the outcome affects them materially. Skitka also argues that when people see their material identity as most relevant, instrumental concerns may outweigh procedural justice.

From these ideas, we derived two concepts meant to tap into people's relational self-concept: the sensitivity to the violation of social norms and the importance of being seen as successful. The sensitivity to social norms is a novel concept; it is related, but not identical to "justice sensitivity" (Schmitt et al. 2005). We differentiate our concept from theirs, as their concept implies a material injustice, and we are looking conceptually at the experience of injustice as a purely social message, divorced from material consequences. Our expectation is that the importance of social validation will translate into support for the law, whereas wanting to be perceived as successful should be less important.

The value of conformity: societal versus subgroup conformity

We believe that the impact of the value of conformity depends on the level of group loyalty: the dominant society (authoritarianism) or a subgroup (dogmatism). We expect authoritarianism to cause people to support the rule of law, particularly in the abstract. But this may not be because it is "the law." Instead it might be because authoritarianism makes people more likely to accept the dominant norms of society, whatever they are. An interesting example of this is McFarland, Ageyev, and Abalakina-Paap (1992), who find that in the former Soviet Union, authoritarianism translated into support for communism and equality. They found that the opposite is true in the U.S., where authoritarianism translated into higher levels of individualism. Another interesting study is the finding in the post-communist context of Russia that authoritarian people would be *more* likely to be persuaded to support civil liberties of a disliked group, when it was the "authorities" (e.g. Putin, the Duma, or a high court) who were doing the persuading (Baird and Javeline 2007). Thus, authoritarianism may be simply a function of whatever the authorities are perceived to value.

Authoritarianism has been found to be related to punitiveness (Tyler and Weber 1982). Yet people may become more or less punitive, depending on whether the law is consistent with their

values. For example, Garcia and Griffitt (1978) find that authoritarians in a mock jury trial argued for the most severe punishment for incest. But the authoritarians argued for a lighter sentence for physical child abuse, which may be perceived to encourage obedience, a high value for authoritarians. Authoritarians might also support higher punishments for outgroups but lighter punishments for ingroups. For example, authoritarians are less likely to support civil liberties for least liked groups or groups for whom they have prejudices (see Feldman, 2017 for a review). One way to think about this is that perhaps authoritarians believe outgroups should be punished for violating the social contract with the greater community, and do not believe they are therefore deserving of civil liberties.

On the other hand, dogmatism, sometimes referred to as psychological insecurity, may be negatively related to the rule of law, because those strongly believing that there is only one truth will not support laws they consider unjust. On the other hand, for those who think of the law as “law and order” as opposed to civil liberties may be inspired to support the law when they are dogmatic. Caldeira and Gibson (1992) find that dogmatism is related to a commitment to social order, suggesting that it will be positively related to the rule of law. Davis and Silver (2004) investigate security versus civil liberties and they find that dogmatism is related to security, not liberty (also see Rokeach 1954, 1960). What we conclude from this section is that authoritarians will follow the lead of dominant authorities, but that also those who are dogmatic will be less likely to support the idea of the law. What we may see in our analysis is that the negative impact of dogmatism on the rule of law will become intensified when controlling for authoritarianism.

External locus of control: Feeling out of control and political system blame

Bandura (1997; 2015) has spent decades arguing that when a person loses their sense of control in their life, this leads to moral decline (i.e. evil) because it alienates people from their own agency. He believes that: “almost everyone is virtuous in the abstract,” but the differences in ethical

actions are produced by the mechanisms of moral disengagement that arise “under the conditional circumstances of everyday life” (Bandura 2015, 37). The rule of law is not the same as morality; indeed, the obligation to obey the law is often used to rationalize evil. Yet, we believe they may have similar determinants because people who feel unshackled by the bounds of morality are also likely to abandon the rule of law.

Moreover, it is not just moral disengagement that is related to an external locus of control, but also the acceptability of violence. Bandura argues that an external locus of control can lead to aggression, both in support for aggression as well as actual behavior (Bandura 1973; Bandura and Walters 1959). Again, not all violence is immoral, just as not all law is moral. Nevertheless, supporting violence as an acceptable method to solve problems is a sign that one has given up on the law. Mostly, we are persuaded that Bandura’s theory suggests that a low locus of control may move people into accepting norms that are outside the general norms of society, including evil and violence, but also abandoning their support for the law as an idea.

