Ethnic identity and attitudes toward state institutions: evidence of judicial legitimacy among the indigenous in Latin America

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Ethnic identity and attitudes toward state institutions: evidence of judicial legitimacy among the indigenous in Latin America

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ABSTRACT

How does ethnic identity affect how an individual evaluates state institutions? Drawing on the US courts and political psychology literatures, we argue politically marginalized groups (e.g., the indigenous in Latin America) are more likely to emphasize the what – are the outcomes satisfactory – but less likely to value the how – are the procedures fair – than their politically powerful (e.g., the whites in Latin America) counterparts. This is because the former have been historically marginalized and socially disenfranchised. This political underrepresentation shapes an individual’s attitude toward state institutions including the judiciary. We test this argument using two Latin American Public Opinion Project samples: the first is cross-national for 2010; the second, over-time for Bolivia. The results suggest that, on the one hand, the gap between how the indigenous and their white counterparts evaluate the judiciary is narrowing. Yet, on the other hand, there is evidence that Latin American courts are still lacking a “reservoir of goodwill” that is perceived equally across all ethnic identities. These results have major implications for political representation and democratic consolidation.

INTRODUCTION

How does identity affect how an individual evaluates state institutions? Specifically, are ethnically marginalized groups more likely to value the what – are the outcomes satisfactory – or the how – are the procedures fair? Drawing on Huo et al. (1996), we argue that those with political dominance – frequently those of the ethnic majority – are more likely to identify with the state and with its affiliated institutions. As members of a powerful in-group, these individuals are also more inclined to believe they have a political voice and can affect outcomes via institutionalized channels. Such perceptions allow them to value institutional integrity. And one way to cultivate this integrity is to ensure there is procedural fairness even if the outcome is not necessarily the preferred one. However, for those who have been historically marginalized – often those belonging to an ethnic minority group – what matters is what the institution does and not how the institution acts. This distinction between the whats and the hows is important. Democracy is not
just about whether people are satisfied with the outcomes; it is also about the process being fair. The absence of either can undermine the quality of democracy. We see this threat most notably in countries where democratic traditions have been more limited (Bunce and Wolchik 2011). In this paper we are particularly interested in how differences in political representation – both across countries and over time – manifest.

To test this argument, we focus on the indigenous in Latin America and their attitudes toward the judiciary. The rise of ethnic politics in Latin America is a recent trend (Madrid 2012), especially when compared to other post-colonial developing regions (e.g., sub-Saharan Africa, South Asia). The proliferation of movements and parties (Van Cott 2000; Yashar 2005), the increasing vote shares and numbers of elected officials (Madrid 2012), and the adoption of indigenous-friendly policies (Eisenstadt 2011) are all evidence of this trend. Moreover, the electoral success of Evo Morales and his Movimiento al Socialismo (MAS) in Bolivia suggests that indigenous groups are no longer isolated and are breaking into mainstream politics. Despite these developments, still absent is an understanding of how this group that had been largely disenfranchised by the government now views the state and its institutions. This paper addresses this gap and speaks to the larger debate on how political representation matters. Specifically, it examines whether the indigenous evaluate the judiciary differently from the whites and mestizos – two groups that remain for the most part politically dominant – and if so, why.

If identity is to have any effect on how one views the state, we would expect these effects to manifest most prominently in the legislative (and possibly the executive) branch where ethnic voters can use their identity as a cognitive heuristic (Branton 2009). The legislature is also an easy institutional forum for parties and politicians to champion or actively repress minority rights (Liu 2011; Liu et al. 2015). This is not to say the effects of identity do not manifest in the judiciary. But compared to the other two branches, the courts tend to be reactive – that is, they respond to the cases that get brought before them. Additionally, the judiciary is often composed of appointed members who are neither descriptively a minority nor politically accountable to such groups. To this end, we are interested in the effects of ethnic identity on the judicial branch. We concentrate primarily on the Supreme Court – the most recognizable institution in the justice system. If we find any evidence of different attitudes toward the judiciary between the indigenous and the politically dominant (usually, the whites), this would suggest the indigenous are still feeling marginalized despite their increasing political presence. In contrast, if we do not find a significant difference between the groups, this would suggest indigenous attitudes are reflecting an evolving political landscape. More importantly, they are placing increasing emphasis on procedural fairness and less on outcome satisfaction.

Understanding popular attitudes toward the judiciary is important for democratic governance. Since the court has neither the “purse nor the sword” to co-opt or repress (Marshall 1989) it must rely solely on judicial legitimacy – a psychological feature of an institution in which those associated with it believe it to be “appropriate, proper, and just” (Tyler 2006, 376). When there is judicial legitimacy, people accept decisions and act accordingly out of obligation rather than fear of punishment (Gibson and Caldeira 2009). This is especially important when courts uphold rules that are unpopular. When there is compliance, courts can make decisions enabling them to function as “effective and consequential partners in governance” (Gibson, Caldeira, and Baird 1998, 343). In
short, judicial legitimacy is necessary but not sufficient for democratic consolidation (Hamilton, Madison, and Jay 1898: Federalist 78; Huntington 1968).

