

Public (In)Tolerance of Government Non-Compliance with High Court Decisions

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Central to our understanding of judicial power and legitimacy is the problem of compliance. Armed with neither the purse nor the sword, national courts depend on public support to render their decisions valid and binding. Faced with a hostile court, disgruntled incumbents may retaliate with court-curbing aggressions or disregard controversial decisions altogether. The credible threat of non-compliance endangers a high court's position as a viable veto player in the policy-making process and the legitimacy of judicial review at large. Ultimately, the public is the final enforcer of this negotiation: the threat of public backlash and electoral punishment is theorized to compel incumbent compliance.

Despite the centrality of this logic in extant work on judicial power and institutional legitimacy, we know little about the foundations of public sentiment regarding compliance with high courts' decisions. Early work identified the individual correlates of public confidence and behavioral compliance with controversial decisions,¹ though much theoretical work takes public sentiment regarding compliance as exogenous and given, leaving it under-scrutinized.² Hence, an open question remains about when and under which conditions the public, whose interests are closely aligned with the incumbents, will tolerate incumbent non-compliance with the pinnacle court decisions. This is a critical question that relates to state constraint and the conditions under which the public might punish executives for efforts to undermine or disregard the rule of law.

Some scholars characterize the public's attitudes towards non-compliance as stemming from a vested interest in the substantive outcome.³ These "cooperation models" of judicial institutions theorize citizens' support for independent judicial review to be rooted in their instrumental concerns. These interest-based explanations assume that citizens will support the governmental noncompliance with court decisions provided that doing so corresponds to the material interests of the citizens. An alternative characterization of public support for judicial institutions identifies the citizens' response to government non-compliance as a "value-based" judgement, suggesting that citizens

value independent judicial review irrespective of their political preferences, and independent of the substantive orientation of judicial decisions. These value-based models of institutional commitment correspond to the “coordination model” of judicial authority, which envisions citizen coordination as required to prevent exploitation by incumbents and the political elite. In this regard, these models would predict general intolerance for government non-compliance irrespective of the public’s support for the government or the political incumbent. This public consensus, as it was coined by Weingast,⁴ is the sort of shared value found in advanced democracies, where courts are viewed as neutral arbiters of political conflict.⁵

A court’s ability to secure compliance is an oft-cited pillar of judicial power, and the public is frequently posited as a key mechanism by which incumbents might be incentivized to adhere to judicial rulings.⁶ However, what conditions the public’s valuation of an independent court is unknown; their support for compliance is often assumed to be exogenous and given.⁷ For this reason, we do not know exactly when and under which political contexts citizens’ political preferences will be more or less effective in shaping public attitudes toward government non-compliance. Accordingly, the current article aims to provide a theoretical framework to explain government supporters’ (in)tolerance toward an incumbent’s non-compliance with high courts. In line with recent experimental work in the United States and beyond,⁸ our research suggests that well-liked elites and co-partisans play a powerful and formative role in shaping public opinion toward judicial institutions, a possibility that has long been suggested,⁹ but rarely scrutinized directly.¹⁰ Focusing on elite behavior and contextual factors, we argue that governmental disregard towards judicial institutions (in the form of court-curbing and non-compliance) and lack of media independence will moderate the explanatory power of citizens’ political preferences on the citizens’ tolerance for government non-compliance with the court decisions. As such, where incumbent elites respect courts, and the media environment is transparent, citizens’ support for incumbents will only be weakly associated with their willingness to tolerate incumbents’ non-compliance with court decisions. However, we anticipate that supporters of incumbent governments will be more tolerant of government non-compliance in the years following high-profile shows of interbranch attacks or government disregard of high court decisions and in environments where the media lacks independence.

We test our hypotheses using data from more than 22,000 interviews across twenty-three Latin American countries drawn from the 2008 Americas Barometer public opinion surveys.¹¹ We show that the publics throughout the Americas demonstrate broad intolerance for incumbent non-compliance with judicial institutions, suggesting incumbents’ overt disregard for high courts would be met with public contempt, irrespective of partisanship or support for the incumbent government. Consistent with our theoretical expectations, we find that citizens’ support for incumbent governments strongly predicts citizens’ tolerance for non-compliance. We then probe three contextual factors to better understand the mechanisms that may fuel observational differences in the strength of the correlation between incumbent support and tolerance for non-compliance. Our empirical results show that incumbent respect for judicial institutions and media independence

are decisive contextual factors. To put it more specifically, citizens' tolerance for non-compliance is most strongly related to their government support in systems where incumbent attacks on high courts are frequent and where media environment is lacking in transparency.

Our research makes a significant contribution to the scholarship on compliance with court rulings and the comparative literature on public support for the judiciary. Existing experimental studies show that citizens' partisanship and support for incumbents shape their support for courts and their willingness to punish incumbents for attacks on high courts.¹² On the other hand, our study draws on large-N cross-national survey data about public attitudes toward incumbent non-compliance. It suggests that partisanship plays a formative role in public attitudes toward judicial institutions only under certain conditions. Future work should prioritize scholarship outside the U.S. and take advantage of existing data sources on public attitudes towards judicial institutions where they are available.

Public Attitudes towards Judicial Non-Compliance

Central to our understanding of comparative judicial power is public attitudes regarding compliance. Public support may act like a "shield" from intrusive or noncompliant incumbents, imposing costs on policymakers who defy or ignore a high court's decisions. This assumption regarding intolerance for non-compliance animates a long and vibrant stream of theoretical research.¹³ Yet the question of how the public values compliance with judicial institutions remains an open and understudied question.¹⁴

The public's intrinsic support for judicial institutions looms large in models of the perpetuation of judicial independence to explain how an institution without the power to implement its own decisions might ensure compliance so as to retain its institutional integrity.¹⁵ According to the cooperation theory of judicial institutions, courts are created to facilitate compliance and enforcement of a given regulatory regime, wherein the court serves as both a contract enforcer and an information clearing house.¹⁶ Courts are established to solve the collective action problem faced by governing incumbents and the opposition, whereby they might both profit from cooperation but face a dominant strategy to defect. Carrubba models the endogenous empowerment of judicial institutions, in which the public wants the government to comply with the court when the regulatory rules are beneficial and will use their threat of sanctioning to incentivize compliance with independent judicial review.¹⁷ By this account, the public's valuation of independent judicial review is tied explicitly to its support for the substantive policy conflict at stake. If the public benefits from the regime's actions, then incumbents' non-compliance will be met with public retaliation. If, by contrast, the expected utility of the regulatory regime is low, governmental non-compliance will go largely unpunished, thus endogenously undermining judicial power. Ultimately, the determining factor in the public's utility function is the public's prior opinion regarding the utility of the regime's actions, which is essentially the public's preferences over policy. As Carrubba describes: "Publics are backing the court because doing so protects their policy interests, not because

they come to believe in the intrinsic value of the supremacy of the rule of law, or of judicial institutions. Thus, while the rise of public support for judicial institutions looks like socialization, it is purely instrumental.”¹⁸

Recent empirical studies have found that partisanship is an influential factor that prevents citizens from punishing the incumbent government for violating all manner of questions of institutional integrity.¹⁹ Clark and Kastellec, for instance, suggest that the public is willing to accept some attacks on courts when they approve of the attacker, while Bartels and Kramon report a pronounced partisan effects on public support for judicial power (but c.f. Driscoll and Nelson).²⁰ In light of these empirical studies, and in keeping with the cooperation model of judicial authority, we hypothesize that:

Hypothesis 1: Public support for the incumbent government will correlate strongly with tolerance of incumbent non-compliance with pinnacle courts.

Coordination models of judicial authority, by contrast, suggest that courts may be buttressed by a broad intolerance for government non-compliance, independent of the public’s support for the government or the political incumbent. Weingast, for instance, argues that the public, which is diverse in its preferences and political orientations, might nevertheless share a common interest in restricting incumbent infringement of constitutional bounds.²¹ Whereas a main challenge the public faces is coordinated action in the face of state overreach, the courts striking down a non-constitutional state action might enable citizen coordination to protect their agreed-upon bounds of state power. Recent comparative work documents that judicial contravention can animate public opposition to governmental overreach, provided the court is independent and the public sufficiently supportive of the rule of law, an account which is consistent with the coordination models of judicial authority.²² By this logic, independent courts are valuable to the public not for their ability to enact policy the public prefers but to “sound the alarm” on state transgression of constitutional bounds.²³ This general public “consensus”—a broad public agreement about the appropriate boundaries of government action—is most often found in advanced democracies.

From previous scholarship, we know that most citizens living in authoritarian or hybrid regimes express an authoritarian political culture, wherein they do not question or criticize the policies and behavior of the power holders but instead submissively obey.²⁴ Research by Walker documents that public support for institutions in Central America is conditioned by democratic experience: classifying public attitudes as either delegative or liberal, he finds that delegative attitudes are strongly correlated with regime support (which in turn predicts institutional support) and are more prevalent where democracy is capricious.²⁵ Where the democratic experience is more deeply entrenched, so too are liberal values, wherein the public’s support for institutions manifests independently of attitudes toward the regime or incumbents. Likewise, Singh and Carlin underscore how support for regimes and institutions are highly context dependent: citizens’ expectations are informed by their experiences with that government and within that institutional environment.²⁶ Similarly, Carlin and Singer’s work describes that while public support

for core liberal values such as executive restraint and institutional checks and balances is more widespread among the educated and political sophisticates, support for these values is often in tension with support for incumbents, wherein those who express more support for incumbents are less likely to accept or endorse constraints on their power.²⁷ Taken together, we would expect that citizens' willingness to withhold support for incumbent non-compliance with court decisions will also be context dependent. In contexts where the public's respect for the law and justice system is high and widespread, and where elite adherence to democratic practices is the norm, citizen tolerance for non-compliance is expected to be lower, and citizens will be less likely to use partisanship as an informational shortcut to evaluate the incumbent government's non-compliance with court decisions. Conversely, in situations where governmental abuse of high courts is common place,²⁸ where democracy is imperiled, and the public is generally skeptical of the regime and its institutions, we might anticipate citizens' opinions regarding executive adherence to judicial orders to be more polarized along partisanship lines.²⁹ As a result, expanding on the intuition of the coordination models of judicial institutions, we hypothesize that:

Hypothesis 2: Public support for the incumbent will correlate weakly with tolerance of incumbent non-compliance with pinnacle courts, but this effect will be pronounced in countries with high levels of democracy.

