

# **The impact of social identities on support for the rule of law**

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## **Abstract**

It is important for citizens to respect the rules of the game and follow the law. But in a time of polarized politics, do people's partisan passions undermine their willingness to support the rule of law? Using survey data from a module of the 2020 Cooperative Election Study, we explore the relationship between social identity and support for the rule of law. We find that those with strong partisan identities voice weaker support for democratic norms. However, when partisan identity is put in the context of people's other overlapping social identities, we find that strong national identities reduce the negative effects of partisan identity on resistance to democratic norms. When people are committed to supraordinate identities like national identity, they are more likely to defend democratic principles. Subgroup identification only detracts from democratic norms if unaccompanied by superordinate identification.

Why do people support the rule of law? In order for democracy to weather the conflicts of political life, both citizens and officeholders need to agree to follow a set of governing rules and procedures. These laws should apply to all equally and be enforced fairly against all who violate them. Surveys in the past have indicated that the public is strongly supportive of the rule of law (Gibson 2007). Recent surveys also show that overwhelming majorities of Americans support democracy and prefer it to other forms of government (Drutman, Goldman, and Diamond 2020). But this support is not universal: perhaps as many as one in five Americans endorse at least some antidemocratic beliefs, such as support for military rule or acceptance of political violence (Drutman, Goldman, and Diamond 2020; Kalmoe and Mason 2022).

We explore the origins of public support for the rule of law. Our particular interest is in the effects of identity politics, and whether people's commitments to their partisan identities undermine their willingness to believe that the law should be equally and fairly applied. When people strongly identify with their partisan group, they are invested in the group's success. This commitment to the group may lead people to set aside those rules seen as barriers to the group's influence.

We propose that the main threat of partisan thinking to support for the rule of law is in the intensity of partisan identities, rather than affective polarization or ideological sorting. While past studies of partisan identity often consider its effects in isolation, we consider its effects alongside other salient political identities like national identity. We propose that those with a strong attachment to national identity will be the most supportive of the rule of law. Among those who have internalized a strong connection to an American identity, their partisan subgroup attachments will not seriously erode support for the rule of law. But when people place greater importance on their subgroup identity than their national identity, they will be less likely to defend principles of rule of law. Rather than accepting that all are equally beholden to legal requirements, those with strong political identities will put their partisan interests ahead of principled thinking.

To test this, we draw on data from a module of the 2020 Cooperative Election Study. We show that strong American identities are associated with greater support of the rule of law, while partisan identity centrality is associated with weaker support for the rule of law. The magnitude of the effect of American identity exceeds that of partisan identity, where partisan loyalties pose the greatest threat to support for the rule of law among those who people perceive their American identity as unimportant. We confirm that the effects of partisan identity are distinctive to how people think about their group memberships, as other factors such as affective polarization and ideological sorting fail to predict opposition to the rule of law. We also consider the effects of both partisan identity and national identity on expressions of political intolerance. We find that those with strong partisan identities also reject partisan discrimination if being American is more central to their identity than their party affiliation.

Our research helps us better understand the psychology of public support for the rule of law. Support for the rule of law is a foundation of public perceptions of institutional legitimacy. Those who support the rule of law are also more likely to see Supreme Court decisions as legitimate and express confidence in the courts. When people lose faith in the rule of law, we risk a drop in institutional legitimacy. Our results highlight the virtues of national identities as well as the threat of partisan identities to democratic stability. National identities have been argued to be one way to mute partisan animosities (Levendusky 2018), but recent work has cast doubt about whether this still holds true (Dawkins and Hanson forthcoming; Levendusky 2023). We find that most people feel more connected to their American identity than a partisan identity. By considering partisan identity attachments in isolation of other salient political identities, scholars may overestimate the threat of partisan identity to support for procedural norms. That said, we confirm that partisan identity attachments can pull at the seams of democratic stability, particularly when unaccompanied by larger, more inclusive group attachments. Our results help us better understand the nature of the threat that hyper-

partisanship poses in politics, and which factors exacerbate versus ameliorate support for democratic, legal, and other procedural norms.

### **Support for the rule of law**

Why do people come to support the rule of law? Not much is written about why people support the rule of law specifically, though we would expect support to have similar origins to public endorsement of democratic principles generally. Surveys confirm that Americans broadly support the principles that structure democracy (Chong, McClosky, and Zaller 1983; Hicks, McKee, and Smith 2021; Prothro and Grigg 1960). The origins of this support are generally thought to be found in political socialization (Nie, Junn, and Stehlik-Barry 1996; Owen and Dennis 1987). In school, people learn about the importance of the Constitution and the guiding principles of American government. These early lessons contribute to support for democratic values. Beyond the effects of education, engagement in civic life can reinforce civic norms in adulthood (Nie, Junn, and Stehlik-Barry 1996; Wolak 2020).

