

# Ideology and Specific Support for the Supreme Court

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Forthcoming

## Abstract

We develop and assess an account of ideological asymmetries in public support for the Supreme Court. We find that specific support for the Supreme Court is more strongly negatively related to perceptions that the Court is overly liberal than perceptions that the Court is overly conservative. Our findings provide a more complete theoretical account of dynamics in specific support for the Supreme Court and indicate a mechanism behind the recent decline in the Supreme Court's public standing.

Keywords: approval, ideology, public opinion, specific support, Supreme Court

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## Introduction

Americans' evaluations of the Supreme Court's job performance have declined over the last decade (Sinozich, 2017; Merrill, Conway, and Ura, 2017). While diffuse support for the Court remains high and stable (Gibson and Caldeira, 2009; Gibson and Nelson, 2014), numerous surveys show that Americans express much less approval of and confidence in the Supreme Court than they did in the early 2000s (e.g. Jones 2016, Pew Research Center 2015; Merrill and Ura 2017; Sinozich 2017).<sup>2,3</sup> What explains the erosion of approval of and confidence in the Supreme Court?

The literature on specific support for the Supreme Court provides some guidance for answering this question, identifying two principal factors associated with attitudes about the Court's job performance (Ansolabehere and White 2020; Durr, Martin, and Wolbrecht 2000; Malhotra and Jessee 2014; Sinozich 2017; see also Caldeira 1986, 1987, 1991, Mondak and Grosskopf 1997). The first is dispositions toward the federal government as a whole, especially attitudes toward Congress (Durr, Martin, and Wolbrecht 2000; Sinozich 2017). Americans' evaluations of the Supreme Court rise and fall with their judgments about the rest of the federal government. The second is the degree of ideological divergence between Supreme Court decision-making and public mood (Durr, Martin, and Wolbrecht 2000). As the ideological tenor of aggregate Supreme Court decision-making diverges from the public's medially preferred level of policy liberalism, total support for the Supreme Court declines.

Research on Americans' ideological commitments, though, suggests that the second prong of this account may be incomplete, as Americans' political values operate asymmetrically among ideological groups (Lupton, Smallpage, and Enders, 2020). On the one hand, American political conservatism is tied to a relatively concentrated value space centered on a commitment to "individualism," which often manifests as support for personal liberty and laissez-faire economic principles (Franklin and Jackson, 1983; Feldman and Zaller, 1992; Goren, 2001; McClosky and Zaller, 1984), as well as a corresponding commitment to moral absolutism (Gibson and Hare, 2016). On the other, American political liberalism is associated with a more diverse value space occupied by a coalition of social groups featuring a commitment to "egalitarianism" (Franklin and Jackson, 1983; Feldman and Zaller, 1992; Goren, 2001; Lupton, Smallpage, and Enders, 2020) and a corresponding belief in moral relativism (Gibson and Hare, 2016). These differences in ideological value structures and related moral commitments are reinforced by the nation's leading political parties (Grossman and Hopkins 2016; see also Converse, Clausen, and Miller 1965; Goggin and Theodoridis 2017).

One consequence of these differences is that conservatives experience more intense responses to some political stimuli than liberals. For example, Republicans' policy mood responds more strongly to changes in domestic spending than Democrats' policy mood (Ura and Ellis, 2012). These dynamics point to a model of ideological asymmetry in evaluations of the Supreme Court's performance. At the individual level, Supreme Court decisions should affect evaluations of the Supreme Court differently among liberals than among conservatives (Christenson and Glick, 2019). In particular, conservatives' evaluations of the Supreme Court should be more sensitive to their perception of the ideological tenor of the Court's decisions than liberals' evaluations of the Court. In the aggregate, specific support for the Supreme Court should be more strongly related to perceptions that the Court is overly liberal than perceptions that the Court is overly conservative.

This paper develops and assesses this and related theoretical claims. We proceed by reviewing the literatures on aggregate specific support for the Supreme Court and ideological value structures. Next, we synthesize these bodies of research and propose a theory of asymmetrical public support for the Supreme Court. We evaluate these claims using Gallup data on Americans' approval for the Supreme Court and their perceptions of whether the Supreme Court's decisions are "too liberal, too conservative, or about right." The data support our hypotheses about ideological differences in evaluations of the Supreme Court. Aggregate Supreme Court approval is more strongly associated with the proportion of Americans who view the Court as too liberal than the proportion of respondents who view the Court as too conservative.

These results have several implications. First, our findings provide insight into the recent decline in the Supreme Court's public standing and the prospects for restoring confidence in the Court. Our evidence shows

that aggregate support in the Supreme Court declined between 2009 and 2017 because the perception that the Court was increasingly liberal cost it more support among conservatives than it gained among liberals. This model suggests that the decline in the Supreme Court's public standing in recent years is more heavily the result of changing attitudes among conservatives than among liberals.

Second, our analysis indicates that the public's evaluations of the Supreme Court are grounded in subjective *perceptions* of the ideological direction of the Court's decisions. These judgments are influenced by contextual factors outside the behavior of the Court and its justices, such as the president's partisanship. This indicates that the Supreme Court's ability to cultivate mass political support by making decisions consistent with majority public opinion may be moderated by elements of the political environment that its justices cannot control.

Our analysis additionally provides a more complete theoretical account of the dynamics in public support for the Supreme Court. Aggregate support for the Supreme Court is shaped by ideological asymmetries in the evaluations of the Supreme Court's job performance. This theoretical framework can inform future research on the ideological cleavages around the Supreme Court and its decisions. Our findings also point to dynamics in public opinion that create incentives for the Supreme Court and its justices to be especially attentive to the preferences of conservatives. Finally, our work demonstrates a salient consequence of the zone of acquiescence theorized by Stimson (1999) and suggests a path forward for research on public opinion dynamics.

## Public Support for the Supreme Court

For half a century, political scientists have recognized two classes of attitudes about institutions in general and about constitutional courts in particular: diffuse support and specific support (Easton 1965; see also Gibson and Caldeira 2009; Gibson and Nelson 2018). Diffuse support refers to the "reservoir of . . . goodwill that helps members to accept or tolerate outputs to which they are opposed" (Easton 1965, p. 273).<sup>4</sup> Conversely, specific support refers to "the favorable attitudes and predisposition stimulated by outputs that are perceived by [individuals] to meet their demands" (Easton 1965, p. 273). It is the belief that an institution produces outcomes consistent with one's preferences or interests. Gibson (2012) refers to specific support as "performance satisfaction," while Gibson, Caldeira, and Spence (2003a) associate specific support with "approval" and "confidence."