We move beyond these two schools of judicial institutions to consider what conditions might shape public attitudes toward non-compliance. The political context in which the public lives dramatically shapes citizens' ability and willingness to punish politicians for governmental malfeasance, including non-compliance with judicial institutions. In other words, the public might appreciate an independent court by observing the court's added value in protecting the public interest against government transgressions. However, people living in flawed democracies or authoritarian contexts are usually accustomed to political interference in judicial affairs, so they expect governmental disregard of judicial authorities to be the norm. This will, in turn, increase their tolerance towards government non-compliance.

Previous research has shown that context matters in many different ways. For instance, it has been argued that if the electorate has low confidence in the judiciary, they will not be likely to punish the government for their court-curbing practices or non-compliance.³⁰ We also know that incumbent governments may try to minimize the possibility of public backlash,³¹ legitimizing their court-curbing or non-compliance by blaming the judiciary for being inefficient, corrupt, or politicized.³² Similarly, Krehbiel finds that government non-compliance with judicial rulings is associated with a decline in governmental vote share, but only in contexts where government compliance is the norm.³³ Based on this argument, one can rightly claim that the normalization of government non-compliance with court rulings will make the public more tolerant of non-compliance. But why? We know that people make judgements about institutions and institutional reforms based on a reference point; it affects their expectations that

shape their judgements.³⁴ Accordingly, in countries where government attacks against the judiciary (court-curbing) and non-compliance with the court ruling are common, this turns out to be a norm that functions as a reference point for the citizens' evaluations of government practices. Due to this low reference point, the citizens will have low expectations from the government regarding compliance, and their tolerance for the government's non-compliance will increase. In other words, high rates of non-compliance will be perceived as the norm by citizens who observe non-compliance as commonplace.³⁵

Going one step further, said normalization of court-curbing and non-compliance will also moderate the explanatory power of the citizens' political preferences on their tolerance towards these incumbent practices. An incumbent government that frequently resorts to court-curbing and non-compliance will try to justify its actions to prevent public backlash or electoral punishment. In these contexts, the incumbents usually ask their supporters to trade off democratic principles for partisan interests and may frame their actions in appealing terms to bolster public acceptance.³⁶ Deploying an "us versus them" rhetoric, these incumbents will ensure the unity of the incumbent government supporters around opposition party hatred. As a result, the supporters of the incumbent party may not punish the ruling government by voting for a challenger. In this context, the incumbent government is encouraging its supporters to use party identification as an informational shortcut to evaluate the policies and actions of the government. Accordingly, we anticipate that:

Hypothesis 3: Where government court-curbing and non-compliance is common, public tolerance for non-compliance will be strongly correlated with political support for the incumbent government.

At this point, it is essential to remember that to be able to act collectively and punish the government for non-compliance, the citizens must be aware of the government's wrongdoings. The literature on public support for judicial institutions has long underscored the importance of citizen awareness. It was famously claimed that "to know a court is to love it."³⁷ This increased exposure to judicial symbols and norms is theorized to generate stronger attitudes about the independence of the judicial branch of government, and research has shown in a broad cross-section of systems that awareness in the judicial institutions correlates with public support for high courts.³⁸ In this sense, independent and free media is the most crucial mechanism that provides transparency and increases public awareness. If the media is not independent, the public will not be aware of the government's unlawful and unconstitutional policies and actions; research on judicial policy making in Latin America has suggested that a vibrant civil society is a critical facet of judicial monitoring, adherence, and compliance.³⁹ On the other hand, free media will sound the alarm to citizens about the incumbent government's non-compliance with the court rulings and alert the public to the potential costs of this non-compliance. In these contexts, one can rightly argue that the citizens will be less willing to tolerate government non-compliance. But one should also remember that information about non-compliance may also backfire.⁴⁰ For instance, a court can give a decision that is against the public interest (i.e., a decision to cut the public budget), and the

citizens may recognize that compliance with court decisions may have particular costs for the public.⁴¹ Then, the citizens might be more willing to tolerate non-compliance with court decisions. As a result, free media helps citizens make fully informed cost-benefit calculations so that their political preferences will be less likely to affect their tolerance for judicial non-compliance. Accordingly:

Hypothesis 4: Where media transparency is high, public tolerance for non-compliance will be weakly correlated with political support for the incumbent government.

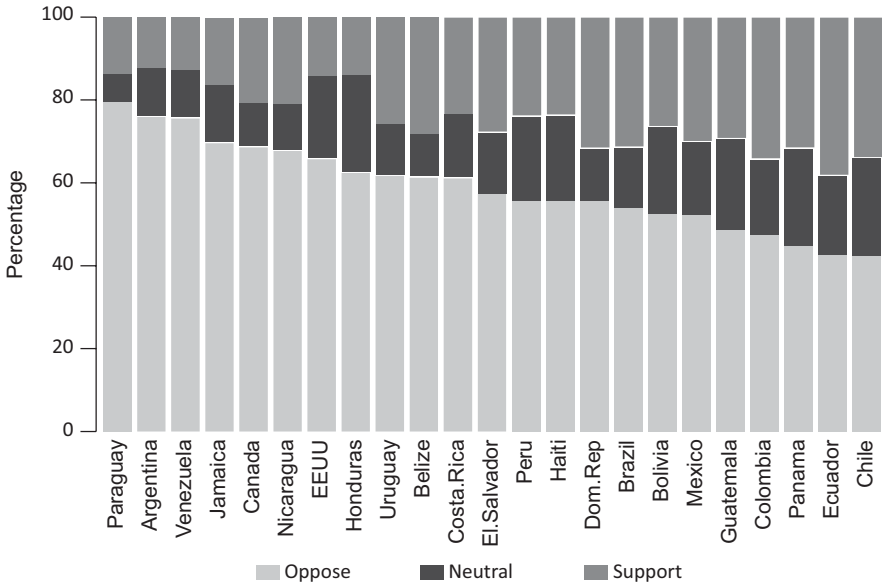
As a result, focusing on the moderating effect of specific contextual factors, we argue that as the democracy level of a country increases, public intolerance for incumbent non-compliance with judicial institutions will be less squarely rooted in support for the incumbent. Stated differently, in countries with high levels of democracy, public intolerance for incumbent non-compliance should exist independent of the public's support for individual incumbents. Beyond the level of democracy, we emphasize the role of elite behavior and present it as key moderating factors. Government supporters will be more tolerant of non-compliance when government court curbing and non-compliance practices are commonplace, and where media independence and transparency is low.

Data and Research Design

To evaluate our hypotheses on the ideological and institutional foundations of public tolerance for incumbent non-compliance, we turn to the 2008 Americas Barometer public opinion surveys.⁴² The Americas Barometer surveys are nationally representative public opinion studies conducted biannually in thirty-four countries throughout the Western hemisphere, probing citizens' attitudes toward democracy, public institutions, and politics.⁴³ Our outcome variable of theoretical interest is the extent to which respondents support a presidential incumbent ignoring a high court's decision when said decision runs counter to the incumbent government's agenda. Respondents were asked to what extent they agreed or disagreed with presidents' overt disregard for a supreme court whose ruling obstructed the governmental agenda, selecting an option of 1 (strongly disagree) to 7 (strongly agree). The cross-sectional distribution of this variable is shown in Figure 1.

Figure 1 shows the distribution of public tolerance for incumbent non-compliance with high courts' decisions that obstruct the governmental agenda. For ease of exposition here, the seven-category score has been collapsed to three, indicating opposition to non-compliance (respondents answering 1 to 3), neutrality (4), and support for non-compliance (respondents answering 5 to 7).⁴⁴ Whereas the pooled cross-sectional average is less than 4 (3.13), we can report that on the whole, Latin Americans generally appear intolerant of governmental non-compliance with judicial institutions, an empirical fact that challenges many extant characterizations.⁴⁵ Across the region, an absolute majority (53 percent) of Latin Americans express outright opposition (categories 1–3) to the suggestion of non-compliance by the government, a figure which increases to a

Figure 1 Public Tolerance for Presidential Non-Compliance with High Courts’ Decisions



Note: Percentage of respondents reporting opposition or support to the question “When the Supreme Court obstructs the work of our government, our presidents should ignore it. How much do you agree or disagree with this view?”

supermajority (67 percent) if we include respondents who suggested they were somewhere in the middle of the support spectrum (4). Moreover, even in those countries with the lowest proportion of respondents who expressed opposition to non-compliance (e.g., Ecuador and Chile), a full 43 percent of respondents still articulated resistance to government non-compliance.⁴⁶ With these figures in mind, it is not clear that incumbents could simply disregard the limits imposed by the institutional separation of powers, at least not without incurring some public backlash,⁴⁷ a fact that is at odds with many conventional accounts of judicial power throughout the region.⁴⁸

Figure 1 also shows that there is considerable variance throughout the region. Public opposition to governmental non-compliance is widespread in countries such as Paraguay and Argentina, with nearly 80 percent of respondents expressing disagreement with a president’s outright disregard for a Supreme Court decision. What is more, the cross-national distribution of these sentiments defies intuitive explanation. Though the high public regard for the United States Supreme Court and Canadian counterpart is well documented,⁴⁹ it may come as some surprise to find that a solid 75 percent of Venezuelans said they would oppose then President Chavez’s disregard for a constitutional decision that ran counter to his agenda. Likewise, though we may attribute the high levels of tolerance for non-compliance in Ecuador to the constitutional crisis that implicated the courts at that time, the ostensible ambivalence of Chilean respondents to presidential

compliance with their national court is a challenge to conventional wisdom that the Chilean judiciary enjoys relatively high levels of public support.⁵⁰

We note here that this outcome variable introduces important constraints to our evaluation of our hypotheses and interpretation of our theory. Notably, our survey question was posed to respondents with specific reference to the governmental policy: they were not asked if they supported wholesale disregard of the court's decisions, but whether they would support the government ignoring decisions that stood in the way of its preferred implementation. In this sense, the outcome variable that we use is the scenario where we are most likely to find that *Incumbent Support* correlates with attitudes about non-compliance, as it could be viewed as an especially salient obstacle for supporters of government incumbents.⁵¹ However, this makes our findings all the more striking, insofar as we observe considerable cross-national variance in the extent to which this correlation is empirically observed. In places where levels of democracy are comparably high, the public appears willing to prioritize compliance with judicial action, even when it goes against the stated priorities of the government agenda.

