Judicial Favoritism of Politicians: Evidence from Small Court Claims

Andre Assumpcao[*]

December 21, 2018

Abstract

TBU.

Keywords: political economy of development; judicial politics; judicial bias.

JEL classification: D73; K42; P48; H83.

---

[*]PhD Student, Department of Public Policy, The University of North Carolina at Chapel Hill. Contact details: aassumpcao@unc.edu

1 Introduction

Suppose a court case involving a politician is brought before an independent, high-quality judicial system. Judges make their decision uniquely based on case merits. Assume further that lawyer skills and case merits are randomly distributed across plaintiffs and defendants. Under these simplifying conditions, politicians should not expect a higher win rate at trial than ordinary citizens. Surprisingly, however, there is not much evidence on judicial independence in cases involving politicians. This paper is one of the first attempts at measuring judicial impartially and predicting court outcomes when politicians are before judges.

There is comprehensive evidence for other discrimination effects. Shayo and Zussman (2011) document a positive in-group bias, or the preferential treatment, of 17 to 20 percentage points when judge and litigants have the same ethnicity. Abrams et al. (2012) find that African American defendants are 18 percentage points more likely to be incarcerated than white defendants. Lu et al. (2015) show that politically connected firms are more likely to have favorable judicial rulings in property rights cases. There are a number of additional cases reported in Rachlinski and Wistrich (2017).

Isolating the effect of judicial favoritism on court outcomes is not easy. Court cases are filled with sources of heterogeneity. Judges, plaintiffs, and claimants have individual traits that could influence a court outcome, such as their gender, ethnicity, religion, wealth, and so on. Litigants might also have access to heterogeneous pools of lawyers; any minimal discrepancy in skills might be the deciding factor driving the outcome of a case. Finally, case circumstances and merits change substantially and can determine how any single judge will rule. For instance, Lim et al. (2015) evaluate whether judicial decisions are influenced by media coverage and find that nonpartisan U.S. State Court judges increases sentence length in violent crimes by 3.4 percent (equivalent to six months of extra jail time). The combination of these factors make it hard for the isolation of a single effect on court outcomes.

In recent years, however, there has been growing interest in the relationship between judicial decisions and politics. Using data on employment claims filed in Venezuela between 2006 and 2017, Sanchez-Martinez (2018) looks at whether defendant employers are more likely to see a favorable outcome when they are affiliated with the United Socialist Party of Venezuela (PSUV), in power since 2007. The author finds that employers who share the same party affiliation as judges are 20 percent more successful at trial. In Lambais and Sigstad (2018), the authors identify a 50 percentage point advantage in the win rate at court for elected versus non-elected candidates when both are defendants in corruption cases filed only after election day has passed. This project supplements the recent literature by investigating whether favoritism persists in cases where judges and politicians have less at stake (e.g. small claim cases), testing a theory of personal ties across members of each branch of government.

Besides the theoretical component, this paper makes a series of data analyses contributions to the literature in law and politics. In order to measure the effect of political bias, I scrape and code judicial decisions in the São Paulo State Court System (Brazil) for all elected mayors and city

councilors since 2012. I then apply the methodology in Abrams et al. (2012) to evaluate whether politicians have an upper hand in small claims cases. I construct a random distribution of court outcomes against which I compare the observed outcomes in the data scraped from the web. In fact, the web scraper and the simulations are made available as free software for researchers conducting similar research projects involving (public) court documents in Brazil. Finally, I employ text analysis to extract additional information from judicial decisions and construct supervised machine learning predictions of court outcomes based on case and politician characteristics for the entire distribution of elected politicians in the State of São Paulo between 2008 and 2018.

2 Institutional Background

3 Data

Table 1: Descriptive Statistics

	N	Mean	St. Dev.	Min	Max
Age	15,232	45.384	10.638	18	89
Male	15,232	.882	.322	0	1
Political Experience	15,232	.139	.346	0	1
Campaign Expenditures (ln)	15,232	9.232	4.099	0	16
Politician is Plaintiff	15,232	.504	.500	0	1
Probability of Favorable Ruling	15,232	.509	.500	0	1

4 Empirical Strategy

5 Preliminary Results

6 Further Development

References

Abrams, D. S., Bertrand, M., and Mullainathan, S. (2012). Do Judges Vary in Their Treatment of Race? *The Journal of Legal Studies*, 41(2):347–383.

Lambais, G. and Sigstad, H. (2018). *Judicial Subversion: Evidence from Brazil.* Mimeo, Harvard University.

Lim, C. S. H., Snyder, J. M., and Strömberg, D. (2015). The Judge, the Politician, and the Press: Newspaper Coverage and Criminal Sentencing across Electoral Systems. *American Economic Journal: Applied Economics*, 7(4):103–135.

Lu, H., Pan, H., and Zhang, C. (2015). Political Connectedness and Court Outcomes: Evidence from Chinese Corporate Lawsuits. *The Journal of Law and Economics*, 58(4):829–861.

Rachlinski, J. J. and Wistrich, A. J. (2017). Judging the Judiciary by the Numbers: Empirical Research on Judges. *Annual Review of Law and Social Science*, 13(1):203–229.

Sanchez-Martinez, C. (2018). *Dismantling Institutions: Court Politicization and Discrimination in Public Employment Lawsuits.* PhD Dissertation, Stanford University.

Shayo, M. and Zussman, A. (2011). Judicial Ingroup Bias in the Shadow of Terrorism. *The Quarterly Journal of Economics*, 126(3):1447–1484.