We derived two dimensions of locus of control: blaming the political system for personal problems, and a more general lack of control over one’s life. We believe that both will undermine support for the law, but it is a more conservative test to show that general lack of efficacy reduces support for the law, over and above the sense that the political system can be blamed for the loss of that efficacy. In other words, we expect that even when controlling for blaming the political for the problems, a general sense of low self-efficacy will have an independent impact.

Support for democratic norms

The rule of law is the cornerstone of democracy; people must abide by the rules generated from democratic processes, even when they do not support the particular policy. Lack of support for a democratic system of government should be related to the lack of support for the rule of law underpinning it. Support for democracy has been found to be an important factor in supporting

legal institutions and aspects of legal culture, such as political tolerance (Gibson 1992, 2006; Marcus et al. 1995; McCloskey and Brill 1983; Stouffer 1955; Sullivan 1982; Sullivan and Transue 1999; Sullivan, Dunham, and Alpert 1987), support for the Supreme Court (Caldeira and Gibson 1992; Gibson and Caldeira 1992; Gibson, Caldeira, and Spence 2003), as well as support for the rule of law (Gibson and Gouws 1997).

These theories are a bit more obvious than others in our analysis: the rule of law, in one way of thinking about it, *is* a democratic norm. Yet, we began this essay thinking that we would like to uncover attributes of human psychology that may have made the rule of law possible in the first place. For this reason, we wanted to take special care to control for democratic norms as thoroughly as possible. Therefore, we control for multiple dimensions of democratic norms, including support for “stealth democracy,” (e.g. support for rule by experts, the private sector, and running government like a business); see Hibbing and Theiss-Morse (2002). Moreover, inspired by Robert Kennedy, who famously said, “Democracy is messy, and it’s hard. It’s never easy,” we control for the idea that we should get rid of democracy because it is messy.³

³ Other controls include Republican identification, racial resentment, religiosity, and demographics. Though Stouffer’s (1955) classic showed that religiosity is a determinant of political intolerance, we suspect that religiosity will be positively related to support for the abstract rule of law. The Republican Party is more likely to position itself as the law and order party (Petrocik 1996), and therefore we suspect that Republicans will have greater support for the rule of law, at least in the abstract. We also believe that racial resentment might be positively related to support for the rule of law. Of the demographics, we believe that age will predict higher support for the rule law, as older people support the police and the rule of law at higher levels (Klein, Webb, and DiSanto 1978; Peek, Alston, and Lowe 1978). Women tend to dislike courts at higher rates (Caldeira and Gibson 1992) and they are also less politically tolerant (Marcus et al. 1995); therefore they might support the rule of law at lower levels. Given that one of our hypotheses is about how people conceive of their life circumstances, we also felt it necessary to control for how people perceive the national economy has been doing.

Analysis⁴

Figure 1 presents a coefficient plot of the results of the OLS regression analysis. All variables were coded to range from 0 to 1 for ease of interpretation and the magnitude of the impact of these variables can be easily compared to the standard deviation of the rule of law, which is about .2. We chose OLS because the dependent variable is relatively continuous and despite its skew toward supporting the rule of law, it is reasonably normally distributed.⁵ Both measures of the lack of the acceptance of democratic norms take a huge chunk out of someone's support for the law; together, they reduce support for the rule of law by more than its standard deviation. Age is also strongly related ($r = .33$) and even controlling for all the other factors, it has one of the strongest effects. Nevertheless, many of our other hypotheses also have support.

⁴ A complete list of the question wording, response options, and weighted percentages for each response option can be found in Appendix D. Descriptive statistics for all variables used in the following analyses can be found in Appendix E.

⁵ The full model results, including coefficients and standard errors, can be found in Appendix A (Table A1).

Figure 1. Predictors of support for the rule of law

-0.3 -0.2 -0.1 0 .1 .2 .3

Analysis includes controls for party identification, racial resentment, religiosity, gender, education, and race; none of these is significant except for a minimally significant effect of Republican identification. The vertical dashed line represents a standard deviation of the rule of law. Other variables are seven-point Likert scales:

Relational identity

Sensitivity to social norms: In general, I get angry when customer service people treat me with disrespect.

Need to be seen as successful: It is important to me to be considered successful.

External locus of control

Feeling out of control: I believe the problems in my life are completely out of my control.

Political system blame: I believe that the problems in my life are caused by the problems in our political system.”