We look at Latin America for two broad reasons. First, while previous scholars have found that judiciaries are able to command high levels of legitimacy across different groups (Caldeira and Gibson 1992; Tyler and Rasinski 1991), the focus has been largely US-centric. There has been some comparative attention on Western Europe (Gibson, Caldeira, and Baird 1998; Vanberg 2005). We, however, remain agnostic as to whether the findings travel to a region where democratic institutions are generally weaker. Second, there has been an emerging body of literature on comparative courts with a focus on Latin America (Helmke 2005; Kapiszewski 2012; Ríos-Figueroa 2012; Staton 2010). Much of the emphasis has hitherto been on the elites. We want to situate this paper next to these works in highlighting the conditions under which individuals see the judiciary as legitimate, and why.

This paper proceeds with a review of the rise of ethnic politics in Latin America. It then draws on the broader literature on US courts and political psychology to elucidate whether and why marginalized ethnic groups would evaluate the judiciary differently from their powerful counterparts. The argument is tested using two different Latin American Public Opinion Project (LAPOP) samples. One is cross-national for 2010; the other, an over-time for Bolivia. Evidence suggests that (1) while the indigenous are still generally less likely than their white counterparts to value procedural fairness, (2) the gap is narrowing in countries where the indigenous are politically engaged. This is most evident in Bolivia where indigenous attitudes are now no different from the other groups. The results also highlight the indigenous are no more likely than the whites to evaluate the judiciary based on outcome satisfaction. Unfortunately, this non-difference has less to do with the indigenous identifying more with the state. Instead, it is the product of the Latin American courts still lacking a “reservoir of goodwill” (Gibson, Caldeira, and Baird 1998, 343). We conclude by discussing the implications of this paper for political representation and democratic consolidation.

**Rise of ethnic politics in Latin America**

Extant scholarship on ethnic politics has generally been devoid of Latin America (Horowitz 1985; Lijphart 1999). This is no accident. Traditionally, Latin American societies have been ethnically non-polarized (Madrid 2012). Parties have largely avoided ethnic themes during campaigns; and voters have generally not punished parties for such strategies at the polls (Van Cott 2005). The spread of Spanish/Portuguese and Catholicism has also rendered the region linguistically and religiously homogeneous – especially when compared to other post-colonial regions. Additionally, the existence of a mestizo classification – people of mixed European (white) and indigenous ancestries – has made group identification challenging at times. Yet in recent years, Latin America has witnessed an emergence of indigenous politics in Latin America.

This development is evident across a number of political measurements. First, there has been a rise in indigenous movements (Van Cott 2000; Yashar 2005). Some of these movements have even evolved to become political parties. Examples include the Movimiento Indigena Pachakuti and the aforementioned MAS in Bolivia; Alianza Social Indígena in Colombia; the Movimiento Unidad Plurinacional Pachakutick-Nuevo País in Ecuador;
Winaq in Guatemala; Partido Unidad Popular in Mexico; Yapti Tasba Masraka Nanh Asla Takanka in Nicaragua; and Pueblos Unidos Multiétnicos de Amazonas in Venezuela.

Second, another measure of the indigenous community’s growing political presence is in the descriptive representation. Vote shares have been relatively robust considering Latin American party systems are notoriously fragmented (Roberts and Wibbels 1999). One of the early successes was Pachakutick in Ecuador in the late 1990s and early 2000s (see Madrid 2012). But without a doubt, the most successful indigenous party to date is MAS in Bolivia. After winning 20.9% of the votes in 2002, MAS has won the majority of the votes – and the presidency – in subsequent elections.

Third, the success of indigenous movements and parties to secure policies of interest is also evidence of the group’s growing political presence. Land tenure issues, public goods access, and autonomy over cultural matters have typically been contentious. However, recent trends reveal that central governments are conceding such policy-making authorities to the indigenous communities (Eisenstadt 2011; Foxworth 2015). These developments suggest that the indigenous communities in Latin America no longer “live mainly in conformity with traditional social, economic, and cultural customs that are sharply distinct from those of dominant groups” (Minority at Risk 2012). Instead, they are actively engaging in the political sphere. Yet, given this rise of indigenous political behavior, absent is an understanding of (1) how the indigenous view the state and its institutions, and (2) whether this view is systematically different from those with historically more political power (e.g., the whites). The next section addresses this gap by focusing specifically on attitudes toward the judiciary.

**Outcome satisfaction and procedural fairness: the judiciary**

Individuals can evaluate the judiciary using one of two criterion. The first focuses on outcome satisfaction. Verdicts are important because the court is the body that adjudicates conflicts. When an individual wins a ruling, she is likely to be satisfied; this satisfaction then parleys into judicial support (Huo et al. 1996). Such support is known as “specific support” (Easton 1965). The link between specific support and judicial legitimacy, however, is not necessarily robust (Caldeira and Gibson 1992; Norris 1999; Tyler and Rasinski 1991). In fact, it can be quite weak. It is possible individuals see the judiciary as legitimate as long as they get their desired verdict. But as soon as they are unhappy with the outcome, they no longer support the institution with the same zeal.