Yet while Americans widely endorse the key tenets of democracy, they do not always apply these values to specific situations. People are less willing to grant rights to those groups they perceive as threatening or dangerous (Marcus et al. 1995; Sullivan et al. 1981). People may apply democratic principles in partisan ways as well. Partisan and ideological considerations can condition people's willingness to punish politicians for violations of democratic norms (Graham and Svobik 2020; Simonovits, McCoy, and Littvay 2022). People's stated support for democratic principles is not uniform, but can vary depending on people's partisanship and levels of affective polarization (Kingzette et al. 2021).

Yet others find that the effects of partisanship on support for democratic norms are bounded. While political motives have the potential to undermine support for democratic norms, they do not always do so (Clayton et al. 2021). A number of experimental studies document how limited the effects of partisan bias can be in people's thinking about democratic

norms. Most oppose discrimination against members of the opposing party, and levels of affective polarization do not seem to heighten partisan intolerance (Lelkes and Westwood 2017; Westwood, Peterson, and Lelkes 2019). Even though people might be willing to still vote for a co-partisan candidate who has broken the rules, members of both parties consistently punish candidates who violate democratic norms (Carey et al. 2022; Graham and Svobik 2020). Even in the face of efforts to heighten affective polarization, people's support for democratic norms remains unmoved (Broockman, Kalla, and Westwood forthcoming). People are just as likely to support compromises in politics whether they are strong partisans or independents, affectively polarized or not (Wolak 2020).

### **Identity politics and support for the rule of law**

When thinking about how partisan loyalties bias people's thinking about democratic norms, it has been thought to be a function of both partisan bias and partisan cue-taking (Kingzette et al. 2021). People might apply partisan double-standards on what behavior is acceptable. People may forgive their own party for undemocratic actions more easily than they do the opposing party. We diverge from this past work and its emphasis on how partisan information processing. Instead, we focus on how partisan identities shape how people think about the rule of law.

People's partisan identities have their virtues in politics. In-group attachments can mobilize people to action and encourage engagement in politics (Huddy, Mason, and Aarøe 2015). But we worry that these partisan loyalties can also contribute to out-group animosities (Iyengar and Westwood 2015; West and Iyengar 2022). We propose that people's partisan and political identities inform their willingness to support the rule of law. But in contrast to past work that often considers partisan identities in isolation from other identities, we explore the importance of overlapping forms of social identity to the maintenance of the rule of law. The parties are just one of the politicized groups salient to people's self-conceptions. Most people

hold multiple and complex identities that overlap. People hold attachments to politics, to their political party, to their gender or racial group, and to their country. We believe that people's support for the rule of law depends on the relative importance people place on different political identities.

We expect that people with strong partisan identities will be less supportive of the rule of law. However, we also believe these tendencies will be checked by the strength of supraordinate attachments, namely to national identity. Our argument draws on scholarship from psychology on social identity and the ways people think about procedural justice. People strongly value fair procedures. This is central to the idea of the rule of law: people have deep-rooted expectations about being treated equally and fairly under the law. Fair processes are valued so much so that people will tolerate undesirable outcomes so long as they believe the process is fair (Tyler 2006). However, fair procedures are not equally important across all people. People evaluate processes differently as a function of the strength of their attachments to different groups. Justice is related to our perceptions of our own identity and self-esteem (Huo 2003; Huo et al. 1996). People expect to have their identity and their place in society reaffirmed by their treatment by the authorities (Huo et al. 1996; Tyler, DeGoey, and Smith 1996).

In a 1996 study, Huo and coauthors consider how employees evaluate the outcomes of interactions with their bosses, such as asking for specific times for a vacation. They find that procedural concerns such as being treated politely and feeling that the boss tried to help them made people more likely to accept the decisions. But the importance of fair treatment mattered most to those who had a strong attachment to the organization. For those with weaker attachments to the organization, the nature of the outcome had a greater influence on perceptions of the process. They further demonstrate how this relationship depends on the relative strength of attachment to the supraordinate group (the organization) compared to the commitment to subordinate identities (such as one's ethnic group). Those who felt a stronger

attachment to subgroups relative the supraordinate group were the most likely to evaluate procedures in terms of whether they delivered desirable outcomes.

We expect that support for the rule of law will reflect how people see themselves relative the groups they belong to. When people have a strong national identity, they will support the legal principles that are central to the nation's governance. But as identification with other subgroups increases, we expect support for rule of law to decline. People will be more likely to put the interests of their group over that of the collective. Rather than believing that all should be equally constrained by laws, those with strong subgroup identities will believe that the rule of law should not be universally applied. Instead of prioritizing equal treatment, they will tolerate bending the rules at the cost of fair procedures – in order to boost the status of the partisan group and promote their group interests. For those with strong partisan identities, equal enforcement of rigid rules poses an obstacle to the group's success.