Although institutional loyalty is undoubtedly an important dimension of public evaluations of the Supreme Court,<sup>5</sup> recent research demonstrates specific support for the Court has salient political consequences. Public confidence in the Supreme Court is positively associated with Congress's allocation of resources and discretion to the Court (Armaly 2016; Ura and Wohlfarth 2010) and with the Supreme Court's propensity to invalidate acts of Congress (Clark 2009; Merrill, Conway, and Ura 2017; see also Rogers and Ura 2020). Public confidence in the Supreme Court is also negatively associated with Congress's overriding the Court's statutory decisions (Nelson and Uribe 2017). Likewise, persistently low performance approval may eventually erode legitimacy and threaten the Court's institutional integrity (Gibson, Caldeira, and Spence, 2003b; Gibson and Nelson, 2018; Riker, 1980).

Prior studies of the dynamics of specific support for the Supreme Court identify two primary influences on the public's view of the Supreme Court's performance (Durr, Martin, and Wolbrecht 2000; Hitt and Searles 2018; Sinozich 2017; see also Caldeira 1986, 1987, 1991, Mondak and Grosskopf 1997). The first is the public's general disposition toward the federal government, especially attitudes about Congress. There is convincing evidence that trust in government overall structures Americans' views of individual governing institutions (Hetherington, 1998, 2005; Keele, 2007). The public's evaluation of the Supreme Court's performance therefore rises and falls with its evaluations of others branches of the federal government (Durr, Martin, and Wolbrecht 2000; Sinozich 2017). In other words:

*The Congressional Support Hypothesis:* Specific support for the Supreme Court is positively related to specific support for Congress.

The second is the degree of ideological divergence between Supreme Court decision-making and public mood.<sup>6</sup> Scholars have argued that “the Court’s support relies in part on the degree to which the public agrees or disagrees with its decisions” (Durr, Martin, and Wolbrecht 2000, p. 770; see also Ansolabehere and White 2020, Malhotra and Jessee 2014, Mondak and Grosskopf 1998). This conclusion aligns with research showing that citizens’ agreement with Supreme Court decisions and their subjective ideological alignment with the Supreme Court influence perceptions of the Supreme Court’s legitimacy (diffuse support) (Bartels and Johnston 2013; Christenson and Glick 2015, but see Gibson and Nelson 2014). As the ideological tenor of Supreme Court decision-making diverges from the public’s medially preferred level of policy liberalism, aggregate public support for the Supreme Court decreases. We therefore expect:

*The Ideological Divergence Hypothesis:* Overall ideological dissatisfaction with Supreme Court decisions should be negatively related to specific support for the Supreme Court.

## Conceptualizing Ideological Divergence

The American public is not a unitary actor. Americans’ individual preferences for political outcomes are distributed across policy spaces, and their macro-level approval or disapproval of a policy decision, set of policy decisions, or policymaking institution is an aggregation of a range of individual attitudes. The macro-level concept of ideological divergence between the Supreme Court and public mood is, therefore, a mapping of the array of micro-level political responses to the Court’s decisions to another level of analysis.

### Microfoundations

Stimson’s (1999) canonical theory of public mood is a guide for disaggregating ideological divergence between the Supreme Court and public sentiment. Stimson argues that specific public policies can be mapped into a liberal-conservative space that corresponds to a dimension of preferences for government action. Individuals will have one of three general reactions to a public policy: judging it too liberal, too conservative, or about right. Policies that are clearly more liberal or more conservative than an individual prefers will elicit his or her disapproval. Policies that are close enough to his or her preferred outcome will meet acceptance or “acquiescence” (p. 21). For policymakers, the set of policy alternatives that are close enough to the preferences of a critical mass of citizens exist in a “zone of acquiescence,” which is the plausible set of alternatives an election-minded politician would normally advocate (Stimson 1999, pp. 20-26).

This micro-model of policy judgments is illustrated in Figure 1. The figure shows the ideal point of a person with policy preferences near the center of a liberal-conservative policy space. A policy “close enough” to her ideal point falls in the zone of acquiescence (region *A*) and elicit acceptance. A policy too far away from her ideal point in either a liberal direction (region *L*) or a conservative direction (region *C*) meets ideological disapproval and prompts demand for change (a preference for greater conservatism if the policy is too liberal and greater liberalism if the policy is too conservative) (Wlezien, 1995, 1996).

The ideological divergence theory of specific support for the Supreme Court assumes this basic mechanism motivates evaluations of the Supreme Court. As Durr, Martin, and Wolbrecht (2000) conceptualize the issue, the ideological tenor of Supreme Court decisions maps onto a point in the left-right policy space. Individuals observe that point and compare it to their own ideal points. If the aggregate policy implications of the Supreme Court’s decisions are close enough to a person’s ideal point—if the Supreme Court’s policy outputs map onto a point in her zone of acquiescence—she will say she approves of the Supreme Court. If the aggregate policy implications of the Supreme Court’s decisions are too far away from her ideal point—outside of the zone of acquiescence; either too liberal or too conservative—she will say she disapproves of the Court. Generally, people will say they disapprove of the Supreme Court when it makes enough decisions that are far enough away from their preferred outcomes in those cases.

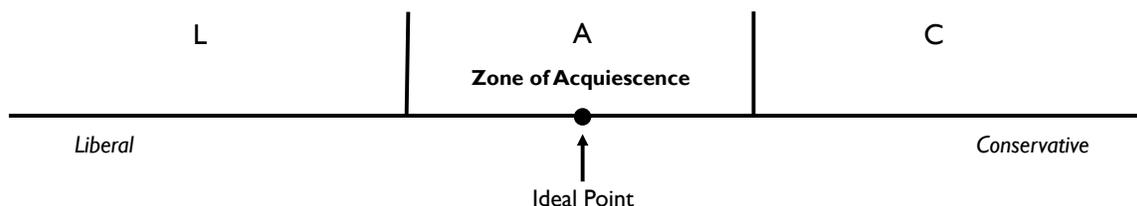


Figure 1: Ideology, Acquiescence, and Specific Support

The relation between the zone of acquiescence and the space of aggregate policy profiles that elicit specific support for the Supreme Court can also be illustrated with Figure 1. If the aggregate policy implications of the Court's decisions fall in an individual's zone of acquiescence (region *A*), she will express specific support for the Supreme Court. If the Supreme Court's decisions together have policy implications outside the individual's zone of acquiescence (region *L* or region *C*), she will say she does not support the Court. In other words, the boundaries of the zone acquiescence and the cut-point separating policy profiles that engender specific support from those that do not are the same. Of course, the acquiesce/rejection boundary and the support/opposition cut-point probably will not be identical for all individuals, but the ideological divergence theory of specific support for the Supreme Court assumes at least a reasonably close correspondence between the two.