In principle, courts are supposed to be neutral third parties. But whether individuals see the court as such depends on whether they have a political voice. For a group that has been long marginalized and is still currently underrepresented (e.g., indigenous), its members have every incentive to care about the rulings. Imagine a series of court verdicts that are unfavorable toward a marginalized community. Over time, these negative experiences compound and can influence one’s beliefs in whether the institution will be responsive (Norris 1999). Its members are likely to see the judiciary as merely an instrument for perpetuating the extant discrimination. In contrast, imagine if the verdicts are favorable to the marginalized. In this scenario, members of the marginalized community are not only satisfied, but they are also more inclined to see the courts as a legitimate forum where their voices – despite being generally muted – can be heard.
We assert that marginalized groups value outcome satisfaction. This, however, does not mean those belonging to the politically powerful are agnostic about outcomes. Instead, in line with Huo et al. (1996), the claim is that the politically powerful are more likely to exhibit “diffuse support” (Easton 1965) for the judiciary. In other words, they are less likely to call for the dismantling or changing of the judiciary simply for being at odds with the rulings (see Klingemann 1999). Since the powerful are often politically represented if not outright dominant, its members are more likely to forgive the occasional unfavorable ruling. After all, they expect the institution’s design to benefit their interests in the long run. All institutions create winners and losers, and the politically powerful – as winners – are more likely to be satisfied with the government’s performance at-large (see Anderson and Guillory 1997). But even if the court ruled unfavorably, the effects of this one dissatisfaction are tempered compared to the dissatisfaction among the marginalized who have been historically dominated and do not expect long-term benefits from the court.

**Outcome Satisfaction Hypothesis:** Members of the politically marginalized (e.g., indigenous) are more likely to value outcome satisfaction than members of the politically powerful (e.g., whites).

The second criterion to evaluate the judiciary is procedural fairness, specifically the extent that processes and decision-making criteria of the courts are implemented fairly. Fairness is a multi-dimensional concept (Tyler 1990) that includes – but is not limited to – one’s perception that (1) she had a chance to take part in the decision process; (2) the processes were neutral; and (3) she was treated with respect. Perceptions of procedural fairness predict support for the courts (Baird 2001; Benesh 2006; also see Tyler and Rasinski 1991). And unlike specific support, the link between “diffuse support” – the extent to which an individual supports the maintenance of an institution – and judicial legitimacy is much more durable (Caldeira and Gibson 1992). In fact, when explaining why US citizens comply with the law, Tyler (1990) shows that normative claims – values that lead people to comply voluntarily out of a sense of obligation – impacted judicial legitimacy the most. Of these values, procedural fairness had the largest impact.

If procedural fairness is one criterion, there are two reasons to believe marginalized citizens would evaluate the judiciary differently from their powerful counterparts. The first has to do with descriptive representation. The political process is controlled by and devised to benefit the politically dominant – at the expense of the politically marginalized. Not surprisingly, the latter is less inclined to trust the procedures – and hence the institution (see Scherer and Curry 2010). If the politically dominant are always controlling not just the game but also the rules of the game, a sizable minority population can still be underrepresented. This asymmetry is especially visible in the Latin American judiciary where the number of indigenous judges is small. And even if this number were to increase, as long as the indigenous judges are in the minority, the indigenous will continue to face a (perceived) procedural tyranny of the white majority.

An alternative reason why a marginalized citizen would evaluate the judiciary differently has to do with substantive representation. Even if groups are descriptively represented proportionally, they can still be disadvantaged because of the political and/or legal process (Beckwith and Cowell-Meyers 2007; Haynie 2001; Preuhs 2006; Reingold 2008). For instance, a rule that only the dominant language be allowed or supported in
the courtroom can hurt a linguistic minority. Even if the court were to provide a qualified interpreter, the linguistic minority cannot by definition be tried by a jury of her peers (Liu and Baird 2012). Such challenges can parlay into negative opinions of the institution. In Latin America, courts have historically struggled to provide fair processes. Access to public defenders and judges is lacking, pre-trial detention is common, and the police are perceived to be corrupt (Call 2003; Davis 2006; UNDP 2013). In Mexico, for example, 71% of defendants surveyed stated a judge was not present when their statements were made; it was also common for the public defender to not appear in court during proceedings (Azaola and Bergman 2009). In sum, when individuals perceive a process embedded with obstacles that limit their voices to be heard fully and fairly, they are less inclined to see the institution as legitimate (Lind, Kanfer, and Early 1990).

Given this discussion, the expectation is that the linkage between procedural fairness and judicial legitimacy is weaker for groups that are systematically marginalized and socially disenfranchized. While the indigenous in Latin America have increased their political voice, they are still descriptively and substantively disadvantaged. This underrepresentation is evident even in Bolivia, which has witnessed the dramatic rise of an indigenous government (Htun and Ossa 2013). However, for those in the politically powerful, they are more likely to feel they are members of the state; they are also more inclined to identify with its affiliated institutions (Huo et al. 1996). These feelings translate into some respect for judicial integrity. For the powerful, there is a value to how the institution operates regardless of what the ruling is.