Explanatory Variables Our primary hypotheses concern the connection between citizens' support for incumbent governments and their willingness to tolerate incumbent non-compliance with a recalcitrant court. To measure citizens' support for incumbents, we created an *Incumbent Support* index, which is the sum of respondents' level of *Trust in the Executive*, *Trust in Government*, and *Presidential Approval*, standardized to the interval between 0 and 1.⁵² The variable *Incumbent Support* is uniformly distributed on the continuous interval, with both the mean and the median approximating .5, with a very slight negative skew (-.07).⁵³ Whereas we are also concerned with the extent to which this variable is conditioned by the level of democracy and other political system features, we include various measures to capture this country-level variance.

Our measure of democracy comes from the Varieties of Democracy dataset (v.6),⁵⁴ which provides both the aggregated and composite measures used to measure the multidimensional concept of democracy.⁵⁵ Coupling these V-DEM data with the Americas Barometer surveys enables us to study individual and institutional explanations for citizen tolerance of non-compliance and the interaction between the two.⁵⁶ Importantly, each of the country-level variables was taken from the year prior to the Americas Barometer surveys (2007) to leverage what little exogeneity we can in the context of our cross-sectional research design. We do this both to escape the endogeneity inherent in the contemporaneous measurement of key covariates and because this is consistent with our causal, temporal order in the theories we have described. Although public opinion might lead incumbents to attack courts, ignore them, or allow for more media independence, we think the reverse is far more likely, and therefore assume that institutions, elites, and the recent political past shape the public's opinion.⁵⁷ To measure the effect of *Level of Democracy* on public tolerance for non-compliance, we use the liberal democracy index from the V-DEM dataset.⁵⁸ *Liberal democracy* captures whether checks and balances constrain the policymakers of the executive branch.

To better explore the causal mechanisms through which the democracy level of a country affects public tolerance for non-compliance, we look at three component indicators of the liberal democracy index: court-curbing, government compliance, and media independence. These are the key factors mentioned in the theoretical framework that we expect to moderate the effect of support for the government and refer to the key independent variables of our hypotheses. We again rely on the V-DEM data set to measure court-curbing, government compliance, and media independence. We report the descriptive statistics of each of these variables, as well as their formal definitions and explanations in the Appendix.⁵⁹

Beyond the expectations derived above are a number of theoretically grounded individual-level explanations for which we must control. Most extant empirical research on public preferences with respect to compliance emphasizes individual-level factors that contribute to citizens' willingness to promote compliance. Of primary importance is the extent to which judicial institutions enjoy institutional legitimacy, otherwise known as "diffuse support," and the extent to which citizens are generally satisfied with the court's institutional output (which Easton famously characterizes as "specific support"). Though the differences between these two bases of support are subtle, they are nevertheless conceptually distinct. Whereas specific support can be defined as "performance satisfaction,"⁶⁰ diffuse support for the court is an earned attribute for judicial institutions that evolves over time through the "slow accumulation of positive messages about courts and law."⁶¹ Previous work on citizens' willingness to comply with court decisions has found this to be strongly related to both specific and diffuse support for judicial institutions.⁶² Accordingly, we include measures of both *Institutional Trust* as a measure of specific support and *Institutional Commitment*, which we interpret as a measure of diffuse support.⁶³ Our Appendix provides a full description and summary statistics for all of our individual-level and country-level explanatory variables herein described.

Second, a common yet controversial explanation for citizens' attitudes regarding compliance is the extent to which *Procedural Justice* serves to motivate acceptance. Psychologist Tom Tyler champions the viewpoint that if citizens view the procedure by which a judge arrives at a decision to be transparent and fair, they are more likely to accept the said decision as worthy of compliance.⁶⁴ We include measures of citizens' perceptions of procedural justice available in the Americas Barometer survey, based on whether respondents believe the court system ensures a *Fair Trial*.

Next, earlier work on citizens' willingness to comply with controversial judicial decisions has suggested that willingness to do so is highly dependent on awareness and familiarity with judicial institutions.⁶⁵ To capture this notion, we include measures of *Political Awareness* and *Political Interest*, as well as the general education level of all the respondents in our study. *Political Awareness* is a composite index constructed out of four variables in the Americas Barometer surveys, which queries the frequency of respondents' news consumption via various media outlets; we combine these measures to construct the measure we use here. *Political Interest* asks respondents to indicate the extent to which they are interested in politics. We would expect that those with more inherent interest may be more vigilant regarding incumbents' compliance with controversial judicial decisions.

Finally, recent work on the ideological foundations of citizens' support for judicial institutions emphasizes that citizens' democratic values are powerful correlates of citizens' support for high courts.⁶⁶ To account for this possibility in our model of citizen tolerance for incumbent non-compliance, we include measures of *Democratic Satisfaction* and *Institutional Respect*. These are a three-point scale measuring the level of satisfaction with democracy in their country and a seven-point scale measuring respondents' respect of the political institutions, respectively. In both scales, higher values represent higher respect and satisfaction. Finally, we include a handful of individual-level covariates that capture basic sociodemographic characteristics, including respondents' *Age*, *Education*, *Ethnicity*, and *Socioeconomic Status*. See the Appendix for additional information.

Results

Table 1 reports the results of four hierarchical linear models that include both individual predictors of tolerance for incumbent non-compliance, as well as country-level measures of liberal democracy and three theoretically relevant contextual components. As our main interest is in understanding the mediating role of democracy level and its various features on the individual level variance of tolerance for non-compliance due to their support for the incumbent, first, we interact the individual level varying measure of *Incumbent Support* with liberal democracy measure.⁶⁷ In the interest of space, we only report those individual-level covariates of theoretical interest, though the full battery of controls was included in the regression; we report the full results in the Appendix.

Consistent with Hypothesis 1, respondents' support for incumbents appears for the most part to be a consistent correlate of citizens' tolerance for non-compliance with judicial institutions.⁶⁸ Yet the negative coefficient on the interaction term between our *Liberal Democracy Index* and *Incumbent Support* suggests that the effect of citizens' support for the incumbent as a predictor of tolerance for non-compliance attenuates as the quality of democracy improves. Said conditionality is consistent with the coordination model of judicial institutions,⁶⁹ which we described in Hypothesis 2.

Figure 2 shows a graphic representation of this effect, which we created using the *Liberal Democracy* component score. Countries are differentiated along the x-axis by their score on the VDEM index of *Liberal Democracy* in 2007: the feeble institutional separation of powers under President Chávez puts Venezuela on the very low end of the spectrum, while the democracies of Costa Rica, Chile, and Uruguay approximate the maximum score. The y-axis captures the coefficient value that links *Incumbent Support* to tolerance of incumbent non-compliance. The clear negative slope implies that in countries such as Venezuela and Nicaragua, citizens' tolerance for incumbent non-compliance is strongly predicted by their *support for the incumbent*. In countries where checks and balances were more robust, and where elite deliberation is publicly oriented and relatively transparent, citizens' tolerance for non-compliance is less strongly correlated with their support for sitting incumbents.