## Aggregation

At the macro level, Durr, Martin, and Wolbrecht (2000) argue specific support for the Court is maximized when Supreme Court decision-making relates to the level of liberalism represented by the value of Stimson's (1999) mood index. However, even when the Court's decision-making matches mood exactly, ideologues at both poles will remain dissatisfied. Liberals will see a relatively moderate Court as too conservative, and conservatives will see it as too liberal. Of course, one or the other of the ideologically disaffected groups would be more satisfied if the Court were to shift its decision-making in their preferred direction.

Suppose, for example, the ideological balance of the Court's decisions moved away from the position represented by the value of the mood index and became more conservative. The Supreme Court's policy profile would enter the zone of acquiescence for some conservatives (who previously viewed the Court as too liberal) leading them to express specific support for the Court (when they had previously expressed disapproval). Conversely, the rightward shift in the Court's decisions would move its policy profile out of some moderates' zone of acquiescence, leading them to stop expressing specific support for the Supreme Court. However, Durr, Martin, and Wolbrecht's (2000) argument implies that the gain in conservative approval achieved by the Court's greater conservatism would not be sufficient to overcome the lost moderate approval, resulting in lower total specific support for the Supreme Court. Thus, specific support for the Supreme Court will fall as its decisions increasingly deviate from the center of the distribution of individual ideological ideal points.

This argument rests on at least three assumptions. First, there is some relation between the Court's production of decisions that are generally close enough to an individual's ideological preferences and his or her propensity to say they support the Supreme Court in a survey. Second, ideological preferences over policies affected by Supreme Court decisions are roughly normally distributed, i.e. most dense in the middle of the distribution (at the level of liberalism indicated by the policy mood index in Durr, Martin, and Wolbrecht's [2000] empirical assessment of the ideological divergence hypothesis) with reasonably balanced tails. Finally, the translation of acceptance of or disagreement with Supreme Court decisions into positive or negative evaluations of the Court's job performance is ideologically symmetrical so that excessive liberalism in the Court's decisions is just as consequential as excessive conservatism for aggregate specific support for the Court.

The assumption about the arbitrage between policies' ideological divergence from individual preferences and support for a policymaking institution is cogent and consistent with research on responses to changing public policy (e.g. Durr, 1993; Erikson, MacKuen, and Stimson, 2002; Ura, 2014; Wlezien, 1995, 1996). Likewise, the assumption about density in the zone of acquiescence is consistent with evidence about the distribution of policy preferences in the mass public (Ellis and Stimson, 2012; Erikson, MacKuen, and Stimson, 2002; McCarty, Poole, and Rosenthal, 2008; Page and Shapiro, 1982, 2010; Stimson, 1999). However, there are strong reasons to question the assumption of ideological symmetry in evaluations of the Supreme Court's job performance.

## Ideological Asymmetries in Public Opinion

There is ample evidence of differences in conservatives' and liberals' political values. Traditionally, American conservatism is tied to a relatively concise value space centered on a commitment to "individualism," which often manifests as support for personal liberty and laissez-faire economic principles (Franklin and Jackson, 1983; Feldman and Zaller, 1992; Goren, 2001; McClosky and Zaller, 1984). Liberalism in the United States is associated with a relatively diverse value space occupied by a coalition of social groups that embraces "egalitarianism," which is evident in support for policies promoting social and economic equality (Franklin and Jackson, 1983; Feldman and Zaller, 1992; Goren, 2001).

These value spaces have been reinforced by competing conceptions of morality in politics. This moral competition maps onto existing ideological cleavages: "premodernism—which holds that morality is absolute and revealed by a supernatural source—has a rightward effect on policy preferences, while postmodernism—which instead views morality as relative—exerts a leftward influence on policy preferences" (Gibson and Hare, 2016, 1158).<sup>7</sup> These moral and value differences have further polarized ideological segments of the population as "the increasingly close connection between ideological and partisan identifications observed in the past two decades is in fact rooted in value polarization among the mass public, and that those holding conservative values are driving this polarization" (Lupton, Smallpage, and Enders, 2020, 242).

These differences in ideological value structures are additionally amplified by the nation's leading political parties (Ura and Ellis, 2012). Conservatives in particular should adjust their perceptions of the nation's institutions more radically in response to ideological stimuli, "given the asymmetry of elite polarization and the distinctiveness of Republican and Democratic messaging" (Lupton, Smallpage, and Enders, 2020, 244). Furthermore, even if liberals are also relatively tightly bound by ideological commitments (Lupton, Myers, and Thornton, 2017), the very moral relativism that binds them encourages a broader acceptance of alternative viewpoints and policies far beyond the traditionalism that conservatives embrace.<sup>8</sup>

## Ideology and Specific Support for the Supreme Court

These ideological asymmetries should result in differential evaluations of the Supreme Court. Conservatives' ideological commitments should see no silver lining in Supreme Court decisions that protect egalitarian values at the expense of individualism or moral traditions, especially given the unified, value-driven messaging by conservative, Republican elites (Lupton, Smallpage, and Enders, 2020, 242). On the other hand, liberals, with a predisposition toward egalitarianism and moral relativism (Gibson and Hare, 2016), should find it more difficult to punish the Court for serving a diverse set of individual and moral interests.<sup>9</sup> This is consistent with previous research demonstrating individual-level punishment of the Supreme Court for decisions that benefit an ideological out-group (Christenson and Glick, 2019), as well as evidence that conservatives are more likely to adjust their support for the Court to cues about its ideology (Armaly, 2018).

This asymmetry in ideologically motivated evaluations of the Supreme Court is illustrated in Figures 2 and 3. As in Figure 1, each of the figures shows an individual's ideal point and their respective zones of acquiescence. Figure 2 shows someone with a relatively conservative ideal point, and the bottom panel shows someone with

a relatively liberal ideal point. For the conservative, the relation between the zone of acquiescence and judgments about institutional performance mirror those illustrated in Figure 1. The boundaries of the zone of acquiescence (region *A*) and the cut-points separating policy profiles that elicit support from those generating opposition (profiles in regions *L* and *C*) are the same. Patterns of Supreme Court decision-making with aggregate policy implications in an individual's zone of acquiescence will win her support or approval; patterns of decision-making that are overly liberal or excessively conservative will meet opposition or disapproval.