**Procedural Fairness Hypothesis:** Members of the politically marginalized (e.g., indigenous) are less likely to value procedural fairness than members of the politically powerful (e.g., whites).

**Research design**

To test the above hypotheses, we employ two different samples from the LAPOP. The first is cross-national for 2010. In all, there are 18 countries in the survey: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela. We focus primarily on the differences between the indigenous – an example of a historically and politically marginalized group – and the whites – an extreme case of a socioeconomically dominant group. Because of the general fluidity of ethnicity in Latin America (Madrid 2012), we focus on these two groups to ensure minimal false positives in each group. For comparison, we examine the mestizos as well although a priori we remain agnostic to their effects.

The second LAPOP sample is Bolivia-specific over four survey waves (2004, 2006, 2008, and 2010). We focus on Bolivia because it is the only country where the indigenous control the presidency. It is also where the indigenous are the least politically marginalized – if at all. With Bolivia, we can leverage whether increasing political representation from pre-Morales to after him becoming president has changed how the members of the indigenous population view the justice system. Again, we are most interested in the differences between the indigenous and the whites. If our theoretical expectations are correct, we should see a decreasing gap – if one at all – between the two groups in how they evaluate the judiciary.
Dependent variable: trust in the supreme court

Consistent with Booth and Seligson’s factor analysis (2009, 55), we operationalize judicial legitimacy as trust. We recognize that judicial legitimacy is much more complex than simply trust. However, here, we are limited by the LAPOP survey questions. There is only one question that focuses on trust in the Supreme Court (and another on the justice system more broadly). We, therefore, employ the single question that asks “To what extent do you trust the Supreme Court.” Respondents were asked to evaluate the high court on a scale ranging from not at all (1) to a lot (7). We use this seven-point scale, where larger values equal higher levels of trust, as our dependent variable. The distribution is normal with 4 as the modal response (20.80%). At the extremes, more people trust not at all (13.52%) than a lot (7.61%). Of the 18 countries, respondents in Uruguay regardless of ethnicity are the most trusting of their justice system; conversely, respondents in Argentina and Peru are the least trusting (see Figure 1).

Key explanatory variables: guilty punished and fair trials

To measure outcome satisfaction – the what – we use the following question: “If you were a victim of a robbery or assault, how much faith do you have that the judicial system would punish the guilty?” Responses range along a four-point index from none (1) to a lot (4). We assume people, after having been robbed or assaulted, are pleased when the courts punish the guilty. More than 70% of the respondents indicate at least a little bit of faith. We favor this survey question over other alternatives because it is the only one asked in all 18 countries. We call this variable Guilty Punished.

Guilty Punished Prediction: The effects of Guilty Punished are larger among the indigenous than among the whites.

Competing against outcome satisfaction is procedural fairness – the how. Here, the relevant survey question is about the respondent’s perception of the proceedings: “To what extent do you think the courts in [country] guarantee a fair trial?” Respondents were asked to indicate their answers on a seven-point scale ranging from not at all (1) to a lot (7). The distribution of responses is also normal: The modal response was a 4 (23.80%). Again, there are other questions in LAPOP that tap at procedural fairness, but like Guilty Punished, this question was the only one asked consistently across the sample. We label this variable Fair Trials.

Fair Trials Prediction: The effects of Fair Trials are smaller among the indigenous than among members of the white population.

The two variables, Guilty Punished and Fair Trials, are correlated at 0.303.

Control variables

Aside from outcome satisfaction and procedural fairness, we consider two sets of control variables. At the individual level, we examine the relationship between the respondent and the regime. Specially, we are interested in how much the respondent values democracy; is interested in politics (as a proxy for judicial awareness); and perceives the judicial system as corrupt. We expect individuals who “know the court … to love the court” (Caldeira and
Gibson 1992; Gibson and Caldeira 2009). We also control for the respondent’s demographics (income, gender, urban residency, and experiences as a victim of a crime).

At the national level, we look at the quality of the country’s democracy – both in levels (i.e., what is the country’s Polity score) and in stock (i.e., how many years has the country been a democracy). We also focus on the quality of the court. First, when there is press freedom, the average citizen is exposed to judicial symbols. The court is also better poised to use the media to build support (Staton 2010). To measure media censorship, the Freedom of the Press Index (2010) scores countries from best (0) to worst (100) along legal, political, and economic dimensions. Second, an independent judiciary is
important, if not necessary, to ensure the implementation of public policies but also the consistency, “public-regardingness,” adaptability, and stability of these choices over time (Stein et al. 2006, 83). Here, we refer to Linzer and Staton (2011). The continuous variable ranges from 0 (no independence whatsoever) to 1 (complete independence). We opt for this heteroscedastic graded item response theory measure because it is neither a proxy nor a list of indicators. Third, the right to use one’s mother tongue in judicial proceedings removes linguistic barriers. There is no shame to ask for an interpreter; moreover, the individual can be tried by a jury of her equals. These experiences can make the court seem more accessible. Here we use data from Liu and Baird (2012). The variable is assigned a value of 1 if a non-Spanish/Portuguese language can be used for litigation, verdicts, and/or subsequent records without legally needing an interpreter’s services; a 0 otherwise. Finally, we control for the indigenous population size in each country as reported in the Ethnic Power Relations (ETH) database (Cederman, Wimmer, and Min 2010).

