

Principles and Partisanship: The Binding Force of Court Legitimacy

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When do courts intervene against their partisan interests?

- Courts are the final arbiter of legal disputes in American politics
- We worry about partisanship driving court decisions
 - Some models of courts suggest they are mostly ideological (e.g., Segal and Spaeth 2002)
- Courts are constrained by concerns of judicial legitimacy
 - SCOTUS is responsive to public opinion through Congress (Clark 2009)
- Opinion on court decisions is filtered through partisan views (Bartels and Johnston 2013)
- I argue courts of last resort will intervene against their party when the law is explicit

Using partisan gerrymandering to study courts decisions

- Partisan gerrymandering offers a good case to study court intervention
 - Partisan redistricting cases have clear winners and losers
 - We can measure the outcomes easily in partisan terms
 - Partisan gerrymandering is federally nonjusticiable since *Rucho v. Common Cause* (2019)
 - State courts hold the final say without fear of federal intervention
 - Partisan gerrymandering cases are frequent
 - States vary in their institutional and legal regimes

Data and methods

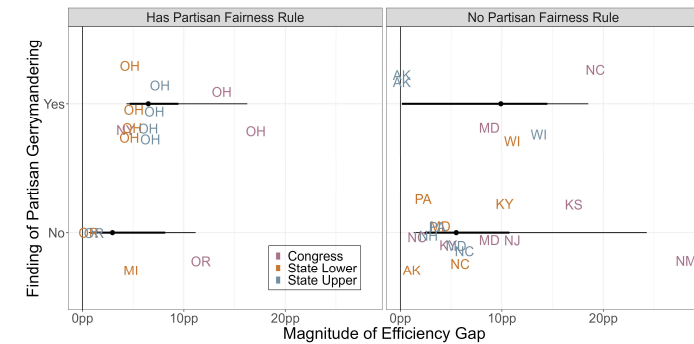
- Collect a detailed set of state redistricting rules regarding partisan gerrymandering
- Retrieve all gerrymandering cases since *Rucho* from All About Redistricting
- Collect all enacted redistricting plans, including those thrown out by courts
- Figure 1**
 - Scores all redistricting plans challenged using PlanScore (Greenwood et al 2024)
 - Separates by court decision and presence of a partisan gerrymandering rule
- Figure 2 and 3**
 - Use sampled redistricting plans from Fifty States Simulations (McCartan et al 2022, Kenny et al 2024) combined with precinct-level election data from VEST
 - Stars show the enacted plan for the 2022 election
 - Arrows show the change after plans are invalidated by courts

Takeaways

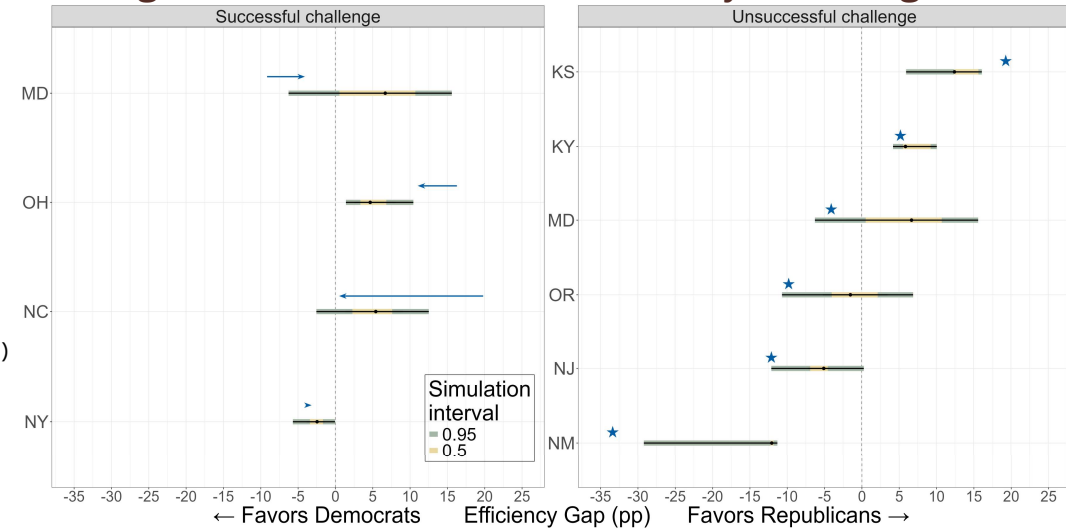
- Court intervention is more likely in states with explicit partisan gerrymandering rules, even when judge party aligns with the plan's bias
- States with partisan gerrymandering rules tend to draw plans within simulation ranges
- States with no partisan gerrymandering rules are more likely to be outside simulation ranges
- Not shown: Robust to other measures of gerrymandering, like seats above simulations
- Not shown: Opinions in favor of striking down plans focus on legal terms; Opinions in favor of keeping plan focus on quality of evidence



1. All Partisan Gerrymandering Cases



2. Congressional Plans with Partisan Gerrymandering Claims



3. Congressional Plans without Partisan Gerrymandering Claims