For the liberal shown in Figure 3, though, the relation between judgments about policy and institutional performance is somewhat more complicated. The boundaries of the zone of acquiescence and the cut-points separating policy profiles that elicit support from those generating opposition are *not* the same. Like conservatives, liberals observe the aggregate policy implications of the Supreme Court's decisions and make similar judgments about whether the Court's decision are inside or outside their zones of acquiescence (region *A*). However, among liberals, evaluations of policy and evaluations of policymaking institutions are less synchronous. The set of policy profiles that elicit liberals' specific support for a policymaking institution extends beyond the conservative limit of a liberals' zone of acquiescence, due to the liberals' commitment to egalitarian values and moral relativism. We therefore expect a margin of liberals who regard the Supreme Court's decisions as too conservative while continuing to express specific support for the Court.

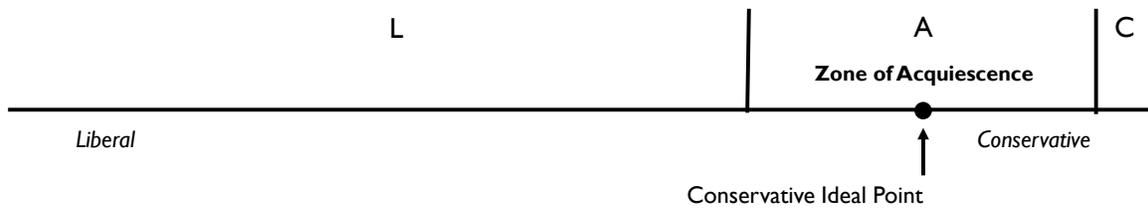


Figure 2: Conservative Ideology, Acquiescence, and Specific Support

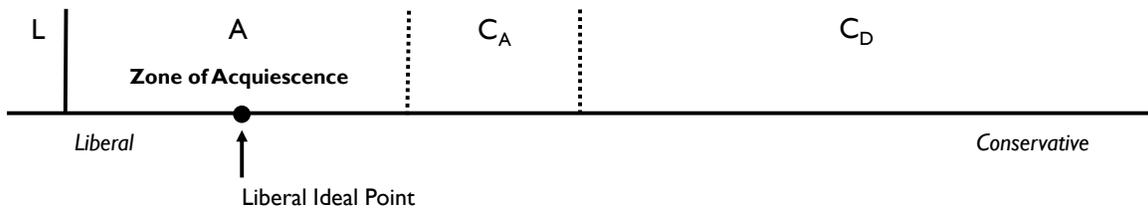


Figure 3: Liberal Ideology, Acquiescence, and Specific Support

This is illustrated in Figure 3. The set of policies the identified liberal regards as too conservative (region *C*) can be divided into two parts. Both subsets are outside of her zone of acquiescence. However, policy profiles falling in the nearer space (region  $C_A$ ) would continue to elicit specific support for the Court, even though she believes the Court's decisions are too conservative. Patterns of Supreme Court decision-making falling in the more distant space (region  $C_D$ ) would meet disapproval or opposition as being "too conservative." In other

words, some liberals who believe the Supreme Court's decisions are too conservative will continue to express support for the Supreme Court's institutional performance.

These expected differences in the relation between policy judgments and evaluations of policy making institutions point to ideological asymmetry in specific support for the Supreme Court. Too much liberalism in Supreme Court decision-making should erode the public's aggregate approval or confidence in the Supreme Court to a greater degree than too much conservatism in the Court's decisions. Indeed, there is already some evidence of ideological asymmetries in perceptions of the Supreme Court's legitimacy. Although they do not develop an *ex ante* theory of asymmetrical ideological responses to the Supreme Court, Bartels and Johnston (2013) find "conservatives tend to 'punish' the Court for ideological incongruence to a greater extent than liberals (Bartels and Johnston 2013, p. 194; see also Hetherington and Smith 2007; Johnston, Hillygus, and Bartels 2014).

We expect a similar intersection between ideology and evaluations of the Supreme Court's performance to prevail. We therefore hypothesize that:

*The Asymmetrical Divergence Hypothesis:* Total specific support for the Supreme Court is more strongly negatively related to perceptions that the Court is overly liberal than perceptions that the Court is overly conservative.

## Political Context and Evaluations of the Supreme Court

Of course, the Supreme Court does not select or decide cases in a vacuum, and Americans observe the Court in relation to other political actors and its decisions relative to other policymaking choices. Presidential partisanship substantially influences the ideological location of policymaking throughout the federal government (e.g. Bailey, Kamoie, and Maltzman, 2005; Edwards, 1980; Kriner and Reeves, 2015; Peake, 2001). A change in presidential partisanship should therefore accompany a change in the slice of Americans who view their government as ideologically out of line. Switching from a Democrat to a Republican in the White House should increase the proportion of conservatives who find the government's actions acceptable and increase the proportion of liberals who view the government as too conservative (and vice versa).

This presidential influence on Americans' views of the national government as a whole should affect the judiciary. First, the ideological direction of Supreme Court decisions is substantially related to the partisanship of the presidency. Since 1953, the mean percentage of Supreme Court cases decided in a liberal direction per term is 52.4%, according to the United States Supreme Court Database (2018). During Democratic administrations, an average of 57.9% of cases per term are decided in a liberal direction, and, during Republican administrations, an average of only 47.7% of cases per term are decided in a liberal direction. This difference is the cumulative result of changes in the Court's docket related to differences in presidential priorities (Perry, 1994; Merrill, 2018), the influence of the president's Solicitor General on the Court's decisions (Bailey, Kamoie, and Maltzman, 2005; Caplan, 1987), the Court's strategic deference to the elected branches of national government (Segal, Westerland, and Lindquist, 2011; Hall and Ura, 2015), the effect of president's Supreme Court appointments (Funston, 1975; Segal, Timpone, and Howard, 2000), and other factors. Americans may also see the Supreme Court as part of a "dominant national alliance," along with the Congress and the executive branch (Dahl 1957, p. 293). Since the president is the nation's most visible policymaking leader, Americans may impute the politics of the president to the entire federal government, including the Supreme Court, even if they are unaware of specific presidential influence. We therefore expect,

*The Presidential Projection Hypothesis:* A greater proportion of Americans will say the Supreme Court is too liberal when a Democrat is president than when a Republican is president, and a greater proportion of Americans will say the Supreme Court is too conservative when a Republican is president than when a Democrat is president.