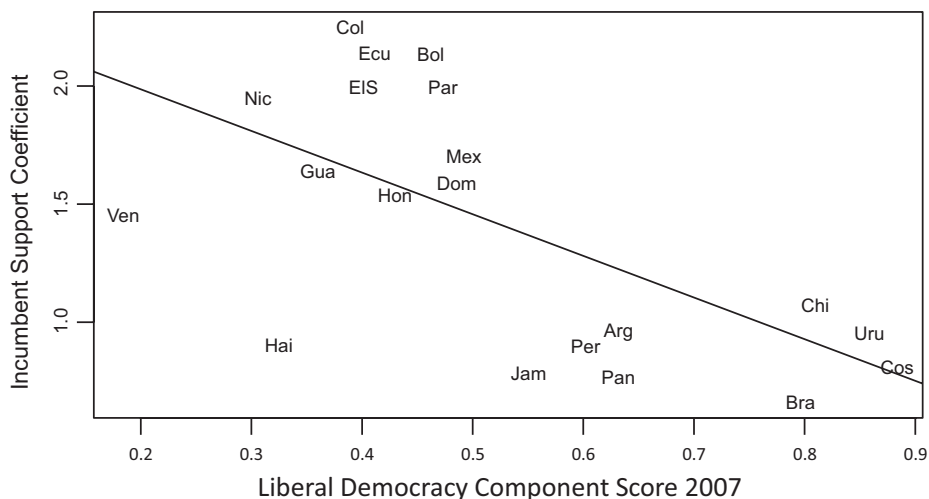
Table 1 Hierarchical Linear Regressions of Tolerance of Non-Compliance with Country Level Predictors (2007)

	<i>Contextual variable:</i>			
	Liberal Democracy	Court Curbing	Government Compliance	Independent Media
Incumbent Support	2.277*** (0.512)	0.839*** (0.187)	1.329*** (0.159)	1.814*** (0.298)
Liberal Democracy (2007)	1.347** (0.585)			
Court Curbing (2007)		-0.078 (0.080)		
Government Compliance (2007)			0.197** (0.098)	
Independent Media (2007)				0.323** (0.135)
Liberal democracy (2007) × Incumbent Support	-1.645** (0.720)			
Court Curbing (2007) × Incumbent Support		0.197** (0.090)		
Government Compliance (2007) × Incumbent Support			-0.238** (0.121)	
Critical Media (2007) × Incumbent Support				-0.406** (0.165)
Constant	2.806*** (0.420)	3.855*** (0.180)	3.581*** (0.144)	3.204*** (0.252)
Controls				
Institutional Trust	-0.008 (0.009)	-0.008 (0.009)	-0.008 (0.009)	-0.008 (0.009)
Diffuse Support	-0.613*** (0.029)	-0.613*** (0.029)	-0.613*** (0.029)	-0.614*** (0.029)
Observations	22,675	22,675	22,675	22,675
Log Likelihood	-46,255.840	-46,260.880	-46,260.160	-46,258.420
Akaike Inf. Crit.	92,551.670	92,561.760	92,560.330	92,556.840
Bayesian Inf. Crit.	92,712.250	92,722.340	92,720.910	92,717.430

Note: Hierarchical linear model with variable intercepts and slopes and country level predictor. All models include controls for respondent Political Information, Political Interest, Perceptions of Procedural Justice and Respect for Institutions, Satisfaction with Democracy, Age, Sex, Ethnicity, SES & Education. The full model results are available upon request. *p<0.1; **p<0.05; ***p<0.01.

Digging more deeply into the mechanisms that might explain the decoupling of public support for incumbents with their intolerance for incumbent non-compliance, the results of the hierarchical linear models testing our theoretically motivated mechanisms in Hypotheses 3, 4, and 5 are also reported in Table 1 (columns 2, 3, and 4). As before, we allow the slope and intercept coefficients to vary for both our individual-level covariate as measured by the *Incumbent Support*, as well as country-level explanatory variables of

Figure 2 Public Tolerance for Presidential Non-Compliance with High Courts’ Decisions



Marginal impact of *Incumbent Support* in explaining tolerance for incumbent non-compliance (7 point scale), across observed values of *Liberal Democracy* (2007).

Court Curbing, Government Compliance, and Independent Media. As in the case of our democracy indicator, each of the country-level variables were taken from the year prior to the Americas Barometer surveys (2007), so as to leverage what little exogeneity we can with regard to our proposed causal temporal order, assuming that institutions, elites, and the recent political past shape the opinion of the public as opposed to the opposite causal arrow. Whereas we hypothesized that citizens’ *Incumbent Support* would be a predictor, but one which is conditioned by the quality of democracy in which citizens reside, we are most interested in the coefficients for *Incumbent Support*, as well as its interaction effect with each of our three contextual variables.

Several patterns warrant mention as they relate to our hypotheses. As before and consistent with the dynamics spelled out in favor of Hypothesis 1 account of judicial institutions, we find that citizens’ support for the incumbent is a statistically significant predictor of citizens’ tolerance of non-compliance, but that the extent to which this is the case is conditioned by the institutional context in which said citizens reside. Beyond this, our analysis gives even more insight into the contextual factors that weaken the correlation between citizens’ support for the incumbent and their tolerance of incumbent non-compliance.

We find evidence that elites’ behavior vis-à-vis the court has a pronounced mediating effect on the correlation between the public’s support for the incumbent and their tolerance of non-compliance, in both positive and negative respects. Columns 2 and 3 of Table 1 report the results for court-curbing measures and incumbent compliance, respectively. They confirm that elite behaviors vis-à-vis the courts can influence the

extent to which citizens' attitudes towards the incumbent correlate with their tolerance for incumbent non-compliance of courts. The positive and statistically significant coefficient on the interaction between *Court Curbing* and *Incumbent Support* indicates that the connection between citizens' support for the incumbent and their tolerance of incumbent non-compliance is actually strengthened in systems where incumbents frequently curbed the court. This is consistent with recent experimental work on the effect of partisanship on the public's perspective of incumbent court-curbing behavior, which shows that the public is more tolerant of court-curbing when a co-partisan advances it and more willing to withdraw support from courts when courts are attacked by an incumbent they favor.⁷⁰ This analysis opens the possibility that attacks on courts by incumbents may have a polarizing effect on public opinion—sending the signal to partisans and the broader public that the court is not to be trusted as an agent of their shared political interests.

Conversely, and consistent with our fourth hypothesis and the theory spelled out by Carrubba,⁷¹ we find the opposite mediating effect of government compliance with high court decisions as that with government attack on the courts (court-curbing). In other words, elite behavior vis-à-vis the courts is a two-way street: incumbent attacks appear to strengthen the correlation between incumbent support and public attitudes towards non-compliance, whereas government adherence with judicial orders is associated with a weakened correlation. This is also consistent with the observational work of Krehbiel,⁷² who reports that governmental non-compliance is costly in terms of vote share but only in situations where government compliance is the norm. Where non-compliance is routine, the public may well take cues from respected co-partisan incumbents that high court compliance is acceptable, or minimally justified.

Similarly, we find a statistically significant correlation between the transparency of the media environment and public attitudes towards non-compliance. The role of public attention in the bargaining power of courts has been a key theoretical cornerstone of many accounts of judicial influence and efficacy.⁷³ Specifically, theoretical models underscore that the public must a) know that there is a decision to be enforced and b) care about its enforcement. The media and the elites can play a role both in disseminating information regarding the policy and the court's decision, as well as framing the information regarding the public's best interest. If the public, as Carrubba⁷⁴ and Stephenson⁷⁵ suggest, is transactional and cares about outcomes, it is dependent on transparent information to correctly assess policy benefits and the court's (and government's) position in relation to the policy.⁷⁶ If the environment is not transparent, or if elites actively work to undermine high courts, the public does not have the tools necessary for the feedback loop proposed in Carrubba, to correctly assess the court's role in policy outcomes.

Accordingly, we find that the link between citizens' support for incumbents and their tolerance of non-compliance is strongest in places where the media is strongly curtailed or where little to no critical media exists. Lacking a transparent space for deliberation and political opposition, the public may be strongly influenced by charismatic political leaders and take its cue exclusively from incumbents regarding the appropriateness of institutional compliance. The public, as suggested, may learn to value the courts' power to check governments, but courts are dependent on a free and openly critical media

environment to create a separate narrative from that of the incumbent government. Likewise, lacking a vigilant media to publicize incumbent digressions, the public may not observe or police incumbent non-compliance.

We acknowledge that the results in Table 1 are not independent of each other, and as previous research makes clear, many of the dynamics we consider are fully integrated in an endogenous system, a system which includes considerations we cannot fully interrogate here.⁷⁷ There is likely, for example, a direct relationship between court independence and the public's intolerance for non-compliance.⁷⁸ Yet, as Vanberg explains, independence can exist without public support,⁷⁹ and the public can only form an opinion on a court's value and independence when it observes that it can effectively check the government and enjoy voluntary adherence to its decisions. Future research should continue to interrogate these possibilities, to further disentangle this confluence of explanatory factors across time and space.

Conclusion

Despite its centrality to our understanding of democratic checks and balances, the foundation of public support for judicial review and compliance remains an empirically understudied question. On one side of the spectrum are studies investigating individual-level determinants of institutional trust and commitment, and the public's willingness to accept and comply with controversial court decisions. While this research is significant for our understanding of the foundation of public support for the judicial branch of government, it largely sidesteps the questions of the environments in which the public's opinions are formulated. Thus, it generally precludes the explicit consideration of systemic-level explanations, including the broader political or informational environment, strategic elite behavior to either foster or undermine public support for the courts, or even the extent to which democracy and attendant democratic values are entrenched. On the other hand, a vibrant literature theorizing judicial independence, vulnerability, and influence acknowledges the role of public support for policing compliance, but then primarily treats the formulation of public support as a black box, which is both exogenous, given, and not a central parameter of theoretical or empirical inquiry. A third literature theorizes how the public might impose a credible restraint on executives, possibly withholding their favor in the face of unilateralism or even more flagrant abuses of executive power.⁸⁰ And while partisanship and democratic values are well theorized and explored in those reaches, how these citizens' attitudes relate to other democratic institutions whose *raison d'être* is executive constraint is not a common feature or line of inquiry. As such, how the public comes to value independent judicial review—how it weighs its allegiances to incumbents *vis-à-vis* democratic institutions meant to limit the government—as well as the limits of said respect remain open and pertinent lines of inquiry.⁸¹

Our research sits at this intersection. We bridge these literatures by deriving theoretical and empirical implications for the interplay of contextual factors with individual-level variation in tolerance for incumbent non-compliance with court decisions,

deriving our hypotheses from two theoretical models of judicial institutions. Consistent with the cooperation model of judicial institutions, we find that citizens' tolerance for non-compliance is rooted in their support for presidential incumbents, but consistent with the coordination model of judicial institutions, the extent to which this is true is conditional on the level of democracy. This is neither to equivocate nor draw a hard line in the sand. Instead, our research points to a scope condition of extant models and corroborates Vanberg's assertions that the political dynamics that lead to the establishment—as opposed to the maintenance—of independent judicial institutions are likely not one in the same.⁸² Courts may well be established to solve the commitment problems of elites, serving the role of contract enforcer to arbitrate conflict and incentivize cooperation. But if courts and democratic institutions increasingly challenge incumbents with the aim of fostering the public's trust, independent judicial review may well become valued in its own right so that the public may come to appreciate it independent of their otherwise heterogeneous political views. This transformation, which is by no means automatic, may be an important part of the underexplored puzzle of how courts enlist the support of the public to ensure their continued independence, even when their institutional origins are unrelated to providing a public benefit. And although the analysis here cannot address the dynamics of this process—indeed our data only allow us a cross-sectional glimpse of the variance and correlates of public attitudes at a single snapshot in time—we hope that it might spur further inquiries to probe the dynamics underlying the variance we observe and report.