**Empirical evidence: cross-national**

The models in Table 1 are estimated using multilevel mixed effects regression. For ease of interpretation, we first estimate the model for each of the three ethnic groups (models 1–3) and then compare the coefficients. After that, we run the model on a full sample (models 4–6) where we look at the moderating effects of ethnic identity on outcome satisfaction and procedural fairness. To ensure robustness, we also run the model with country dummies (model 7), with Bolivia excluded (model 8), and on a subsample of countries that have sizable indigenous populations (model 9).

To start, the coefficients for Guilty Punished and Fair Trials are statistically significant at the 0.001 level and in the positive direction. This corroborates our baseline assumption that outcome satisfaction and procedural fairness can increase an individual’s Supreme Court trust. When verdicts meet citizens’ expectations, people have reasons to indicate positive specific support. Additionally, when judicial proceedings are neutral, respectful, and afford individuals opportunities to participate, this can build long-term diffuse support.

The argument, however, is not about outcome satisfaction and procedural fairness having a positive effect on judicial legitimacy. Instead, it is about the moderating effects of ethnic identity, particularly, whether there are group differences in how the judiciary is evaluated. The first prediction focuses on the effects of outcome satisfaction on judicial legitimacy. Specifically, the claim is that of the three ethnic groups, the effect is the largest for the indigenous population. The logic is that because indigenous people are generally marginalized, their primary mechanism for positively evaluating the justice system is through the rulings, namely, when the verdicts are favorable. In contrast, since whites and mestizos are politically powerful, they are likely to have some baseline diffuse support for the judiciary even when there is outcome dissatisfaction. The results, however, indicate this is not the case. Consider the coefficients of Guilty Punished between the first three models. While the magnitude for the indigenous (β = 0.248) is expectedly less than that for the whites (β = 0.271) – but greater than that for the mestizos (β = 0.226) – the corresponding standard errors suggest these differences are not statistically significant at the 0.050 level.
### Table 1. Effects of identity on attitudes toward the judiciary (cross-national).

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</tbody>
</table>

Note: Standard errors reported in parentheses.  
\(\ast p \leq .050\).  
\(\dagger p \leq .010\).  
\(\ddagger p \leq .001\).
The evidence from models 4 through 9 further confirms this finding. As a first glance, the coefficients for the interaction terms of Whites * Guilty Punished and Mestizo * Guilty Punished are not statistically significant in any model. As the indigenous are the reference category in these models, the lack of a significant effect seems to suggest that the three groups place relatively equal importance on outcome satisfaction when evaluating the judiciary. To ensure proper interpretation of the interaction term, we plot the marginal effects in Figure 2. Note that the effect for each group overlaps with the others—thereby demonstrating that there is no statistical difference between the indigenous, whites, and mestizos.

This non-difference is contrary to our prediction that the effect would be largest for the indigenous. There are two possible explanations. The first is that with the recent rise of ethnic politics, the indigenous are actually identifying more with the state. This identification means they are behaving no differently from their white and mestizo counterparts when it comes to how they evaluate the judiciary. The second possible explanation is the converse. In established democracies, the majority have experienced sufficient favorable rulings to value singular outcomes less over time. Indigenous political advancements notwithstanding, Latin American democracies are works in progress: Still absent is a “reservoir of goodwill” (Gibson, Caldeira, and Baird 1998) toward the judiciary. With such conditions, the politically dominant (e.g., whites) may continue to be skeptical as to whether the new regime will work in their favor. This uncertainty means they may emphasize outcome satisfaction just as much as their marginalized counterparts.

In addition to Guilty Punished, the other key independent variable is Fair Trials. Recall, the prediction is that of the three ethnic groups, the effect is the largest for the whites but the smallest for the indigenous. Whites value judicial procedures more because there is the belief that the court’s design favors their interests and functions on their behalf. Conversely, such beliefs are more likely to be lacking among the indigenous. We expect the effects for mestizos to be somewhere between the whites and indigenous. The results suggest this is indeed the case: In comparing models 1 through 3, the coefficient for Fair Trials is the largest for the whites ($\beta = 0.408$) but the smallest for the indigenous ($\beta = 0.310$). Moreover, the difference between the whites and indigenous is significant at the 0.050 level. The models with moderating effects and with different specifications (models 4–9) all confirm this relationship. Specifically, whites value procedural integrity more than their

![Figure 2](image.png)

**Figure 2.** Marginal effects of guilty punished and fair trials on supreme court trust (cross-national). Note: Guilty Punished ranges from 1–4; and Fair Trials, 1–7.
indigenous counterparts. The same is true when comparing the mestizos and indigenous although the difference is – as expected – not as large as that of the whites. Figure 2 illustrates these effects. The gap between the whites and mestizos from the indigenous is even larger when Bolivia is excluded from the sample (model 9).