We focus on American identity as a collective and supraordinate identity, an identity with the potential to unite Democrats and Republicans (Levendusky 2018; Transue 2007). We consider the effects of partisan identity centrality as a potential threat to support for the rule of law. Partisan identities have been thought to be one mechanism that drives affective polarization and out-party animosities (Iyengar and Westwood 2015). But this is often not specifically tested as a mechanism in work on partisan reasoning. Those who have explored the effects of partisan identity strength find only limited evidence that it drives partisan motivated reasoning or affective polarization (Guay and Johnston 2022; West and Iyengar 2022)

## **Data and measures**

To test our hypotheses, we rely on data from a module of the 2020 Cooperative Election Study (CES). As our measure of support for the rule of law, we make a scale based on four items. Respondents are asked about whether one needs to obey a law considered unjust, whether it might be better to ignore the law sometimes, whether it is okay to disobey the laws of

a government you did not vote for, and whether the government should have the ability to bend the law to solve national problems. We measure connection to an American identity by asking respondents how important being American is to how they define themselves as a person. We assess partisan identity by asking people how important their party affiliation is to their own personal identity.

We have argued that people's partisan and political identities affect how people think about their willingness to support the rule of law. In order to better distinguish the distinctive effects of partisan identity from other forms of partisan thinking, we include two controls: people's levels of ideological consistency and their feelings toward the political parties. We measure ideological consistency based on the degree to which the respondent takes consistently liberal (or consistently conservative) positions across a slate of policy issues included in the common content of the CES. We measure attitudes toward the political parties with a measure of affective polarization based on the absolute difference of political party ratings on feeling thermometer scales.<sup>1</sup> We control for political interest and education given that support for democratic principles is thought to have socialized origins. Education is generally positively associated with support for democratic norms (McClosky 1964; Prothro and Grigg 1960). Finally, we include a set of demographic controls, including partisanship, age, gender, race, and ethnicity.

## **Results**

We report regression results in Table 1. We confirm that American identity is associated with greater support for the rule of law. Moving from the weakest endorsement of an American identity to the strongest is associated with a 0.16 increase in support for rule of law, which is just short of a standard deviation increase. Those who see their American identity as

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<sup>1</sup> While some think about affective polarization as interchangeable with partisan social identity, West and Iyengar (2022) demonstrate their distinctiveness.



extremely important to how they see themselves are much more likely to support the rule of law (0.70). When people do not strongly identify as American, they report lackluster support of rule of law (0.54). In results we failed to report in a supplemental appendix, we also considered whether the effects of national identity on support for rule of law are conditional across subgroups. We find no evidence that the effects of American identity work differently for men versus women, whites versus Blacks versus Latinos, or Democrats versus Republicans. When people feel a strong attachment to their national identity, they report greater support for the rule of law.

However, the greater the emphasis people place on their partisan identities, the weaker the support for the rule of law. A person with the strongest partisan identity attachment is less supportive of the rule of law (0.58) than someone who reports only a weak attachment to their party affiliation (0.71). These effects are distinctive from people's other connections to partisanship. Those who hold more ideologically consistent views are actually more supportive of the rule of law than those who subscribe to a mix of liberal and conservative policy issues. In this the effects of ideological sorting are countervailing compared to partisan identity strength. Group fidelity undercuts support for law, but the most ideologically sorted report significantly greater support for the rules of the game. We suspect that this reflects the greater political sophistication of those with the most ideologically sorted views. We find no connection between affective polarization and support for the rule of law.<sup>2</sup>

Because the strength of American identity and the strength of partisan identity are measured on the same response scale, we can assess the relative important of each identity for the respondents in our sample. We find that 59% rate their American identity as more important than their party identity, and 28% put them on equal footing. Only 13% say that

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<sup>2</sup> This null finding is not a function of multicollinearity between the multiple conceptions of party attachment. Even if measures of partisan and political identity are excluded, affective polarization is not a significant predictor of support for the rule of law.

their partisan attachment is stronger than their national attachment. In our model, we find that the positive effects of national identity on support for rule of law are greater in magnitude than the negative effects of partisan identity. This means that for the majority of the people in our sample, the intensity of national identity overwhelms the potentially harmful effects of partisan identity for undercutting support for the rule of law.