Our research also elucidates the qualities of democracies and democratic entrenchment that appear to influence the extent to which citizens' tolerance for incumbent non-compliance is rooted in their support for said incumbent. Transparent media environments, coupled with incumbent restraint and respect for high courts, appear to be decisive correlates in decoupling the public's support for courts from its professed support for the incumbent executive. Future research will more clearly investigate some of the causal mechanisms we cannot untangle due to the limitations of our observational, cross-sectional study.⁸³ For example, governments may inadvertently signal that courts always act in the public's best interest because they comply with courts only when they believe that compliance will lead to a beneficial outcome for the public. While our findings are certainly consistent with this theory, it is equally possible that repeated compliance legitimizes the court, which is an assumption implicit in previous theoretical debates. We sidestep discussions about how and when diffuse support or procedural justice may matter in the calculation of the public and leave many questions open regarding Weingast's emphasis on level of democracy. While we look at the role of information and different measures of level of democracy, his discussion about political and civic culture may shed light on how and when democracy level can empower courts.⁸⁴ In an age where public support for liberal democracy appears to falter, understanding the intersections between individual attitudes and the contextual factors that create and strengthen the checks and balances seems an especially fruitful line of inquiry.

NOTES

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2. Georg Vanberg, "Legislative-Judicial Relations: A Game-Theoretic Approach to Constitutional Review," *American Journal of Political Science*, 45 (April 2001), 346–61; Matthew C. Stephenson, "Court of Public Opinion: Government Accountability and Judicial Independence," *The Journal of Law, Economics, and Organization*, 20 (October 2004), 379–99.
3. Clifford Carrubba, "A Model of the Endogenous Development of Judicial Institutions in Federal and International Systems," *The Journal of Politics*, 71 (January 2009), 55–69; Stephenson.
4. Bary R. Weingast, "The Political Foundations of Democracy and the Rule of Law," *The American Political Science Review*, 91 (June 1997), 245–63.
5. *Ibid.*; Juan J. Linz and Alfred C. Stephan, "Toward Consolidated Democracies," *Journal of Democracy*, 7 (April 1996), 14–33.
6. Georg Vanberg, "Establishing and Maintaining Judicial Independence," in Gregory A. Caldeira, Daniel Kelemen, and Keith E. Whittington, eds., *The Oxford Handbook of Law and Politics* (New York: Oxford University Press, 2008), 99–118; Diana Kapiszewski and Matthew M. Taylor, "Compliance: Conceptualizing, Measuring, and Explaining Adherence to Judicial Rulings," *Law & Social Inquiry*, 38 (2013), 803–35.
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9. Jeffrey K. Staton, "Constitutional Review and the Selective Promotion of Case Results," *American Journal of Political Science*, 50 (January 2006), 98–112; Gretchen Helmke, "Public Support and Judicial Crises in Latin America," *Journal of Constitutional Law*, 13 (2010), 397; Diana Kapiszewski, "Tactical Balancing: High Court Decision Making on Politically Crucial Cases," *Law & Society Review*, 45 (June 2011), 471–506.
10. Ezequiel Gonzalez-Ocantos and Elias Dinas, "Compensation and Compliance: Sources of Public Acceptance of the UK Supreme Court's Brexit Decision," *Law & Society Review*, 53 (September 2019), 889–919; Sofia Forero-Alba and Juan Carlos Rodríguez-Raga, "Courting Judicial Legitimacy: An Experimental Study of the Colombian Constitutional Court," in Sandra Botero, Daniel M. Brinks and Ezequiel A. Gonzalez-Ocantos, eds., *The Limits of Judicialization: From Progress to Backlash in Latin America* (Cambridge: Cambridge University Press, 2022), 164–94.
11. Although many comparative surveys contain items that measure public evaluation of government non-compliance, these items are rarely systematically deployed in empirical political science research.
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13. Vanberg, 2001; Tom S. Clark, "The Separation of Powers, Court Curbing, and Judicial Legitimacy," *American Journal of Political Science*, 53 (October 2009), 971–89.
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15. Vanberg, 2001; Clark; Carrubba.
16. Carrubba; Stephenson.
17. Carrubba.
18. *Ibid.*, 66. Carrubba even goes so far as to describe the court's institutional legitimacy as hinging on the public's support for the policy regime. This interpretation is at odds with more conventional definitions of institutional legitimacy (David Easton, "A Re-Assessment of the Concept of Political Support," *British Journal of Political Science*, 5 (October 1975), 435–57).
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23. Weingast; Vanberg, 2015.
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29. Graham and Svulik.
30. Vanberg, 2001; Carrubba; Gretchen Helmke, *Institutions on the Edge: The Origins and Consequences of Inter-Branch Crises in Latin America* (New York: Cambridge University Press, 2017); James L. Gibson and Michael J. Nelson, “Is the U.S. Supreme Court’s Legitimacy Grounded in Performance Satisfaction and Ideology?,” *American Journal of Political Science*, 59 (January 2015), 162–74.
31. Gibson, Caldeira, and Baird; Vanberg, 2001.
32. Helmke, 2017.
33. Jay N. Krehbiel, “Do Voters Punish Non-Compliance with High Courts? A Cross National Analysis,” *Politics*, 41 (May 2021), 156–72.
34. Eileen Braman, “Institutional Prospects: Exploring Perceptions of Past Benefits and Future Risks from Supreme Court Decisions and Support for Institutional Change,” *Political Psychology*, 44 (February 2023), 21–41; Carlin and Singer; Singh and Carlin; Frederiksen.
35. Ryan M. Carlin, Mariana Castellón, Varun Guari, Isabel C. Jaramillo Sierra, and Jeffrey K. Staton, “Public Reactions to Non-Compliance to Judicial Orders,” *American Political Science Review*, 116 (February 2022), 65–282.
36. Svulik; Michael J. Nelson and Amanda Driscoll, “Accountability for Court Packing,” *Journal of Law and Courts*, 11 (October 2023), 290–311.
37. Gibson, Caldeira, and Baird.
38. Ibid.
39. Sandra Botero, *Courts that Matter: Activists, Judges, and the Politics of Rights Enforcement* (New York: Cambridge University Press, 2023).
40. Carlin et al.
41. Ibid.
42. The Americas Barometer by the Latin American Public Opinion Project (2008), www.LapopSurveys.org.
43. We acknowledge the inferential limitations of our empirical strategy; more convincing would be cross-sectional panel data to identify how the public’s attitudes shift as a function of contextual variables over time or leverage random assignment of experimental treatments to identify causal effects of key covariates. Yet the cross-sectional variation in institutional contexts gives variance on levels of democracy, frequency of incumbent disregard for judicial institutions and media independence, and how these contextual variables correlate with public attitudes in the subsequent year. Thus, this is an appropriate research design to test our hypotheses, and we make no claims to causal identification.
44. The original text of the question reads, “When the Supreme Court obstructs the work of our government, our presidents should ignore it. How much do you agree or disagree with this view?” A similar question was asked in 2010 in a smaller number of countries; our results are substantively unchanged when we use those data instead.

45. William C. Prillaman, *The Judiciary and Democratic Decay in Latin America: Declining Confidence in the Rule of Law* (Greenwood Publishing Group, 2000); Pilar Domingo, "Judicialization of Politics or Politicization of the Judiciary? Recent Trends in Latin America," *Democratization*, 11 (February 2004), 104–26; Amanda Driscoll and Michael J. Nelson, "There Is No Legitimacy Crisis: Support for Judicial Institutions in Modern Latin America," *Revista SAAP*, 12 (2018), 61–70; Carlin et al.

46. Chile's position at the low end of this distribution is consistent with Hilbink's (2003, 2007) characterization of Chilean hyper-presidentialism and the quiescent nature of judicial behavior that typifies judicial behavior throughout that judicial system (c.f. Royce Carroll and Lydia Tiede, "Judicial Behavior on the Chilean Constitutional Tribunal," *Journal of Empirical Legal Studies*, 8 (December 2011), 856–77) while Ecuador's low figures may reflect the interbranch crisis that ensued between 2007 and 2009 in that country (Santiago Basabe-Serrano and John Polga-Hecimovich, "Legislative Coalitions and Judicial Turnover under Political Uncertainty: The Case of Ecuador," *Political Research Quarterly*, 66 (March 2013), 154–66; Santiago Basabe-Serrano and Santiago Llanos Escobar, "La Corte Suprema del Ecuador en el período democrático (1979–2013): entre la inestabilidad institucional y la influencia partidista," *América Latina Hoy*, 67 (2014), 15–63).

47. We acknowledge these data only provide insight into the first condition required by the Coordination model of judicial institutions, measuring the extent to which a citizen consensus regarding incumbent non-compliance exists. The second condition, which addresses the public's ability to act upon that consensus, we explicitly set aside for future research.

48. Prillaman; Domingo.

49. Gibson and Nelson; Lori Hausegger and Troy Riddell, "The Changing Nature of Public Support for the Supreme Court of Canada," *Canadian Journal of Political Science*, 37 (March 2004), 23–50.