These numbers are consistent with our expectations: When individuals are a part of a politically powerful group, they are more likely to identify with the state. This superordinate identity (Huo et al. 1996) comes with an investment in the integrity of state institutions – including the judiciary. There is an interest in procedural fairness, as the politically dominant believes the system protects its long-term interests (i.e., diffuse support). Conversely, when individuals are part of a politically marginalized group, they are not expected to identify with the state. Moreover, the link between them and institutional integrity is weak. There is an inclination to believe state institutions exist to benefit the already powerful. In the Latin American context, among the three ethnic groups discussed, the indigenous – having been historically marginalized and socially disenfranchised – are the least likely to identify with the judiciary and, correspondingly, value judicial integrity the least.

These results suggest that the indigenous in Latin America do evaluate the judiciary differently from their politically powerful counterparts to some extent. Most notably, the indigenous seem to prioritize the how (i.e., procedural fairness) less than the whites or mestizos. Yet given the recent rise (Madrid 2012) and evolution (Van Cott 2005) of indigenous politics, there is reason to believe the indigenous are behaving more like a politically influential group. In countries like Bolivia, the indigenous are not necessarily as politically disadvantaged as they once were. In fact, when we rerun the full model only for countries with substantive indigenous populations, we see the effects of ethnic identity are not so pronounced across groups (see model 9). This seems to suggest that as the indigenous become more politically engaged, its members are also more likely to evaluate the judiciary like their majoritarian counterparts. In the next section, we use survey data from Bolivia to leverage the effects of political change over time.

Aside from Guilty Punished and Fair Trials, there are other variables that matter for judicial legitimacy. Surprisingly, none of the country-level controls has a significant effect: a free press, an independent judiciary, a minority language(s) allowed in the courts, the percent of the indigenous population in the country, and democracy (either in level or age) singularly and collectively have no bearing on whether an individual is more likely to trust the Supreme Court. At the individual level, two of the variables are significant across and comparable between the three ethnic groups. Individuals with democratic values are more likely to support the judiciary (Caldeira and Gibson 1992; Gibson and Caldeira 2009). Additionally, individuals who are more familiar with the courts are more likely to trust the justice system (Gibson, Caldeira, and Baird 1998).

Four other individual-level variables are significant but only for certain groups. First, when corruption is perceived to be prevalent, this corrodes how an individual evaluates the Supreme Court. This effect, however, is only significant for the whites and mestizos. Second, gender matters but only for the indigenous. One possible explanation is that indigenous men are more likely to be removed from state institutions than either indigenous men or non-indigenous women. Third, for white respondents, urban–rural setting is important. In line with Walker (2008), urban residents trust the justice system less than
those in rural settings. Fourth, being a victim of a crime has a pronounced effect for the mestizos: Those who have been victims trust the Supreme Court less.

**Empirical evidence: Bolivia over-time**

Of the 18 countries in the sample, Bolivia is the only one currently with an indigenous-led government. It is possible that the indigenous feel more association with the state than the indigenous in the other countries. In fact, according to the ETH dataset, Bolivia is the only country where the most “relevant” ethnic groups are the indigenous: the Aymaras (a score of 3 on a scale of 1–10, where 10 is irrelevant) and the Quechuas (4). Although President Morales is an Aymara, MAS’ base is comprised of Quechua-dominated coca grower unions (see Madrid 2012). Additionally, many of Morales’ top allies are Quechuas.

To address the possibility of some Bolivia effect – and more importantly, to leverage the political changes to see whether attitudes have changed – we rerun the models for only Bolivia over time. The expectation is that the effects of (1) Guilty Punished should decrease and (2) Fair Trials should increase over time for the indigenous. The logic is that with Morales’ 2005 victory, the indigenous have been able to identify increasingly with the state and its institutions – thereby valuing procedural integrity more and singular outcomes less. We also expect the difference between ethnic groups to change over time. With the indigenous now in political power, there should be no group difference in the effects of Guilty Punished and Fair Trials.

The results in Table 2 provide evidence of this effect. We run the same models as in the cross-national tests but over-time. We begin the sample in 2004 – the year LAPOP surveys began – and end in 2010 – the year of our cross-national tests. This allows us to examine whether there is a statistical difference in the way ethnic groups evaluate the judiciary before and after Morales takes office. In models 10–14, the year is modeled as the unit-2 level variable in the multilevel regression; in models 15–18, a separate regression is run for each year. Several findings merit discussion. First and foremost, there is no statistical difference between the coefficients of Guilty Punished and Fair Trials in models 10–12. It seems that there is no meaningful difference between how the indigenous, whites, and mestizos evaluate the judiciary during the 2004–2010 period. This result is confirmed in models 13 and 14 where the component and interaction terms are also not statistically significant.

Second, models 15–18 provide evidence of the effects in Bolivia more clearly over time. Beginning in 2004 (model 15), the whites and mestizos both valued procedural integrity significantly more than the indigenous. This effect is similar to the pattern found in other Latin American countries in our 2010 cross-national analyses. However, beginning in 2006 – the year Morales assumed office – the significant difference goes away; instead, the indigenous are just as likely to value procedural integrity as whites and mestizos. Similarly, while there were differences in the effects of outcome satisfaction across ethnic groups in 2004, they too begin to disappear by 2006.