We furthermore expect that the influence of presidential partisanship on evaluations of the Supreme Court interacts with the asymmetries in ideological values commitments and responses to political stimuli. Once again, we expect conservatives to be more sensitive than liberals to changes in policy and the political environment and more readily translate their attitudes toward policy into evaluations of policy making institutions. So, when the Supreme Court becomes more liberal during a Democratic administration, both in its actual decisions and symbolically as part of the national regime led by the president, conservatives will express disapproval of the Supreme Court more readily than progressives will as the Court becomes more conservative, actually and symbolically, during a Republican administration. We therefore hypothesize,

*The Presidential Partisanship Hypothesis* All else equal, specific support for the Supreme Court should be lower during a Democratic presidency than a Republican presidency.

## Empirical Analysis

We proceed in three steps to test our theoretical claims. We first evaluate the expected links between presidential partisanship and evaluations of the Supreme Court. Next, we conceptually replicate Durr, Martin and Wolbrecht's (2000) strategy for modeling specific support with new data to reevaluate the ideological divergence and congressional support hypotheses. Finally, we extend this approach to test the asymmetrical divergence hypothesis.

## Measurement and Data

In order to implement these tests, we identify indicators of specific support for the Supreme Court, perceptions of the overall divergence between the ideology of Supreme Court decisions and the public's preferred level of policy liberalism, indicators of the degree to which Supreme Court decision-making deviates from Americans' preferences in a liberal direction and in a conservative direction, specific support for Congress, and presidential partisanship.

The Gallup Organization has asked representative samples of American adults three poll questions together in the same surveys at least once a year since 2000 that directly correspond to the key public opinion variables, and, of course, the party of the president is easily identifiable. The first Gallup question asks respondents, "Do you approve or disapprove of the way the Supreme Court is handling its job?" This measures Americans' specific support for the Supreme Court and the series, from 2001 to 2018, can be seen in Figure 4. Of course, measures of specific support and diffuse support for the Supreme Court share much common cross-sectional variance (Gibson, Caldeira, and Spence, 2003a). However, Gallup's approval question is as nearly as possible a direct measure of individuals' specific support for the Court. We have no theoretically motivated interpretation of variance in the percentage of respondents who decline to answer the question or say they "don't know" or are "unsure" of the answer. We therefore exclude these responses, and rely on the percentages of respondents answering "approve" or "disapprove" among those who provide a definite response to the question to indicate the concepts of interest.

The second is, "In general, do you think the current Supreme Court is too liberal, too conservative, or just about right?" This question, as seen in Figure 5, provides evidence of both Americans' overall satisfaction with Supreme Court decision-making (the percentage saying the Court is "just about right") and indicates the direction of Americans' ideological disappointment with the Court (the percentages saying "too liberal" or "too conservative"). Durr, Martin, and Wolbrecht's (2000) study of public support for the Supreme Court relied on an indirect measure of ideological divergence between Supreme Court decisions and the public's preferences for policy-making. Their approach measured ideological divergence as the negative multiplicative interaction of the deviations of the percentage of salient Supreme Court decisions decided in a liberal direction and the average value of Stimson's (1999) mood index observed between 1973 and 1993 from the respective means.

Gallup's "too liberal, too conservative, or just about right" question, though, allows individuals to indicate whether the Court's decisions match their ideological preferences or whether its decisions deviate from their

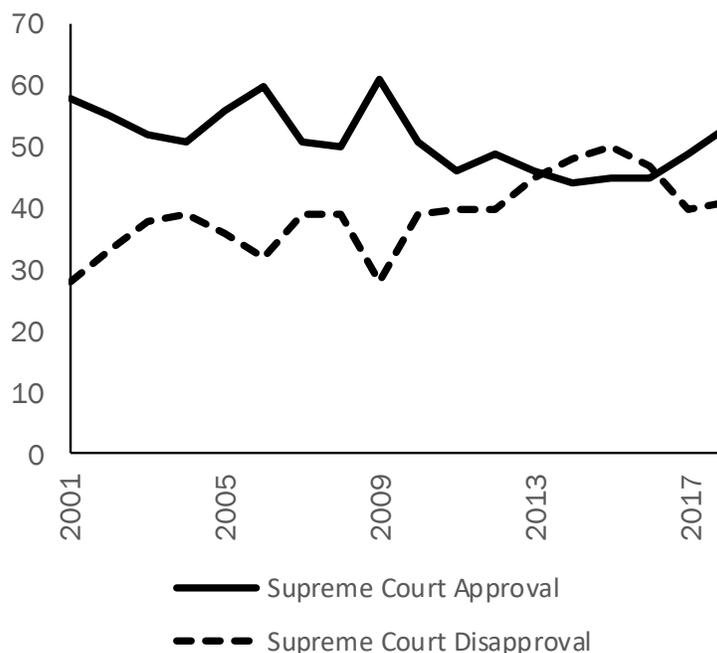


Figure 4: Annual Supreme Court Approval (Gallup), 2001-2018

preferences in a particular direction.<sup>10</sup> The percentage of Americans who say the Supreme Court is “about right” can be taken as an indicator of ideological convergence between the Supreme Court and the mass public, and this survey marginal multiplied by negative one is as our measure of ideological divergence.<sup>11</sup> Furthermore, the percentages saying the Court is “too liberal” and “too conservative,” respectively indicate perceptions of the overall directional divergence between the ideological tenor of Supreme Court decisions and individuals’ preferred level of policy liberalism. As before, we exclude “don’t know” and “unsure” responses and rely on the percentages of respondents answering “too liberal,” “too conservative,” or “about right” among those who provide a definite response to the question to indicate the concepts of interest.

The third question asks respondents, “Do you approve or disapprove of the way Congress is handling its job?” Once again, we exclude “don’t know” and “unsure” responses and extract the percentage of respondents who say they approve of Congress among those who say they either approve or disapprove of Congress. This measures Americans’ specific support for Congress (Durr, Gilmour, and Wolbrecht, 1997; Ramirez, 2008; Rudolph, 2002).