50. Maria Dakolias, "Court Performance Around the World: A Comparative Perspective," *Yale Human Rights and Development Journal*, 2 (2014), 87–142.

51. This outcome also has the advantage of querying respondents on the sort of noncompliance that would mostly garner the attention of the public, around which opinions might reasonably form. This sort of (non) compliance is also viewed as the most critical sort as an indicator of democracy, as this wording mirrors that of *High Court Compliance* indicator in the VDEM dataset.

52. Factor analyses of these three indicators suggest they capture a common latent dimension with an eigenvector of 1.68. The factor loadings of the three constituent variables were .82 (Trust in the Executive), .77 (Trust in the Government), and .64 (Presidential Approval), respectively.

53. The description and distribution of the constituent variables are reported in the Appendix. We also show the baseline results for our analyses based on these constituent indicators.

54. Technically these measures are meant to capture various dimensions of democracy. We interpret our cross-sectional design as capturing a fair number of countries, all at differing levels of democracy.

55. The Varieties of Democracies dataset collects expert assessments on a wide number of metrics pertaining to democracy and governance using traditional ordinal item responses, then uses a Bayesian measurement model to convert multiple experts' assessments into an interval scale. This measurement model approach has the advantage of accounting for uncertainty in the measure, which can be attributed to divergence in opinion across experts and allows for the scaling of responses across countries onto a common metric. For additional information on this approach, see Michael Coppedge, John Gerring, Carl Henrik Knutsen, Staffan I. Lindberg, Jan Teorell, David Altman, Michael Bernhard, Agnes Cornell, M. Steven Fish, Lisa Gastaldi, Haakon Gjøløw, Adam Glynn, Allen Hicken, Anna Lührmann, Seraphine F. Maerz, Kyle L. Marquardt, Kelly McMann, Valeriya Mechkova, Pamela Paxton, Daniel Pemstein, Johannes von Römer, Brigitte Seim, Rachel Sigman, Svend-Erik Skaaning, Jeffrey Staton, Aksel Sundtröm, Eitan Tzelgov, Luca Uberti, Yi-ting Wang, Tore Wig, and Daniel Ziblatt, "V-Dem Codebook v11.1," Varieties of Democracy (V-Dem) Project (2021).

56. We show in the Appendix that our results are robust to using only the Executive Trust variable, which has the advantage of being a direct correspondence to the question about non-compliance, in which the president was explicitly referenced as the agent who would ignore the court. The results are substantively unchanged.

57. For the sake of transparency, we report in Tables A4 and A5 the results of these models when estimated with the contextual variables of the same year as the survey (2008), as well as in the year that followed the survey (2009). The results are substantively identical.

58. Yet another advantage of the V-DEM democracy measures is their fine-grained indices allow for differentiation across countries where alternative measures (Freedom House or Polity) generally coincide. This is a noted advantage in our analysis, owing to our interest in the cross-sectional variance in the levels and qualitative differences between the democracies in our study.

59. Due to space constraints, the Appendix is not in the print version of this article. It can be viewed in the online version, at <https://www.ingentaconnect.com/content/cuny/cp>.

60. Gibson and Nelson.

61. Gibson, Caldeira, and Baird; Easton. Courts can thus build a “reservoir of goodwill” (Gibson and Nelson) by making decisions that are consistent with public preferences.

62. Gibson and Caldeira. Willingness to comply and diffuse support are not strictly coterminous (Easton; Gregory A. Caldeira and James L. Gibson “The Etiology of Public Support for the Supreme Court,” *American Journal of Political Science*,” 36 (August 1992), 635–64). It can be rational to comply in the absence of legitimacy (as people do in authoritarian regimes) or, in the case of Vietnam War draft dodgers, for example, to not comply despite institutional legitimacy (Easton). Ultimately, we are agnostic on this debate for the purposes of this project. Though these closely related concepts are theoretically distinct, they are statistically highly correlated, and lacking experimental data to differentiate more decisively, we cannot disentangle these two measures using strictly observational data.

63. Our Institutional Trust measure is taken from the question, “To what extent do you trust the supreme court?” Gibson, Caldeira, and Spence show that the institutional trust measures commonly used to study public support for judicial institutions are subject to short-term fluctuations with judicial outputs, but also the larger political environment. Diffuse support, by contrast, implies a more profound commitment to the courts and an unwillingness to accept fundamental changes to the institutional structure. The Americas Barometer question asked respondents if they would support fully doing away with the court (James L. Gibson, G. A. Caldeira and Lester K. Spence, “Measuring Attitudes toward the United States Supreme Court,” *American Journal of Political Science*, 47 (April 2003), 354–67).

64. Tom R. Tyler, *Why People Obey the Law* (New Haven: Yale University Press, 1990).

65. Gibson and Caldeira; Gibson, Caldeira and Baird.

66. Gibson and Nelson.

67. Andrew Gelman and Jennifer Hill, *Data Analysis using Regression and Multilevel Hierarchical Models* (New York: Cambridge University Press, 2007).

68. We report in Appendix Tables A6–A10 the results of completely unpooled linear regressions, both for the pooled sample and for completely unpooled, country specific regressions without contextual effects. The *Incumbent Support* predictor is statistically significant in seventeen of the twenty country-level regressions, as well as in the cross-national pooled model.

69. Weingast.

70. Bartels, Horowitz, and Kramon, 2023.

71. Carrubba.

72. Krehbiel.

73. Gibson, Caldeira, and Baird; Vanberg, 2001.

74. Carrubba.

75. Stephenson.

76. Georg Vanberg, “Establishing Judicial Independence in West Germany: The Impact of Opinion Leadership and the Separation of Powers,” *Comparative Politics*, 32 (April 2000), 333–53.

77. Carrubba; Vanberg, 2015; Helmke, 2010.

78. Clark; Douglas M. Gibler and Kirk A. Randazzo, “Testing the Effects of Independent Judiciaries on the Likelihood of Democratic Backsliding,” *American Journal of Political Science*, 55 (2011), 696–709.

79. Vanberg, 2015.

80. Graham and Svulik.

81. Stephenson; Vanberg, 2015.

82. Vanberg, 2008, 2015.

83. We are indebted to the international survey firms who make their data available for study; and implore future designers of survey instruments to take extra care in item selection to ensure the measures they produce map onto concepts of core theoretical interest.

84. Almond and Verba.

APPENDIX

Table A1 Individual level explanatory covariates

	Min	Mean	Max.	St.Dev.
Incumbent Evaluations & Political Attitudes				
To what extent do you trust the executive?	1	3.99	7	2.08
To what extent do you trust the government?	1	3.92	7	1.93
Presidential Approval	1	3.09	5	1.03
To what extent do you trust the Supreme Court?	1	3.81	7	1.82
(Specific support)				
Do you believe that there might be a time in which the president would have sufficient reason to dissolve the Supreme Court, or do you think that sufficient reason could never exist?	0	.77	1	.42
(Diffuse support)				
Law, Order & Procedural Justice				
To what extent do you think the courts in (country) guarantee a fair trial?	1	3.83	7	1.72
To what extent do you think that citizens' basic rights are well protected by the political system of (country)?	1	3.73	7	1.71
Political Knowledge				
Political Awareness (Index)	0	5.75	12	2.50
How much interest do you have in politics?	1	2.02	4	.95
Education (Years)	0	9.16	18	4.58
Democratic Attitudes & Political Tolerance				
To what extent do you respect the political institutions of (country)?	1	4.46	7	1.87
In general, would you say that you are very satisfied, satisfied, dissatisfied or very dissatisfied with the way democracy works in (country)?	1	1.55	3	.74
Demographic Characteristics				
Gender (Male=0)	0	.51	1	.49
Ethnicity	0	1.13	2	.76
Age	16	39.52	11	2.77
Socioeconomic Status (Ownership Index)	1	5.63	11	2.77

All individual respondents' data come from the LAPOP Americas Barometer, 2008. The *Politically Informed* index is a composite of four separate survey items which query the frequency of respondents' news consumption via newspapers, the radio, television and the internet. The original items' scores were inverted such that higher scores more frequent consumption of news, then summed to create the composite index, which ranges from zero (no news consumption) to 12 (daily news consumption from all four sources). The *Ownership* index is an 11-point composite measure of socioeconomic status, based on respondents' reported ownership of a variety of consumer goods. The goods range from those which would be associated with a minimal standard of living (i.e. running water and an indoor bathroom), to items which would be considered luxury purchases by today's standards in all of the countries under study (owning a personal computer). The index is a sum of each dichotomized constitutive ownership item, which ranges from 1 to 11.

Table A2 Country level explanatory covariates

	Min	Mean	Max	St.Dev.
Varieties of Democracy				
<i>Liberal democracy (v2xliberal)</i> The liberal principle of democracy emphasizes the importance of protecting individual and minority rights against the tyranny of the state and the tyranny of the majority. The liberal model takes a ‘negative’ view of political power insofar as it judges the quality of democracy by the limits placed on government. This is achieved by constitutionally protected civil liberties, strong rule of law, an independent judiciary, and effective checks and balances that, together, limit the exercise of executive power.	.252	.697	.956	.163
<i>Critical media (v2mecrit)</i> Of the major print and broadcast outlets, how many routinely criticize the government?	.142	1.71	2.70	.724
<i>Court Curbing (v2jupoatck)</i> How often did the government attack the judiciary’s integrity in public? Attacks on the judiciary’s integrity can include claims that it is corrupt, incompetent or that decisions were politically motivated. These attacks can manifest in various ways including, but not limited to prepared statements reported by the media, press conferences, interviews, and stump speeches.	-2.82	-.095	2.39	1.51
<i>Government Compliance with High Court (v2juhccomp)</i> How often would you say the government complies with important decisions of the high court with which it disagrees?	-1.22	.784	2.52	1.01

Note: All country level data come from the Varieties of Democracy Dataset, v.6 (2016). Variable descriptions were taken verbatim from the VDEM codebook but may have been lightly edited to conserve space. Original variable names listed in parentheses.