In Table 2, we extend these results to consider how people's political identities relate to partisan intolerance. We consider two outcomes: people's willingness to say that it is okay to treat someone differently because of their political party and people's tolerance for political attacks against those who disagree with them. We find the same pattern of results as we did when considering general support for the rule of law. People with strong partisan attachments are more likely to say it is okay to discriminate against people because of their partisan beliefs. They are also more tolerant of harassing others because of their political views. However, these effects are curtailed to the extent to which people report a strong attachment to national identity. American identity centrality is associated with greater opposition to partisan discrimination and political harassment. As was true in Table 1, these effects are distinctive from the consequences of affective polarization and ideological consistency, neither of which predicts partisan intolerance.<sup>3</sup> It is people's partisan social identities that pose the greatest threat to democratic norms both in principle and in practice.

## **Conclusion**

By supporting the rule of law, people agree to be bound by a set of rules that govern behavior. These laws apply to everyone, citizens and leaders alike. When the public supports the rule of law, it contributes to the legitimacy of government. We find that people's social identities affect their support for the rule of law. When people have a strong attachment to

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<sup>3</sup> As was true in Table 1, the null effects of affective polarization are robust to alternate specifications that exclude partisan identity measures.

their partisan group, they are more willing to tolerate violations to laws and the rules of the game. However, people hold multiple and overlapping identities. And the negative effects of partisan identities can be displaced by strong national attachments. This means that subgroup identifications are only a threat to legitimacy when people maintain a strong connection to their partisan group, but fail to have a strong attachment to a supraordinate national identity. Social scientists have long expressed an interest in “social identity complexity” as a mechanism for reducing intergroup bias (Roccas and Brewer 2002; Miller, Brewer, and Arbuckle 2009). The possibility of social identity complexity even garnered the attention of Amartya Sen, Nobel Prize winner of economics, who argued that a shifting identity is the human avenue to peace (Sen 2007). Our findings support these accounts.

## Appendix

### Question wordings

#### American identity centrality, partisan identity centrality

Now we want you to think about your own personal identity, that is, the various ways that you define yourself as a person.

How important are each of these characteristics to your own personal identity?

*Extremely important, Very important, Moderately important, Somewhat important, Not too important, Not important at all*

- Your party affiliation
- Being American

#### Support for rule of law

Do you agree or disagree with the following statements?

*Strongly agree, Agree, Somewhat agree, Neither agree nor disagree, Somewhat disagree, Disagree, Strongly disagree*

- It is not necessary to obey a law you consider unjust.
- Sometimes it might be better to ignore the law and solve problems immediately rather than wait for a legal solution.
- The government should have some ability to bend the law in order to solve pressing social and political problems.
- It is not necessary to obey the laws of a government that I did not vote for.

#### Support for partisan discrimination

*Strongly agree, Agree, Somewhat agree, Neither agree nor disagree, Somewhat disagree, Disagree, Strongly disagree*

- It is okay to treat people differently because of the political party they support.

#### Support for political harassment (reversed)

*Strongly agree, Agree, Somewhat agree, Neither agree nor disagree, Somewhat disagree, Disagree, Strongly disagree*

- I am offended when people say derogatory or insulting remarks about people just because they disagree with them about politics.

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**Table 1: Identity and Support for the Rule of Law**

	Support for the rule of law
American identity centrality	0.160* (0.028)
Partisan identity centrality	-0.132* (0.023)
Ideological consistency	0.094* (0.024)
Affective polarization	0.043 (0.027)
Political interest	0.012 (0.027)
Education	0.034 (0.026)
Partisanship	0.006 (0.003)
Female	0.061* (0.013)
Black	-0.061* (0.023)
Latino	-0.026 (0.023)
Age	0.002* 0.000
Constant	0.355* (0.030)
R <sup>2</sup>	0.271
N	974

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2020 Cooperative Election Study. Regression estimates. Standard errors in parentheses. \* p<0.05

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**Table 2: Identity and Political Intolerance**

	Support for partisan discrimination	Tolerance of political harassment
American identity centrality	-0.171* (0.040)	-0.207* (0.040)
Partisan identity centrality	0.174* (0.034)	0.082* (0.034)
Ideological consistency	0.012 (0.030)	0.006 (0.031)
Affective polarization	-0.069 (0.043)	-0.043 (0.041)
Political interest	0.087* (0.043)	-0.081* (0.040)
Education	0.047 (0.037)	-0.103* (0.035)
Partisanship	-0.004 (0.005)	-0.009 (0.005)
Female	-0.084* (0.021)	-0.092* (0.020)
Black	0.009 (0.038)	-0.02 (0.034)
Latino	0.011 (0.034)	0.061 (0.035)
Age	0.000 (0.001)	0.000 (0.001)
Constant	0.345* (0.052)	0.614* (0.053)
R <sup>2</sup>	0.105	0.146
N	974	975

2020 Cooperative Election Study. Regression estimates. Standard errors in parentheses. \* p<0.05