Figure 3(a) illustrates the differences for the indigenous over time. Interestingly, when concerning outcome satisfaction, there has been no significant change for either the indigenous or whites over-time. The numbers remain constant. This is contrary to our theoretical priors. It seems that despite the changing political landscape, the indigenous still value outcome satisfaction as much as they used to – and no less than their other
Table 2. Effects of identity on attitudes toward the judiciary (Bolivia over-time).

<table>
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<td>0.118</td>
<td>0.149†</td>
<td>0.196†</td>
<td>0.196†</td>
<td>0.044</td>
<td>0.233†</td>
<td>0.106</td>
<td>0.250**</td>
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<td></td>
<td>(0.045)</td>
<td>(0.063)</td>
<td>(0.021)</td>
<td>(0.043)</td>
<td>(0.043)</td>
<td>(0.069)</td>
<td>(0.065)</td>
<td>(0.076)</td>
<td>(0.089)</td>
</tr>
<tr>
<td>How: Fair Trials</td>
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<td>0.378†</td>
<td>0.460†</td>
<td>0.452†</td>
<td>0.452†</td>
<td>0.302‡</td>
<td>0.466‡</td>
<td>0.428‡</td>
<td>0.429‡</td>
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<td></td>
<td>(0.030)</td>
<td>(0.042)</td>
<td>(0.014)</td>
<td>(0.030)</td>
<td>(0.030)</td>
<td>(0.047)</td>
<td>(0.045)</td>
<td>(0.052)</td>
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<tr>
<td>Whites</td>
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<td>0.261</td>
<td>-1.009§</td>
<td>0.783*</td>
<td>-0.054</td>
<td>-0.187</td>
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<td></td>
<td>(0.226)</td>
<td>(0.226)</td>
<td>(0.275)</td>
<td>(0.333)</td>
<td>(0.430)</td>
<td>(0.445)</td>
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<tr>
<td>Guilty * Whites</td>
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<td>-0.060</td>
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<td>-0.237*</td>
<td>0.155</td>
<td>0.039</td>
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<td>(0.070)</td>
<td>(0.098)</td>
<td>(0.102)</td>
<td>(0.123)</td>
<td>(0.151)</td>
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<td>-0.069</td>
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<td>-0.044</td>
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<td>-0.125</td>
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<td></td>
<td>(0.048)</td>
<td>(0.048)</td>
<td>(0.066)</td>
<td>(0.070)</td>
<td>(0.091)</td>
<td>(0.101)</td>
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<tr>
<td>Mestizo</td>
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<td>-0.825‡</td>
<td>-0.092</td>
<td>-0.573*</td>
<td>0.187</td>
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<td></td>
<td>(0.153)</td>
<td>(0.153)</td>
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<td>0.009</td>
<td>0.114*</td>
<td>0.086</td>
<td>0.059</td>
<td>-0.094</td>
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<td>(0.033)</td>
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| Individual Control | ✓            | ✓          | ✓           | ✓         | ✓            | ✓         | ✓         | ✓         | ✓         |
| Year Control       | ✓            | ✓          | ✓           | ✓         | ✓            | ✓         | ✓         | ✓         | ✓         |
| N                  | 961          | 547        | 4700        | 6208      | 6208         | 2318      | 2079      | 2079      | 2050      |

Standard errors reported in parentheses.

* \( p \leq .050 \).

† \( p \leq .010 \).

‡ \( p \leq .001 \).
ethnic counterparts. As with other Latin American countries, the lack of a “reservoir of goodwill” renders the politically powerful and politically marginalized to hold outcome satisfaction as something of importance.

Here, of note is that the indigenous are placing increasing importance on procedural fairness over-time and the difference from 2006 to 2008 (and even from 2006 to 2010) is statistically different per two-sample $t$-tests. After they become descriptively represented in government (in 2006) the indigenous place growing emphasis on judicial integrity (see Figure 3(a)). On the other hand, Figure 3(b) illustrates that there is no significant difference for the whites over-time regarding the effect of procedural fairness. Substantively, these results suggest that in Bolivia, the indigenous do feel politically empowered. They have come to value procedural fairness as much as the whites and mestizos – the conventional “politically relevant” members of society (see Cederman, Wimmer, and Min 2010).

**Conclusion**

Given the rise of ethnic politics in Latin America, in this paper we asked whether the indigenous evaluate the judiciary differently from their ethnic counterparts, and if so, why? We argued the answer is yes for two different reasons. One is about the *what*: are the outcomes satisfactory? The other is about the *how*: are the procedures fair? We find strong evidence for the latter mechanism. For those that have been historically and politically dominant (i.e., the whites and mestizos), procedural fairness bears more weight than it does for the indigenous. The good news, however, is that in countries with sizable indigenous populations, we see a smaller difference. This is most evident in Bolivia. There, the effects are similar across all three ethnic groups after an indigenous president takes power. This suggests that when indigenous groups are politically empowered, they can and do identify with the state; they value institutional procedures even if they may not agree with the outcomes.