Value of conformity

Authoritarianism: In today’s world, parents should emphasize obedience more.

Dogmatism: A group with tolerates too many differences of opinion among its own members cannot exist for long.

Support for democratic norms

Democracy is messy: Sometimes democracy is so messy, it is better to just get something done.

Stealth democracy: Government works best if 1) it is run like a business, 2) government functions should be left to the private sector whenever possible, 3) decisions were left to nonelected, independent experts rather than politicians.

We have support for what we believe to be our most novel hypothesis: sensitivity to social norms increases support for the law, with a magnitude that is about a half a standard deviation. We believe that there is a great more to say in future research about how to conceptualize and measure this sensitivity. The need to be seen as successful is not related, even in the bivariate. It may be that the importance of success is related to a material identity, which Skitka (2003) argues may undermine the importance of procedural fairness.

The hypotheses related to the value of conformity have support, both in the expected direction. Dogmatism reduces support for general legal norms, perhaps because universal norms falter as people are loyal to a subgroup. Authoritarianism implies obedience to universal rules, which is why it is positive. As expected, including both in the model intensifies the effect of the other.⁶ What this means is that authoritarians who are not dogmatic are particularly law supporting, and dogmatic people who are not authoritarians are much less likely to support the law. Another way to think about this is when there is cross-pressure of superordinate versus subgroup loyalty, the effects are dampened. In general, we believe these findings overall imply that a need for conformity has multiple dimensions, making the impact of conformity different depending on whether the group to which one is loyal is at or beneath the level of the general society.

⁶ We suspected in our theory section that including both in the model would intensify the effect of the other. Indeed, the bivariate coefficients were .11 and -.15 respectively. But with both in the model, these coefficients changed to .17 and -.18. This is because these concepts are positively correlated ($r = .34$).

There is strong support for the idea that when people perceive they have little control over their lives, support for the law can suffer. If the political system is perceived as responsible for causing the problems in one's life, this reduces support for the rule of law substantially, by nearly a standard deviation. But even with this as a control, the sense of feeling out of control in life appears to reduce support for the law just as much. Together, these findings serve as strong confirmation of our use of Bandura's theory about moral disengagement for support for the rule of law. When people are alienated from agency, they can more easily feel disconnected from universal principles, such as societal morals. When people sense that they are victimized by factors outside their control, they seem to abandon the rule of law.

The findings also suggest that what seems to be causing support for the law is how people *perceive* they are doing, and their *actual* disadvantage seems to have little impact. Indeed, the more *positive* a person views the past year's economy, the *lower* support for the rule of law.⁷ Curious about this effect, we initiated an exploratory analysis of what underlies the perception that the political system causes a person's personal problems. We find little evidence of material explanations. While views of the economy and income were significant and in the expected direction in the bivariate, the magnitude was minimal (about .13 respectively with everything coded 0-1). The variables that seemed to matter most were: feeling out of control, feeling hatred in one's personal life, being extremely pro-life (no exceptions for rape or incest), and against gay marriage. The policy attitude that seemed to matter most was believing that police should treat racial minorities *more* harshly. What is interesting is that the question asks directly about whether the political system causes the problems in their own personal life. If a person is against abortion, against gay marriage, and want the police to be harsher with racial minorities, the problem is that

⁷ This barely misses statistical significance.

the political system is not sufficiently punishing outgroups, not how it affects their actual life circumstances.

This is in need of further research but is in congruence with our general theory that how people perceive that they connect to the greater society has an impact on their sense of belonging. Perhaps those who experienced the policy losses of gay marriage or abortion (or fear of future policy losses with regard to the police) feel as though they do not belong. This is particularly true, given that (white) Christians who have these policy disagreements may feel entitled to being part of the dominant fabric, and therefore even more resentful of these losses. Speculating, this might give rise to new explanations about the meaning of relative deprivation: is relative deprivation actually material, or are these losses relative to people's identity? In our conclusions, we review some studies that provide some hints.

In general, it seems the analysis points to a number of conclusions. The rule of law seems to be bolstered when people derive their self-esteem from their sense of belonging to the general society. This is related to the conclusions regarding dogmatism and authoritarianism, but also is related to the sensitivity to the social norms by a stranger. Moreover, the findings reify the decades of research that beliefs about procedural justice are relational and that moral disengagement is about how a person feels about themselves and their lives. Now we turn to whether these beliefs about the law actually translate into attitudes about concrete applications to the rule of law – when these applications are politically controversial.

