

Are Judges Like Umpires? Political Affiliation and Corporate Prosecutions

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July 15, 2020

Motivating Quotes

Judges are like umpires. Umpires don't make the rules, they apply them... my job is to call balls and strikes, and not to pitch or bat.

– Chief Justice John G. Roberts, 2005

RESHAPING THE COURTS FOR YEARS TO COME: The judges appointed by President Trump will make a lasting impact on the courts for decades to come.

– <https://www.whitehouse.gov/>

and the research shows...

- ▶ Republican-appointed judges systematically reach different outcomes in most contexts, e.g. Sunstein et al. (2006) and Epstein et al. (2013)
- ▶ For example, Republican-appointed judges giving longer sentences to all defendants (Schanzenbach & Tiller 2007, 2008), with particularly long sentences for Black defendants (Cohen and Yang, 2018)
- ▶ Considerable variation in judge decisions generally, e.g. Kling (2006), Dobbie & Song (2015), Arnold, Dobbie, & Yang (2018), many more
- ▶ But the literature has focused on criminal cases to exploit random assignment and the large number of cases within court x time cells
- ▶ The literature has also focused on binary tests of importance rather than quantifying exactly how important judge characteristics are

This Paper

- ▶ Extends prior work to corporate prosecutions using a design that does **not** require random assignment or a large number of cases
- ▶ Develop a difference-in-differences specification compares cases with a Democrat/Republican tilt assigned to Democrat/Republican judges:

$$Y_{ijklt} = \beta Democrat_j \times DemocratTilt_k + \alpha_j + \alpha_k + \alpha_t + \varepsilon_{ijklt} \quad (1)$$

controlling for judge, crime, and year fixed effects

- ▶ Eq. (1) does **not** exploit random assignment without court x time effects, which are infeasible here given the number of cases
- ▶ Can add judge age/race/gender interactions to Eq. (1) to explore the “mechanisms” driving any effects

This Paper

- ▶ Democrat-appointed judges impose larger fines for environmental- and labor-related crimes, while Republican-appointed judges impose larger fines for crimes related to hiring undocumented workers
- ▶ No effects on the probability of guilt, with suggestive evidence that results stronger when vacancies exist on a higher court
- ▶ All in all, an interesting paper that was a lot of fun to read!

Next Steps: 1/4

- ▶ One of the key contributions is developing a design that does **not** rely on random assignment or a large sample of cases
- ▶ Highlight this contribution and explain how the reliance on random assignment has limited prior work to criminal cases in subset of courts
- ▶ The coding of Democrat/Republican tilt also interesting and could be further developed and highlighted, as likely to be used in future work

Next Steps: 2/4

- ▶ Cohen and Yang (2018) is the most similar paper in the literature; suggest building on their approach more explicitly
- ▶ Most importantly, show results with and without judge fixed effects and show the “Democrat” main effect when judge effects omitted
- ▶ While I agree that the interaction of a Democrat judge and tilt is your most important contribution, the main effect is also interesting!

Next Steps: 3/4

- ▶ Currently drop a relatively large number of cases where fines = 0
- ▶ Potentially better options include:
 - ▶ Show results for both the extensive and intensive margins together
 - ▶ Binary outcomes for different fine thresholds that include all cases
 - ▶ Arcsin?

Next Steps: 4/4

- ▶ Likely beyond the scope of this paper, but the next frontier is quantifying the percent of variation explained by judges
- ▶ Few believe that judges are neutral at this point, but little consensus on just how important judges are compared to other factors