Table A3 Hierarchical Linear Regressions of Tolerance of Non-compliance with Country Level Predictors & full controls (2007)

	<i>Contextual variable:</i>			
	Liberal Democracy	Court Curbing	Government Compliance	Independent Media
Incumbent Support	2.277*** (0.512)	0.839*** (0.187)	1.329*** (0.159)	1.814*** (0.298)
Liberal Democracy (2007)	1.347** (0.585)			
Court Curbing (2007)		-0.078 (0.080)		
Government Compliance (2007)			0.197** (0.098)	
Critical Media (2007)				0.323** (0.135)
Liberal democracy (2007) × Incumbent Support	-1.645** (0.720)			
Court Curbing (2007) × Incumbent Support		0.197** (0.090)		
Government Compliance (2007) × Incumbent Support			-0.238** (0.121)	
Critical Media (2007) × Incumbent Support				-0.406** (0.165)
Constant	2.806*** (0.420)	3.855*** (0.180)	3.581*** (0.144)	3.204*** (0.252)
Controls				
Institutional Trust	-0.008 (0.009)	-0.008 (0.009)	-0.008 (0.009)	-0.008 (0.009)
Diffuse Support	-0.613*** (0.029)	-0.613*** (0.029)	-0.613*** (0.029)	-0.614*** (0.029)
Politically Informed	-0.016*** (0.006)	-0.016*** (0.006)	-0.016*** (0.006)	-0.016*** (0.006)
Political Interest	-0.052*** (0.013)	-0.052*** (0.013)	-0.052*** (0.013)	-0.052*** (0.013)
Procedural Justice	0.026*** (0.005)	0.026*** (0.005)	0.026*** (0.005)	0.026*** (0.005)
Respect Institutions	-0.023*** (0.008)	-0.023*** (0.008)	-0.023*** (0.008)	-0.023*** (0.008)
Satisfaction w. Democracy	-0.020 (0.018)	-0.020 (0.018)	-0.020 (0.018)	-0.020 (0.018)
Gender	-0.005*** (0.001)	-0.005*** (0.001)	-0.005*** (0.001)	-0.005*** (0.001)

(Continued)

Table A3 (continued)

	<i>Contextual variable:</i>			
	Liberal Democracy	Court Curbing	Government Compliance	Independent Media
Ethnicity	0.007 (0.024)	0.007 (0.024)	0.007 (0.024)	0.007 (0.024)
Age	0.002 (0.019)	0.0001 (0.019)	0.001 (0.019)	0.001 (0.019)
Socio economic status	-0.009 (0.006)	-0.009 (0.006)	-0.009 (0.006)	-0.009 (0.006)
Observations	22,675	22,675	22,675	22,675
Akaike Inf. Crit.	92,551.670	92,561.760	92,560.330	92,556.840
Bayesian Inf. Crit.	92,712.250	92,722.340	92,720.910	92,717.430

Note: Hierarchical linear model with variable slopes and country level predictor. All models include controls for respondent Age, Sex, Ethnicity, SES & Education. The full model results are available in the Appendix.
*p<0.1; **p<0.05; ***p<0.01

Table A4 Hierarchical Linear Regressions of Tolerance of Non-compliance with Country Level Predictors (2008)

	<i>Contextual variable:</i>			
	Liberal Democracy	Court Curbing	Government Compliance	Independent Media
Incumbent Support	2.283*** (0.495)	0.873*** (0.192)	1.303*** (0.155)	2.025*** (0.251)
Liberal Democracy (2008)	1.289** (0.579)			
Court Curbing (2008)		-0.081 (0.083)		
Government Compliance (2008)			0.218** (0.092)	
Critical Media (2008)				0.327** (0.138)
Liberal Democracy (2007) × Incumbent Support	-1.661** (0.700)			
Court Curbing (2008) × Incumbent Support		0.180* (0.095)		
Government Compliance (2008) × Incumbent Support			-0.223* (0.119)	
Critical Media (2008) × Incumbent Support				-0.550*** (0.143)
Constant	2.849*** (0.414)	3.856*** (0.180)	3.579*** (0.137)	3.211*** (0.250)
Controls				
Institutional Trust	-0.008 (0.009)	-0.008 (0.009)	-0.008 (0.009)	-0.008 (0.009)
Diffuse Support	-0.613*** (0.029)	-0.614*** (0.029)	-0.613*** (0.029)	-0.613*** (0.029)
Observations	22,675	22,675	22,675	22,675
Log Likelihood	-46,255.850	-46,261.330	-46,259.850	-46,256.110
Akaike Inf. Crit.	92,551.700	92,562.670	92,559.700	92,552.230
Bayesian Inf. Crit.	92,712.280	92,723.250	92,720.280	92,712.810

Note: Hierarchical linear model with variable slopes and country level predictor. All models include controls for respondent Age, Sex, Ethnicity, SES & Education. *p<0.1; **p<0.05; ***p<0.01

Table A5 Hierarchical Linear Regressions of Tolerance of Non-compliance with Country Level Predictors (2009)

	<i>Contextual variable:</i>			
	Liberal Democracy	Court Curbing	Government Compliance	Independent Media
Incumbent Support	1.872*** (0.306)	1.127*** (0.122)	1.267*** (0.148)	1.875*** (0.335)
Liberal Democracy (2009)	0.865* (0.492)			
Court Curbing (2009)		0.117 (0.072)		
Government Compliance (2009)			0.158* (0.088)	
Critical Media (2009)				0.373** (0.164)
Liberal Democracy (2009) × Incumbent Support	-1.446*** (0.559)			
Court Curbing (2009) × Incumbent Support		-0.202** (0.081)		
Government Compliance (2009) × Incumbent Support			-0.192* (0.109)	
Critical Media (2009) × Incumbent Support				-0.474** (0.201)
Constant	3.299*** (0.276)	3.744*** (0.126)	3.633*** (0.136)	3.160*** (0.279)
Controls				
Institutional Trust	-0.008 (0.009)	-0.008 (0.009)	-0.008 (0.009)	-0.008 (0.009)
Diffuse Support	-0.613*** (0.029)	-0.614*** (0.029)	-0.613*** (0.029)	-0.614*** (0.029)
Observations	22,675	22,675	22,675	22,675
Log Likelihood	-46,256.380	-46,260.480	-46,260.840	-46,258.310
Akaike Inf. Crit.	92,552.750	92,560.960	92,561.670	92,556.620
Bayesian Inf. Crit.	92,713.330	92,721.540	92,722.250	92,717.200

Note: Hierarchical linear model with variable slopes and country level predictor. All models include controls for respondent Age, Sex, Ethnicity, SES & Education. *p<0.1; **p<0.05; ***p<0.01

Table A6 Individual level predictors of Tolerance for Non-Compliance, Pooled Linear Model Regression

	<i>Pooled Sample</i>
Incumbent Support	1.534*** (0.056)
Institutional Trust	-0.033*** (0.009)
Institutional Commitment	-0.697*** (0.028)
Informed	-0.027*** (0.005)
Political Interest	-0.086*** (0.013)
Procedural Justice	0.025*** (0.005)
Respect Institutions	-0.037*** (0.007)
Democratic Satisfaction	-0.048*** (0.018)
Age	-0.003*** (0.001)
Gender	-0.013 (0.024)
Ethnicity	0.018 (0.017)
Education (Years)	-0.018*** (0.003)
SES	-0.030*** (0.005)
Constant	3.928*** (0.076)
Observations	23,455
R ²	0.083
Adjusted R ²	0.083
Residual Std. Error	1.830 (df = 23441)
F Statistic	163.812*** (df = 13; 23441)

Note: *p<0.1; **p<0.05; ***p<0.01

Table A7 Individual level predictors of Tolerance for Non-Compliance, Country Linear Model Regressions

	Argentina	Bolivia	Brazil	Chile	Colombia
Incumbent Support	0.764** (0.302)	2.162*** (0.153)	0.366 (0.345)	0.953*** (0.317)	1.867*** (0.284)
Institutional Trust	-0.038 (0.041)	-0.095*** (0.028)	-0.009 (0.051)	0.015 (0.043)	-0.048 (0.040)
Institutional Commitment	-1.106*** (0.140)	-0.463*** (0.085)	-0.941*** (0.189)	-0.519*** (0.146)	-0.767*** (0.128)
Informed	-0.037 (0.023)	-0.041** (0.018)	0.0001 (0.031)	0.041* (0.024)	-0.028 (0.027)
Political Interest	-0.156*** (0.059)	-0.022 (0.039)	-0.030 (0.075)	-0.097 (0.061)	-0.166*** (0.058)
Procedural Justice	0.046* (0.027)	0.008 (0.019)	-0.071** (0.029)	0.026 (0.026)	0.009 (0.024)
Respect	-0.015 (0.035)	-0.053** (0.025)	0.200*** (0.041)	-0.025 (0.038)	-0.016 (0.038)
Institutions	-0.150* (0.088)	0.083 (0.056)	-0.266*** (0.102)	-0.136 (0.090)	0.053 (0.080)
Satisfaction	0.002 (0.004)	-0.001 (0.003)	0.007 (0.004)	-0.007* (0.004)	-0.004 (0.004)
Age	-0.020 (0.104)	-0.167** (0.073)	-0.151 (0.132)	0.204* (0.108)	-0.034 (0.109)
Ethnicity	0.163* (0.090)	0.007 (0.073)	0.107 (0.068)	0.022 (0.081)	-0.097 (0.079)
Education (Years)	-0.042*** (0.015)	-0.031*** (0.010)	-0.041** (0.018)	-0.047** (0.019)	-0.063*** (0.017)
SES	-0.018 (0.031)	0.008 (0.018)	-0.012 (0.034)	0.023 (0.031)	-0.042 (0.030)
Constant	3.956*** (0.382)	3.654*** (0.274)	4.412*** (0.465)	3.891*** (0.391)	4.722*** (0.357)
Observations	831	2,137	869	1,190	1,093
R ²	0.144	0.160	0.082	0.037	0.132
Adjusted R ²	0.131	0.155	0.068	0.027	0.122
Residual	1.461	1.657	1.915	1.806	1.778
Std. Error	(df = 817)	(df = 2123)	(df = 855)	(df = 1176)	(df = 1079)
F Statistic	10.615*** (df = 13; 817)	31.204*** (df = 13; 2123)	5.873*** (df = 13; 855)	3.503*** (df = 13; 1176)	12.641*** (df = 13; 1079)