The connection between abstract and concrete applications

In this next section, we report the connection between the abstract rule of law and support for specific concrete applications. We hypothesize that support for the law in the abstract will be connected to concrete applications, though we expect them to be far from overlapping. Prothro and Grigg (1960) said it best:

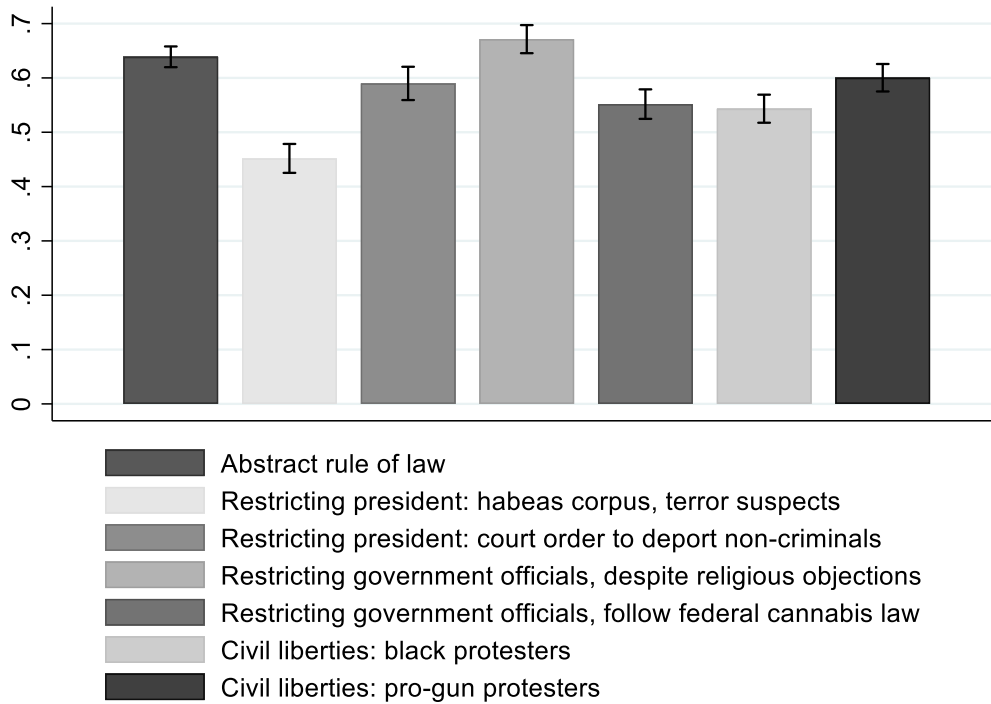
Every village cynic knows that the local church-goer who sings the creed with greatest fervor often abandons the same ideas when they are put in less lyrical form (281).

Thus, we also expect support for abstract concept of the law to be higher than support for specific applications.

Going along with our premise about the law being universal as opposed to particular, we thought to conceptualize concrete applications as support for the law to constrain a particular government official or action, when people might think there are good reasons for ignoring the law in a particular case. We also tried to pick items that are ideologically balanced, to the extent possible, in that half of the laws we chose may lead people of one party or the other to object. We asked two questions about civil liberties, two about presidential power to ignore the law, and two about ordinary government authorities to ignore the law when it goes against their beliefs.

Figure 2 presents a bar graph of the means of the various applications of the rule of law; the note contains the specific measures. In most cases, support for the specific applications is lower than the abstract rule of law. This is particularly true with regard to habeas corpus liberties for suspected terrorists, support for federal cannabis policies, and support for black protesters. Yet other applications were not much lower than the abstract support; support for officials to follow the law without regard for their personal religious beliefs is slightly more positive (though this is not statistically significant).