The strength of these data is the very close correspondence between the substance of the questions asked by Gallup and the concepts of interest the theory of dynamic public support for the Supreme Court. Nearly two decades after Durr, Martin, and Wolbrecht’s (2000) seminal study of the issue, the accumulation of these data provides the opportunity to reevaluate their claims with more direct evidence and to test extensions of those claims, such as those we propose here. The weakness of these data is their relatively modest coverage. The data are available from 2001 through 2018. This is a limited historical period, covering only the George W. Bush, Barack Obama, and early Donald Trump presidencies. These eighteen years of data provide relatively more leverage for evaluating theoretical claims about ideological divergence and public support for the Supreme Court, and relatively less evidence for our claims about the role of presidential partisanship’s influence on perception’s of the Supreme Court since we have little quantitative basis for distinguishing the effects of presidential partisanship from the idiosyncrasies of individual presidents and the events that transpired during their times in office. We proceed with our analysis mindful of this limitation and of the need to

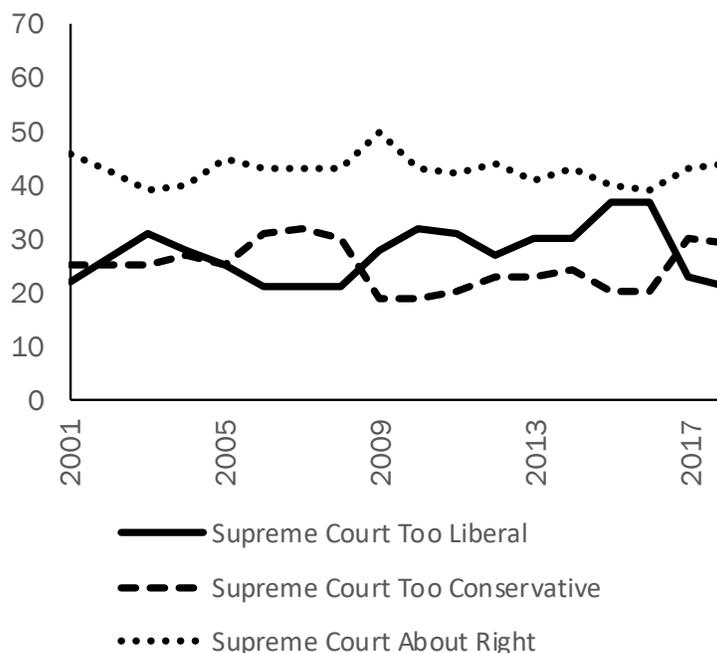


Figure 5: Annual Supreme Court is “Too Liberal, Too Conservative, or About Right” (Gallup), 2001-2018

reevaluate any conclusions we draw with additional data in the future.

## Estimation

We first assess the presidential projection hypothesis by evaluating the association between presidential partisanship and perceptions of the ideological performance of the Supreme Court. In order to evaluate the association between presidential partisanship and perceptions of the Supreme Court’s ideological performance, we perform a  $t$  test for differences in the levels of “too liberal,” “too conservative,” and “about right” responses between periods with Republican and Democratic presidents. Next, we estimate lagged dependent variable regressions of the percentages of “too liberal,” “too conservative,” and “about right” responses as a function of contemporaneous presidential partisanship (Table 1).

We next turn to our claims about specific support for the Supreme Court: the congressional support hypothesis, ideological divergence hypothesis, asymmetrical divergence hypothesis, and presidential partisanship hypothesis with a series of dynamic linear regression models. We begin by estimating a dynamic model of aggregate specific support for the Supreme Court as a function of perceived ideological deviation of the Court’s decisions from the public’s preferred level of liberalism in judicial policy making and an indicator of congressional approval (Table 2).

We then replace the measure of overall ideological divergence—the negative percentage of “about right” responses—for with indicators of directional ideological divergence between the Supreme Court and members of the mass public in a liberal direction and a conservative direction and add an indicator for presidential partisanship. Specifically, we estimate three ordinary least squares model of Supreme Court approval in a seemingly unrelated regression framework (Table 3).

Table 1: Presidential Partisanship and Dynamics in Ideological Evaluations of the Supreme Court’s Performance, 2001-2018 ( $N=17$ )

Predictor (Expected Sign)	Too Liberal	Too Conservative
Too Liberal <sub><math>t-1</math></sub> (+)	0.3 (0.2)	
Too Conservative <sub><math>t-1</math></sub> (+)		0.1 (0.2)
Democratic President <sub><math>t</math></sub> (+, -) <sup>†</sup>	6.5* (1.9)	-7.4* (1.5)
Constant	17.4 (5.2)	27.9 (4.9)
$R^2$	0.6	0.7
$\sqrt{MSE}$	3.6	2.6

Cell entries are OLS coefficients with standard errors in parentheses.

\*  $p < 0.05$  for one-tailed tests where direction hypotheses are indicated, two-tailed tests otherwise.

<sup>†</sup>The expected sign is positive for the too liberal series and negative for the too conservative series.

## Results

First, during Democratic administrations, about a third of Americans (33.1%), on average, judge the Supreme Court to be too liberal. When a Republican is president, only about a quarter of Americans (25.3%) say the Court is too liberal. This is a difference of 7.1 percentage points, which is significantly different than zero. Similarly, during Democratic administrations, only 22.1% of Americans, on average, say the Supreme Court is too conservative compared to an average of 29.5% of Americans who say the Court is too conservative when a Republican is president. This difference (7.4 percentage points) is also statistically significant. These differences are consistent with the presidential projection hypothesis.

Estimates of dynamic ordinary least squares models of the annual percentages of Gallup respondents saying the Supreme Court is either “too liberal” or “too conservative” provide additional evidence for the presidential projection hypothesis (Table 1). A Democratic president at time  $t$  predicts that 6.5% more Americans will say the Supreme Court is too liberal than if a Republican were president. A Democratic president also predicts that 7.4% fewer Americans will say the Supreme Court is too conservative than if a Republican were president. Both of these estimates are statistically significant.

Table 2 reports results for tests of the ideological divergence hypothesis and the congressional support hypothesis. First, the data support the ideological divergence hypothesis. Consistent with our expectations, there is a significant, negative association between overall ideological dissatisfaction with the Supreme Court (the negative percentage of respondents saying the Court’s decisions are “about right”) and the percentage of respondents saying they approve of the job the Supreme Court is doing. Each percentage point increase in dissatisfaction with the Court’s decisions predicts an decrease of 1.4 percentage points in the Supreme Court’s approval rating. This predicted effect is significantly greater than zero. Substantively, as Americans increasingly judge the Supreme Court’s decisions to fall outside their zone of acquiescence, they become increasingly likely to say they disapprove of the job the Supreme Court is doing.

The data additionally support the congressional support hypothesis. There is a significant, positive association between congressional job approval and specific support for the Supreme Court. Each percentage point increase in congressional approval predicts a 0.3 percentage point increase in Supreme Court approval. This indicates that Americans views of the Supreme Court are tied to their evaluations of the federal government

Table 2: Ideological Asymmetry and Specific Support for the Supreme Court, 2001-2018 (N=17)

Predictor	Estimated Effects
Negative % About Right <sub>t</sub>	-1.4* (0.2)
Congressional Approval <sub>t</sub>	0.3* (0.1)
Supreme Court Approval <sub>t-1</sub>	0.1 (0.1)
Constant	-19.7 (10.7)
$R^2$	0.9
$\sqrt{MSE}$	2.4

Cell entries are OLS coefficients with standard errors in parentheses.