Note: *p<0.1; **p<0.05; ***p<0.01

Table A8 Individual level predictors of Tolerance for Non-Compliance, Country Linear Model Regressions

	Costa Rica	Dominican Republic	Ecuador	El Salvador	Guatemala
Incumbent Support	0.846*** (0.284)	1.313*** (0.245)	1.925*** (0.176)	1.662*** (0.244)	1.333*** (0.375)
Institutional Trust	-0.046 (0.042)	-0.015 (0.043)	0.002 (0.029)	-0.011 (0.040)	-0.112** (0.046)
Institutional Commitment	-0.856*** (0.162)	-0.403** (0.159)	-0.517*** (0.079)	-0.509*** (0.122)	-0.325** (0.159)
Informed	0.011 (0.027)	-0.056* (0.030)	-0.015 (0.020)	0.022 (0.024)	-0.007 (0.027)
Political Interest	-0.070 (0.068)	0.060 (0.058)	0.080* (0.045)	-0.097* (0.051)	0.095 (0.072)
Procedural Justice	0.045** (0.022)	0.030 (0.025)	0.040** (0.018)	0.003 (0.022)	0.014 (0.025)
Respect	-0.176*** (0.038)	-0.047 (0.034)	0.012 (0.026)	-0.012 (0.029)	0.125*** (0.037)
Democratic Satisfaction	0.062 (0.086)	-0.030 (0.099)	-0.037 (0.063)	0.095 (0.077)	-0.061 (0.098)
Age	0.001 (0.004)	-0.003 (0.004)	0.002 (0.003)	-0.006* (0.003)	-0.004 (0.004)
Gender	-0.102 (0.123)	0.061 (0.128)	-0.045 (0.079)	0.119 (0.103)	0.051 (0.123)
Ethnicity	-0.021 (0.094)	-0.110 (0.096)	-0.127 (0.092)	-0.076 (0.085)	-0.205 (0.133)
Education	0.008 (0.017)	-0.058*** (0.018)	-0.013 (0.012)	-0.027** (0.013)	-0.029 (0.018)
SES	0.032 (0.035)	0.011 (0.029)	-0.027 (0.019)	-0.037 (0.025)	-0.028 (0.030)
Constant	3.499*** (0.457)	3.799*** (0.403)	3.014*** (0.276)	3.502*** (0.325)	3.583*** (0.425)
Observations	1,089	1,035	2,186	1,348	788
R ²	0.062	0.087	0.116	0.122	0.070
Adjusted R ²	0.051	0.075	0.110	0.114	0.055
Residual Std.	1.971	1.998	1.824	1.840	1.684
Error	(df = 1075)	(df = 1021)	(df = 2172)	(df = 1334)	(df = 774)
F Statistic	5.510*** (df = 13; 1075)	7.494*** (df = 13; 1021)	21.877*** (df = 13; 2172)	14.321*** (df = 13; 1334)	4.507*** (df = 13; 774)

Note: *p<0.1; **p<0.05; ***p<0.01

Table A9 Individual level predictors of Tolerance for Non-Compliance, Country Linear Model Regressions

	Haiti	Honduras	Jamaica	Mexico	Nicaragua
Incumbent Support	-0.259 (0.296)	0.446 (0.350)	0.911 *** (0.283)	2.069 *** (0.364)	1.316 *** (0.273)
Institutional Trust	0.054 (0.036)	0.129 *** (0.043)	-0.092 ** (0.044)	-0.079* (0.045)	0.047 (0.041)
Institutional Commitment	-0.584 *** (0.165)	-0.257 ** (0.126)	-0.245* (0.127)	-0.614 *** (0.127)	-0.863 *** (0.175)
Informed	-0.055 ** (0.023)	-0.015 (0.020)	0.059* (0.031)	-0.016 (0.026)	0.003 (0.030)
Political Interest	-0.027 (0.061)	0.146 ** (0.059)	0.039 (0.062)	-0.023 (0.066)	-0.030 (0.066)
Procedural Justice	0.040 (0.025)	0.094 *** (0.024)	0.026 (0.029)	0.0001 (0.024)	0.027 (0.023)
Respect	0.064* (0.037)	-0.192 *** (0.034)	-0.088 ** (0.043)	-0.028 (0.037)	-0.055* (0.032)
Democratic Satisfaction	0.087 (0.065)	0.107 (0.081)	-0.090 (0.085)	-0.105 (0.089)	0.243 *** (0.088)
Age	0.004 (0.004)	0.001 (0.004)	-0.008* (0.004)	-0.008 ** (0.004)	-0.009* (0.005)
Gender	0.023 (0.107)	0.176* (0.096)	-0.162 (0.114)	-0.013 (0.111)	0.154 (0.125)
Ethnicity	-0.915 ** (0.362)	-0.062 (0.083)	0.072 (0.351)	0.006 (0.088)	0.162 (0.099)
Education	-0.008 (0.015)	-0.007 (0.015)	-0.062 ** (0.025)	-0.019 (0.017)	-0.019 (0.017)
SES	-0.088 *** (0.032)	-0.006 (0.023)	-0.005 (0.025)	-0.057 ** (0.028)	0.032 (0.029)
Constant	5.326 *** (0.817)	2.240 *** (0.307)	3.445 *** (0.855)	4.406 *** (0.384)	2.745 *** (0.388)
Observations	932	878	895	1,117	1,011
R ²	0.078	0.104	0.033	0.081	0.105
Adjusted R ²	0.065	0.091	0.019	0.070	0.093
Residual	1.596	1.401	1.700	1.807	1.927
Std. Error	(df = 918)	(df = 864)	(df = 881)	(df = 1103)	(df = 997)
F Statistic	5.978 *** (df = 13; 918)	7.749 *** (df = 13; 864)	2.344 *** (df = 13; 881)	7.435 *** (df = 13; 1103)	8.999 *** (df = 13; 997)

Note: *p<0.1; **p<0.05; ***p<0.01

Table A10 Individual level predictors of Tolerance for Non-Compliance, Country Linear Model Regressions

	Panama	Paraguay	Peru	Uruguay	Venezuela
Incumbent Support	-0.211 (0.331)	0.551 (0.382)	0.814*** (0.291)	1.678*** (0.246)	0.743*** (0.252)
Institutional Trust	0.054 (0.042)	0.170*** (0.058)	0.002 (0.042)	-0.067 (0.042)	0.123*** (0.040)
Institutional Commitment	-0.651*** (0.128)	-0.733*** (0.143)	-0.695*** (0.098)	-0.615*** (0.147)	-0.361*** (0.130)
Informed	-0.066** (0.026)	-0.016 (0.031)	-0.007 (0.024)	-0.033 (0.027)	0.047** (0.022)
Political Interest	-0.066 (0.061)	-0.123** (0.063)	-0.012 (0.056)	-0.245*** (0.054)	0.093* (0.054)
Procedural Justice	0.141*** (0.027)	0.002 (0.031)	-0.029 (0.025)	0.027 (0.027)	0.044* (0.025)
Respect	-0.132*** (0.039)	0.078** (0.036)	0.027 (0.033)	-0.097*** (0.036)	0.0003 (0.033)
Institutions	-0.040 (0.073)	0.026 (0.086)	-0.057 (0.080)	-0.272*** (0.097)	-0.047 (0.074)
Democratic Satisfaction	-0.006 (0.004)	-0.008 (0.005)	-0.004 (0.003)	-0.010*** (0.003)	-0.010*** (0.004)
Age	0.146 (0.109)	-0.066 (0.118)	0.037 (0.096)	0.046 (0.111)	-0.092 (0.103)
Ethnicity	-0.042 (0.077)	0.070 (0.087)	0.023 (0.097)	0.071 (0.093)	0.001 (0.056)
Education (Years)	-0.031* (0.018)	0.001 (0.017)	-0.034** (0.015)	-0.097*** (0.017)	-0.013 (0.017)
SES	0.072*** (0.026)	0.009 (0.029)	-0.050** (0.022)	-0.073** (0.029)	-0.030 (0.028)
Constant	4.190*** (0.372)	2.659*** (0.353)	4.437*** (0.323)	6.151*** (0.347)	1.868*** (0.349)
Observations	1,140	806	1,249	1,141	940
R ²	0.068	0.112	0.064	0.162	0.125
Adjusted R ²	0.058	0.098	0.054	0.153	0.112
Residual	1.815	1.618	1.635	1.840	1.568
Std. Error	(df = 1126)	(df = 792)	(df = 1235)	(df = 1127)	(df = 926)
F Statistic	6.356***	7.715***	6.456***	16.790***	10.139***
	(df = 13; 1126)	(df = 13; 792)	(df = 13; 1235)	(df = 13; 1127)	(df = 13; 926)

Note: *p<0.1; **p<0.05; ***p<0.01