We also expected to find the effects to be more pronounced for the indigenous with respect to the first mechanism: outcome satisfaction. Yet contrary to our theoretical

![Figure 3](image-url) **Figure 3.** Means test of guilty punished, fair trials, and trust in supreme court (Bolivia over-time). Note: Guilty Punished ranges from 1–4; Fair Trials, 1–7; and Trust in Supreme Court, 1–7.
argument, the results suggest the effects to be ethnicity-blind. We contend this non-finding has less to do with the indigenous becoming politically engaged. Rather, it is likely due to the fact that Latin American courts still lack a "reservoir of goodwill." In consolidated democracies, enough time and experience have passed to develop a reservoir of goodwill. The same cannot be said for new and developing democracies. As the population adjusts to frequent changes in institutional design, it is perhaps not surprising that all ethnic groups need to first experience stock in specific support (i.e., outcome satisfaction) before being able to develop substantive diffuse support.

This is significant for democratic consolidation across Latin America. For a democracy to truly consolidate, citizens need to support the institutions and contribute to their sustainability. This kind of support, however, is not likely to emerge without first a threshold of favorable outcomes that meet citizens’ interests and demonstrates that democracy is the preferred form of government. If courts are making unpopular decisions, there is no reason to expect the citizens to support the maintenance of the judiciary specifically and of democracy broadly. Our results suggest that this level of confidence has not yet been reached in the judiciary across Latin America for any ethnic group. Thus, the judiciary remains vulnerable and the rule of law will struggle to exercise its authority. This has a long-term impact on political stability.

These results also have major implications for political representation and the democratization of judicial institutions. While the judiciary can elicit support from the whites and mestizos by promoting procedural fairness, this is not sufficient for the indigenous – unless there exists a sufficient level of indigenous representation within the state. We see this in Bolivia. When the indigenous have descriptive representation in government – as they do with the presidency in Bolivia – they are more likely to view judicial institutions in the same way as other politically influential ethnic groups, including the historically dominant white population. For the courts to have full legitimacy – and thus consolidation – marginalized ethnic groups must also perceive the processes to be fair. This perception comes by having – at a minimum – descriptive representation. Therefore, it is important for Latin American courts to find ways of including minority populations in all government institutions.

While suggestive, these results provide the impetus for future research. One avenue is to consider the legitimacy of lower level courts. Conventional courts literature has been based heavily on the Supreme Court specifically or the justice system in abstract. Yet, individuals generally have more experiences with their local institutions. This would be particularly relevant in Latin America where informal justice systems are more prevalent (see Helmke and Levitsky 2006). Another avenue is to examine the consequences of legitimacy. If the source of legitimacy differs between ethnic groups, it is important to understand whether low legitimacy leads to non-compliance or less participation among different ethnic groups.

Notes

1. We focus on the indigenous over blacks for two reasons. Theoretically, we want to speak to the larger literature on the rise of ethnic politics in Latin America. In this body of scholarship, the focus has been more on the indigenous (see Madrid 2012). Empirically, blacks are found in fewer countries. The ETH database identifies a black population in only about half of the
countries in the Latin American sample; in contrast, every country but two has an indigenous population. Additionally, while substantial in Brazil (ETH database: 45%), the black population is smaller than that of the indigenous in the 2010 LAPOP survey (3.93% versus 5.68%).

2. We also run models with “trust in the justice system.” Results are consistent with those for “trust in the Supreme Court.”

3. Trust is arguably the most crucial factor of legitimacy. Legitimacy is often conceptualized as “diffuse support” (Gibson 1989, 1991) and measured using a five-item battery of survey questions that concerns “willingness to support elemental changes in the powers, process and structures of the high bench” (Caldeira and Gibson 1992). While we would ideally like to capture diffuse support for the judiciary, we settle for trust – as an individual concept as opposed to a part of a larger composite index – for two reasons. First, theoretically, we are less interested in differentiating specific from diffuse support as an outcome, but, rather, differentiating the sources of trust for the courts generally between the politically powerful and weak groups in societies. Thus, we do not claim that our measure of trust is synonymous with specific or diffuse support. Rather, it is a general concept that measures the extent that various groups of citizens trust their courts; and trust is, at least, a minimal requirement of legitimacy, broadly speaking. We believe the sources of trust can tell us something about the kind of support we should expect: outcome satisfaction is more likely to lead to specific support (Gibson, Caldeira, and Baird 1998); and perceptions of fairness, diffuse support (Baird 2001; Tyler 1990; Tyler and Rasinski 1991), but we can only speculate theoretically about these outcomes. Second, empirically, as discussed above, we focus only on trust because of data limitations.

4. Empty models suggest 8% of the variance is at the country level. Results using standard errors clustered by country are substantively consistent with those from the multilevel models.

5. Bolivia, Ecuador, Guatemala, Mexico, and Peru (per ETH dataset). Substantive is defined as having more than 15% indigenous population.

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Disclosure statement

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