Figure 2. Mean levels of support for the abstract rule of law, compared to concrete applications



Note: Measures of concrete applications (high is strong disagreement)

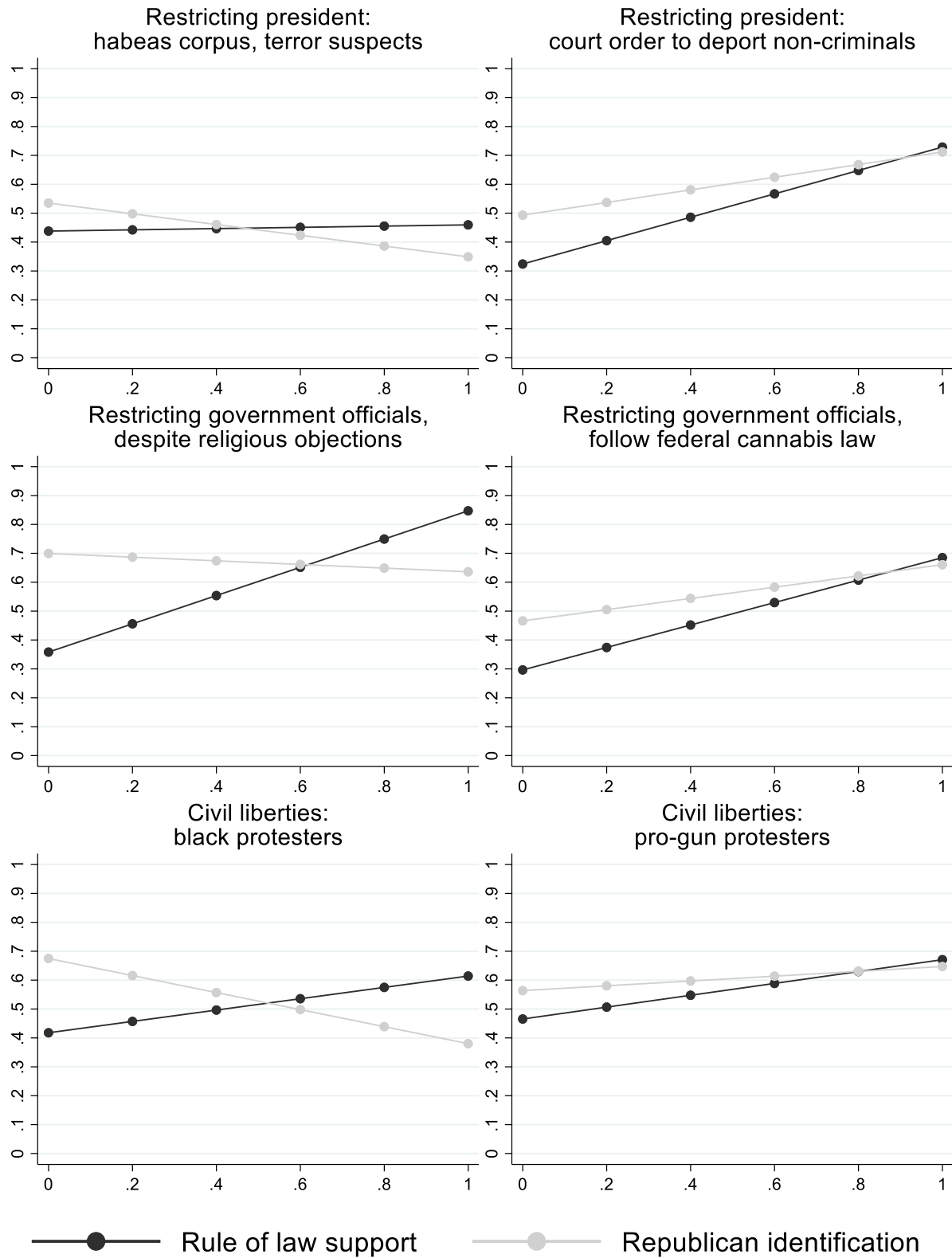
- Presidents should be allowed to detain suspected terrorists without formal charges.
- Presidents should be allowed to stop deporting illegal immigrants despite a court order.
- Government officials whose religious beliefs conflict with the law should ignore it.
- Government officials can reasonably ignore the federal law banning marijuana, if they believe the drug is harmless.
- Since pro-gun protestors often get out of hand, it is more important to keep the peace than to allow people to have their voices heard.
- Since black protestors often get out of hand, it is more important to keep the peace than to allow people to have their voices heard

Figure 3 compares the relative impact of party identification and support for the law in the abstract.⁸ The figures on the left are hypothesized to have a negative slope as these would be less likely to be supported by Republicans. For the figures on the right, because those situations are more likely to be favored by Republicans, we would expect a positive slope. The regression line for support for the law is darker than the line for party identification, and we expect a positive slope in all figures. We find, in general, that Democrats and Republicans have higher support for

⁸ Regression results for Figure 3 are presented in Appendix B (Table B1).

the items we believed they would be more likely to support. Republicans support federal cannabis laws and immigration orders, whereas Democrats support “black” protesters’ civil liberties more than Republicans. In five of the concrete laws (the exception being habeas corpus for suspected terrorists), support for the law has a statistically significant effect, and in four of the cases, support for the law has a bigger impact than party identification. Of course, with just these selected examples, we cannot make any generalizable inferences about the relative importance of party identification. Nonetheless, we find it illustrative of the importance of abstract support for concrete applications, especially as we deliberately chose politically controversial applications of the rule of law.