\*  $p < 0.05$  for one-tailed tests where direction hypotheses are indicated, two-tailed tests otherwise.

as a whole. When Americans view coordinate branches of government more favorably, they are apt to express more positive views of the Supreme Court, as well.

Next, we test the asymmetrical response hypothesis and the presidential partisanship hypothesis by estimating three models of specific support for the Supreme Court together in a seemingly unrelated regression system. These models are all variations of the model reported in Table 2. That baseline model represented the public's ideological evaluations of the Supreme Court's decisions with the negative percentage of respondents saying the Supreme Court's decisions are "about right." In contrast, the model presented in the first column of results in Table 3 includes as a predictor the percentage of respondents saying the Court is "too liberal" (Model 1). The model reported in the second column of results includes as a predictor the percentage of respondents saying the Court is "too conservative" (Model 2). The model reported in the third column of results includes as predictors both the "too liberal" and "too conservative" series (Model 3). Also, again, each model includes a predictor indicating a Democratic president.

First, the data indicate support for the asymmetrical response hypothesis. In Model 1, the data show a significant, negative association between aggregate perceptions the Supreme Court is too liberal and overall evaluations of the Supreme Court's job performance. Each percentage point increase in perceptions the Supreme Court is too liberal predicts a decrease of 0.7 percentage points in Supreme Court approval. Additionally, Model 1's overall fit compares reasonably well to the baseline model. The model accounts for about 70% of the observed variance in the Supreme Court approval time series and has a root mean squared error of 2.9. The baseline model has an  $R^2$  of 0.9 and a root mean squared error of 2.4. Despite providing no information about the residual division of public sentiment between "too conservative" and "about right" responses, the "too liberal" time series provides substantial predictive information about the state of specific support for the Supreme Court.

In contrast, estimates for Model 2 show that the predicted effects of the "too conservative" series for Supreme Court approval are incorrectly signed and statistically indistinguishable from zero. Moreover, Model 2 fits the Supreme Court approval time series substantially less well than Model 1. Model 2 accounts for only about half of the variance in the Court's approval, and its mean squared error is 4.1, about 40% larger than Model 1's mean squared error and about 80% larger than the baseline model's mean squared error. The scale of left-

Table 3: Ideological Congruence, Congressional Approval, and Specific Support for the Supreme Court, 2001-2018 ( $N=17$ )

Predictor (Expected Sign)	Model 1	Model 2	Model 3
% Too Liberal <sub><i>t</i></sub> (-)	-0.7* (0.2)		-1.0* (0.2)
% Too Conservative <sub><i>t</i></sub> (-)		0.7 (0.5)	-0.6* (0.2)
Democratic President <sub><i>t</i></sub> (-)	5.0* (2.2)	5.5 (5.2)	2.7 (2.4)
% Congressional Approval <sub><i>t</i></sub> (+)	0.4* (0.1)	0.4* (0.2)	0.3* (0.1)
% Supreme Court Approval <sub><i>t-1</i></sub> (+)	0.1 (0.1)	0.2 (0.2)	0.1 (0.1)
Constant	55.3* (8.3)	13.9 (18.4)	83.7* (11.7)
$R^2$	0.7	0.5	0.8
$\sqrt{MSE}$	2.9	4.2	2.3

Cell entries are seemingly unrelated regression coefficients with standard errors in parentheses.

\* $p < 0.05$  for one-tailed tests where direction hypotheses are indicated, two-tailed tests otherwise.

leaning disaffection from the Supreme Court's decisions alone, indicated by the "too conservative" time series, provides little predictive information about the level of public support for the Supreme Court.

The third model reported in Table 4 includes predicted effects for both the "too liberal" and "too conservative" time series. Model 3 indicates significant, negative associations between both directional indicators of ideological disaffection and public approval of the Supreme Court. Each percentage point increase in perceptions that the Supreme Court is too liberal predicts a 1.0 percentage point decline in Supreme Court approval. Each percentage point increase in respondents saying the Supreme Court is "too conservative," though, predicts a decrease of only 0.6 percentage point in the Court's approval. The difference between these two coefficient estimates is statistically significant ( $p < 0.02$ ; one-tailed test). Also, Model 3's fit compares favorably to the baseline model; its  $R^2$  is 0.8 compared to the baseline's 0.9, and its root mean squared error is 2.3 compared to the baseline's 2.4.

Together, these results show that there is ideological asymmetry in Americans' specific support for the Supreme Court. Aggregate judgments about the Supreme Court's performance as an institution are more strongly related to perceptions that the Court's decisions collectively deviate to the left—judgments that the Court is too liberal—than to perceptions that the Court deviates to the right—judgments that the Court is too conservative. This suggests that conservatives more readily translate changing evaluations of the ideological tenor of the Court's decisions into approval or disapproval of the Court itself than liberals. This finding also emerges cross-sectionally. In online supplementary materials, we provide individual-level analysis of data collected in the Cooperative Congressional Election Study that bolsters this aggregate longitudinal finding: conservatives who self-perceive a great distance between their own ideology and the Court's discount their approval of the Court much more than liberals do.

The models also test the presidential partisanship hypothesis. The data provide little support for our expectation that presidential partisanship directly affects views of the Supreme Court's performance. In each model, the estimated effect of a Democratic president is incorrectly signed and would be statistically distinguishable

from zero only in Model 1. We therefore conclude that the effect of presidential partisanship for Supreme Court approval is mediated by the association between the president's party and ideological evaluations of the Supreme Court's performance.

Finally, all three models reported in Table 4 indicate support for the congressional approval hypothesis. There is a significant, positive association between approval of the Supreme Court and approval of Congress evident in each of these models. These estimates provide further evidence of an association between evaluations of the Supreme Court and orientations toward the federal government embodied in Congress.

## Conclusions

Our analysis supports several conclusions. First, we find new evidence for prominent prior claims about the dynamics of specific support for the Supreme Court (e.g. Durr, Martin, and Wolbrecht 2000). Using Gallup data on ideological evaluations of the Court's decisions, we show that Supreme Court approval is negatively related to ideological divergence between the Court and the public. We also find that Supreme Court approval is positively related to favorable views of the federal government embodied by Congress.