Figure 3. The relative impact of party identification and support for the law on concrete applications of the rule of law



The role of racial resentment and support for laws that protect racial minorities

Looking more closely at the two items in which abstract beliefs about the law were less predictive than party identification, we notice that these laws protect racial or ethnic minorities: the right of blacks to protest and habeas corpus liberties for suspected terrorists. Thus, we took a step back to think about how our general theories about social identity might be involved in predicting these concrete laws. We hypothesize that racial resentment might be an important predictor of support for these laws.⁹

Figure 4 compares the relative impact of party identification, racial resentment, and support for the law in the abstract on the six concrete items.¹⁰ There seems to be strong support for this idea. Racial resentment brings down support for concrete application to the rule of law substantially, particularly when these laws protect ethnic minorities. In the case of habeas corpus, racial resentment lowers support by about .4 points on the 0-1 scale. In the case of support for black protesters, the magnitude is particularly high: from about .8 to about .1. This may not be surprising, but nevertheless, the magnitude is very high, even controlling for party identification and the abstract beliefs about the law. But we also find that racial resentment brings people much higher support for laws that harm racial or ethnic minorities: the deportation of noncriminal people

⁹ Racial resentment is measured with three five point Likert items: 1) “I am angry that racism exists,” (Strongly disagree is coded high), 2) “White people have certain advantages because of the color of their skin,” (Strongly disagree is coded high), “Racial problems in the U.S. are rare, isolated situations,” (Strongly agree is coded high). Alpha = .66.

¹⁰ Regression results for Figure 4 are presented in Appendix C (Table C1).

without legal documents and the federal cannabis law. Thus, while racial resentment was not strongly related¹¹ in our analysis regarding people's abstract beliefs about the law, it can be very effective at changing people's beliefs about concrete laws that affect racial or ethnic minorities. But we also note that abstract support for the law maintains its effect in the analysis for everything except support for habeas corpus for suspected terrorists.

¹¹ The effect was substantively zero in the multiple regression, and very small in the bivariate (b = .10, with a standard error of .04).

Figure 4. The relative impact of party identification and support for the law on concrete applications of the rule of law, controlling for racial resentment

Caveats and speculations

There are a number of weaknesses that hinder our ability to make generalizable causal inferences from this analysis. For one, observational correlations from cross-sectional data prevent definitive causal inferences. Nevertheless, we feel that the strongest reason to believe these findings is that they corroborate decades of scholarship on social identity and procedural justice, political tolerance for unpopular minorities, and what contributes to moral disengagement. It even provides evidence of a hypothesis Thucydides laid out millennia ago about why the violation of legal norms can be so enraging to a person's sense of their deserving of equal respect among other citizens.

What is interesting is that support for the rule of law is not who people are, but who people believe they are, and has less to do with how people are doing and more to do with how people think they are doing. People's *perceptions* of their life circumstances may be further exacerbated by their perception of group-level deprivations related to their perception of outgroups. We have provided little evidence of this directly, but our findings are consistent with idea that grievances are felt at the group level, and that strong group identities exacerbate these grievances. Perhaps it is not the actual threat to people's belonging to the greater society, but their belief that they are no longer in the majority that undermines their support for laws that protect minorities. We believe that this finding may be related to the idea that those responsible for outbreaks of vigilante violence, such as in Eastern Europe at the end of World War II (Petersen 2002), and KKK violence in the United States (among many other examples, see Must and Rustad 2019; Holtermann 2009), did so out of their perception that outgroups had increased in their relative status, not their personal experience of doing materially poorly.

We hope that one of our main contributions is that our findings offer food for thought for future work on how people come to accept democratic norms and the rule of law. To return to the example regarding John Adams, perhaps the idea of the law benefitted from people's sense of belonging to the new nation as citizens, something that gave ordinary men a great sense of pride. The connection between the law and national pride allowed them to hold Adams in high esteem despite being a criminal defense attorney for enemy soldiers. If this is true, then if we want to maintain the rule of law, it is important that elites do both: confirm everyone's sense that they belong to the greater society, regardless of ethnic, racial, or party identity, and express support for the rule of law.

These findings also speak to the work on relative deprivation, system support, and violence that began with Gurr (1967). They help to corroborate the importance of procedural justice over material outcomes, but also the importance of *relative* deprivation over levels of absolute poverty for democratic support (or violence). More work could focus on people's need for maintaining racial, ethnic, and religious social hierarchies as these could be relevant to people's decisions to abandon the rule of law in favor of violence (see Smith et al. 2012 for a review of the impact of group identity on various related outcomes). While much of this work has focused on material relative deprivations, this work could further forge an understanding of system support as support for the rule of law, and the abandonment of the law in a myriad of concrete applications.

Despite this particular study's limitations, attention to the relationship between dominant legal norms and a wider variety of concrete applications may be some of the most important work we could be doing as scholars that we are not doing. What causes support for constitutional limits on presidential power, for instance, in its myriad of forms, for instance? Such research is, at its

very essence, related to understanding our departure from the political chaos of violence to the consolidation of stable political democracy.

As some of these legal and democratic norms have come under attack – even to a greater extent than we had anticipated when we initiated this study in early 2016 – the topic of the manner and extent to which abstract support for the law might serve to constrain political elites deserves greater attention. With regard to the support for the various applications of rule of law in the myriad of dimensions of concrete applications, the conflict of values is seemingly endless. Whether we are deciding to obligate ourselves and our fellow citizens to particular unjust laws or act to forbid popular elites from violating well-established principles of constitutional law, it may come down to the various attributes of their context, particularly which groups a law seems to help or harm. While we know quite a bit about political tolerance and support for legal institutions and authorities, we know much less about other concrete applications of the rule of law. We are hoping that the strongest attribute of this study is that it shows that scholars should give greater attention to understanding support for a wider variety of concrete applications of the rule of law.

Implications

Ordinary people in U.S. society overwhelmingly believe that the law is universally obligatory. Our findings here suggest that one source of this is that the law validates our sense of belonging. The importance of the sensitivity to norm violations in the analysis for the abstract rule of law is an indication of this. Moreover, when people feel good about themselves and their lives, and entangle that sense of themselves with the political system, they support the rule of law more. One way of thinking about this is that perhaps when Hobbes suggested that fear would be the law's only weapon, he hadn't lived long enough to witness the extent to which people would entangle their identity, their personal sense of pride, with their nationality.

While virtually everyone in our survey supported at least one exception, (though to be fair, we selected particularly controversial applications), the rule of law in the abstract is a conduit for support for these laws. But our analysis suggests that as people express a higher level of racial resentment, laws that protect racial, ethnic, or religious minorities may be perceived as less generally binding. Much more needs to be done to further our understanding of the source of the myriad of concrete legal protections for political and legal protections for minorities.

Our results related to racial protections are deeply troubling, to say the least, given the current levels of protest about state violence against racial minorities and the violence used against political minorities protesting that violence. Violence may be the last refuge for those who have given up on the law, legal institutions, and legal authorities, even if the numbers who support that violence may be small. We worry about the connection of these findings to the results of law enforcement surveys; a majority of police believe that white nationalist or anti-state domestic terrorism is a far greater threat than that of other forms of radical terrorism (Kurzman and Schanzer 2015). We believe that more work needs to be done to understand what allows for the attitudinal acceptance of the various forms of violence (pro-state, anti-state, and vigilante violence) and to what extent these various beliefs relate to support for the rule of law.

Despite our findings related to support for concrete protections for racial minorities, our findings are not a bad omen for the future of constitutional democracy. It is perhaps easier for government officials to help people feel good about themselves than to provide universal economic comforts. Perhaps disagreeable policy outcomes have more to do with communicating to people: “you do not belong” than how they make people suffer materially. Moreover, it seems that elites could help with messages that might help people overcome racial resentment. This is crucial because racial and ethnic minorities, and other disadvantaged or disliked groups, particularly need

the protection of the rule of law. If our sense of self-worth can be harnessed into supporting the law, then whether we will survive the storm of the current threats to democracy and the rule of law may depend on whether our political or social leaders can promote people's self-esteem, sense of self-efficacy, and sense that we belong to the political system.

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