In addition, Gallup's data on Supreme Court approval and ideological evaluations of the Court's performance indicate significant support for our asymmetrical response hypothesis. Specific support for the Supreme Court is more strongly related to perceptions that the Court is overly liberal than perceptions that the Court is overly conservative. This result is consistent with research on the structure of values and morality in individual ideological commitments and the nature of American party coalitions.

We also show that political context shapes views of the Supreme Court. Our data provide little support for our expectation of a direct relationship between specific support for the Supreme Court and the president's party, but we find some evidence for our presidential projection hypothesis. We find a greater proportion of Americans say the Supreme Court is too liberal when a Democrat is president than when a Republican is president, and a greater proportion of Americans say the Supreme Court is too conservative when a Republican is president than when a Democrat is president. The small number of presidencies included in the Gallup data, though, lead us especially tentatively to this conclusion.

These results have several implications. First they provide a framework for understanding the decline in approval for the Supreme Court over the last two decades and its modest increase since 2017. Our data suggest that the long decline in specific support is attributable to two factors. The first is an overall decline in approval of the federal government, including Congress. The last two decades have witnessed tremendous disaffection from national government, especially Americans' views of Congress. Virtually no matter how the Supreme Court decides cases, Americans' alienation from government as an enterprise negatively colors their views of the judiciary. The Supreme Court is guilty by association.

The second is the growing perception that the Supreme Court was excessively liberal during the eight years of the Obama administration. Whatever the origins of this view—salient liberal decisions, the appointment of progressive justices, information mediated by the press, or symbolic associations—Americans increasingly judged the Court to be excessively liberal during Obama's presidency. Between 2008 and 2016, the percentage of Americans who told Gallup that the Supreme Court was "too liberal" rose from 21% to 37%. In the same period, the percentage saying the Court was "about right" fell from 50% to 39% while the percentage saying the Court was "too conservative" stayed flat at around 20%. These figures show nearly a decade of growing ideological dissatisfaction with the Supreme Court's decisions in the direction most damaging to its specific support.

The dynamics we identify also account for an uptick in Supreme Court approval evident in Gallup data since 2017. Since President Trump took office—as our presidential projection hypothesis predicts—perceptions that the Court is overly liberal have declined. Meanwhile, perceptions that the Court is about right or too conservative have increased. Overall, Americans express greater ideological congruence with the Court *and*

the balance of disaffection now sits among liberals who are (so far) less prone to translate ideological disputes with the Court into evaluations of its performance.

Our results also provide insight into the asymmetrical partisan politics of judicial nominations and confirmations (e.g. McElwee, 2018). For decades, Supreme Court nominations have seemingly loomed larger among Republicans than Democrats. This was starkly evident in the 2016 election cycle. Republican presidential candidates extensively discussed potential judicial nominees including candidate Trump's publication of a list of nominees vetted by conservative activists. At the same time, Democratic candidates gave the issue relatively little attention despite the Republican-controlled Senate's refusal to consider President Obama's nomination of Merrick Garland to the Supreme Court. Our data suggest that these differences are related to systematic differences in the ways that conservatives and liberals view the judiciary.

Finally, our results demonstrate a salient consequence of the zone of acquiescence theorized by Stimson (1999). We show that the direction of ideological divergence between a set of policy outcomes and the public's medially preferred courses of action is consequential for the public's evaluations of a governing institution. Similar asymmetries may be evident in the dynamics of other performance evaluation series, such as presidential approval, and other dimensions of macro-level public sentiment, like macro partisanship. Research on these problems may yield valuable new insights into the dynamics of American national politics.

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## Notes

<sup>1</sup>When the article is no longer *Forthcoming*, this will be replaced with the appropriate citation and consistent page numbers. The content will be identical.

<sup>2</sup>See Brennan (2018) on a recent uptick in Supreme Court approval.

<sup>3</sup>Although scholars argue that judicial independence is anchored in diffuse support for courts, a growing body of evidence shows lower specific support for the Supreme Court threatens its independence and encourages congressional court curbing (Armaly, 2016; Clark, 2009; Friedman, 2009; Hall, 2011; Ura and Wohlfarth, 2010). Likewise, persistently low performance approval eventually may diminish the Court's legitimacy (Gibson and Nelson, 2014; Riker, 1980).

<sup>4</sup>More broadly, diffuse support indicates a willingness to accept an institution's decisions, even when those decisions are inconsistent with one's preferences or interests. Gibson (2012) equates diffuse support with "legitimacy" and "loyalty." Similarly, Gibson, Caldeira, and Spence (2003a) associate diffuse support with "trust" and "accept[ance]."

<sup>5</sup>For example, Gibson, Caldeira, and Spence (2003a) contend, "the most important attitudes ordinary citizens hold toward institutions like the Supreme Court have to do with institutional loyalty. Institutions like courts need the leeway to be able to go against public opinion (as for instance in protecting unpopular political minorities)" (p. 356).

<sup>6</sup>Public "mood" indicates Americans' "changing general disposition" toward a "latent [liberal-conservative] continuum underlying expressed policy preferences" (Stimson 1999: 20-31). Mood represents the nation's level of demand for liberalism in domestic public policy (Stimson, Erikson, and MacKuen 1995: 544; see also Erikson, Stimson, and MacKuen 2002; Kellstedt, Peterson, and Ramirez 2010; Ura 2014), which is essentially the shared longitudinal variance among dozens of time series of survey marginals collected since the 1950s.

<sup>7</sup>These moral asymmetries might also determine support differently among religious identifiers: see Kromphardt, Smith, and Starling (2019).

<sup>8</sup>This ideological imbalance is concentrated among the relatively sophisticated (Lupton, Myers, and Thornton, 2015); however, not all Americans are ideologues (e.g., Converse, 1964; Ellis and Stimson, 2012).

<sup>9</sup>Ideology is sometimes decomposed into "symbolic" and "operational" components (Ellis and Stimson, 2012), and the ideological values discussed here may drive symbolic ideologues more, as they are not clear expressions of traditional policy preferences. It might also be the case, though, that operationally ideological individuals (those with a preference for a traditionally larger or smaller government) may also be motivated by a commitment to the values held by liberal and conservative ideologues.

<sup>10</sup>Gallup had only just begun asking this "too liberal, too conservative, or just about right?" question prior to the publication of Durr, Martin, and Wolbrecht's (2000) study. They simply did not have access to a time series of more direct evidence of the degree and direction of the ideological divergence between the Supreme Court and public opinion.

<sup>11</sup>Obviously, the sum of the percentages of respondents saying the Court is either "too liberal" or "too conservative" also indicates ideological divergence.

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