

The Foundations of Judicial Legitimacy: Experimental Evidence from across Contexts

Jennifer Barber, Koen Höcker, Rachel Hoorwitz, Andrew Taylor, William Walker

Master of International Affairs Capstone Project 2016

The Bush School of Government and Public Service at Texas A&M University

Supervised by Dr. Jessica Gottlieb

Acknowledgments

The capstone team wishes to acknowledge and thank the following individuals who provided guidance, information, advice, and counsel for this paper and research project over the course of the semester:

Dr. Jessica Gottlieb, Bush School

Dr. Joseph Ura, Department of Political Science

Dr. James Rogers, Department of Political Science

Professor Sahar Aziz, School of Law

Dr. Gregory Gause, Bush School

Professor Wendi Kaspar, Policy Sciences and Economics Library

Mr. Ron Szabo, Bush School

Ms. Janeen Wood, Bush School

Our interviewees in Doha, Qatar

Table of Contents

- I _____ Background and motivation
- II _____ Methodology
- III _____ Survey experiment and setup
- IV _____ Comparison country: Qatar
- V _____ Comparison country: Benin

Introduction

In functioning states, despite a lack of authoritative power, judiciaries are respected and their rulings are adhered to by their respective citizens. This is known as judicial legitimacy. Popular support of the court exists even when decisions go against public opinion because people believe that the court is an unbiased regulator of society and the rule of law. In order to be effective, it is imperative for states' citizens to trust in their judicial institutions despite their lack of enforcement capabilities. However, this is not always the case. During the United States Civil Rights Movement in the early 1960s, the Supreme Court case, *Brown v. Board of Education*, declared the racial segregation in schools unconstitutional. Several southern states ignored this decision, however, and it took other measures, such as the Civil Rights Act of 1964, outside the Supreme Court's jurisdiction, to enforce the ruling.

This study attempts to find out why the public views the judicial system within states as legitimate and apply it across Qatar and Benin contexts.

Background/motivation

a. State of the literature on judicial legitimacy

The rule of law is a crucial layer in the foundation of today's modern societies and institutions, especially in the West. Equally important in this foundation is the concept of legitimacy. Without strong institutions and a society that believes in them, countries would, as renowned English philosopher Thomas Hobbes believed, dissolve into a state of nature (anarchy). However, to ensure these institutions refrain from arbitrarily exercising their power, governments should have a some form of checks and balances. In the United States, for example, the power of the federal government power is divided into three branches: the executive, legislative, and judiciary branches. Two branches, the executive and legislative, maintain their power and authority from constituents through regular elections, while the third, the Supreme Court, derives its power from the public's acceptance of its decisions on important legal matters. This has made the Supreme Court and the topic of judicial legitimacy an interesting focus of research.

Many articles have been published that debate where the Supreme Court acquires its legitimacy and how the Court maintains it when it issues a decision, especially a decision that is in conflict with an individual's own views. Although the Court is assumed to be "objectively conservative in policymaking", it has made a variety of past rulings that were conservative, moderate, and liberal (Bartels et al., 2013). This is not surprising in the current political climate given that the Republican-controlled Senate has so far refused to consider a Supreme Court Justice nominee from President Barack Obama. The passing of late Justice Antonin Scalia has

left an empty seat in a now equally divided court in terms of political leanings and any nomination from the Democrat-controlled White House is likely to tip that scale to the left. But what difference does the ideological majority of the Court make? Bartels et al. used a survey of the American public to measure the general perception of the high court and argue that when an individual perceives the Supreme Court as having a different ideological leaning than them, this creates a *subjective ideological disagreement* and negatively impacts the legitimacy of the Court. An article published shortly after the Bartels article, however, argues that despite political differences that exist amongst Americans and the Court, there is a reservoir of goodwill, which serves as a buffer for unfavorable decisions (Gibson et al., 2015).

Using interview data from the Freedom and Tolerance Survey, Gibson et al. surveyed 750 Americans using a similar set of questions employed by Bartels and Johnston, with four additional questions used to gauge participants' interpretation of the Court's ideology. Other edits to the Bartels and Johnston survey were made to highlight more ideological differences and perceptions. A regression analysis of the data found that 55 percent of Americans perceived the Court as conservative, compared to Bartels and Johnston's 26 percent. Even more impressive was the difference in perceptions of moderate rulings: 53 percent in the Bartels paper, while this new analysis found only 2.6 percent of respondents viewed the court as "partly conservative and partly liberal" (Gibson et al., 2015). The authors also found that while only about 16 percent of participants ranked the Court as sharing an ideological viewpoint similar to their own, over 70 percent answered good or great for the Court's job performance (Ibid.). Overall, Gibson and Nelson find that the legitimacy of the Court is not based on consistently favorable decisions or individuals' ideologies, but rather reservoirs of goodwill that protect its rulings and validity despite the fact that many view the Court shares an ideological view counter to the general public. This reservoir is also referred to as *diffuse support*, the belief institutions should be upheld even when they make disagreeable decisions. In an article by Gregory Caldeira and James Gibson (1992), a national survey was carried out to measure the level of diffuse support for the Supreme Court. Their data found that about 81 percent of white Americans would not eliminate the Court even if it repeatedly made "decisions that the people disagree with", while African Americans only showed about 15-25 percent of support (Caldeira et al., 1992).

Partisanship is potentially more salient in lower courts throughout the U.S., where individual states, counties, and cities have mixed methods to select judges in their areas. As the map in figure 1 indicates, there are four methods to select judges: appointment (judges are selected by executive officials (e.g. the governor) or legislative body based on their qualifications), partisan elections, nonpartisan elections (candidates cannot run as members of political parties), and merit-based selection (potential judges are selected and screened by a committee, who then presents options to the elected official (e.g. the governor) to appoint them) (American Bar Association, 2008). In addition, Bar Association also notes the following for appellate and general jurisdiction courts:

- “The following nine states use commission-based¹ appointment only to fill midterm vacancies on some or all levels of court: Alabama, Georgia, Idaho, Kentucky, Montana, Nevada, North Dakota, and Wisconsin.
- In [merit selection] states, appellate court judges are chosen through commission-based appointment, and trial court judges are chosen through commission-based appointment or in partisan or nonpartisan elections.
- [In Ohio], party affiliations for judicial candidates are not listed on the general election ballot, [however] candidates are nominated in partisan primary elections.
- [In Michigan], party affiliation for Supreme Court candidates are not listed on the general election ballot, however candidates may be nominated at party conventions.” (American Bar Association, 2008).

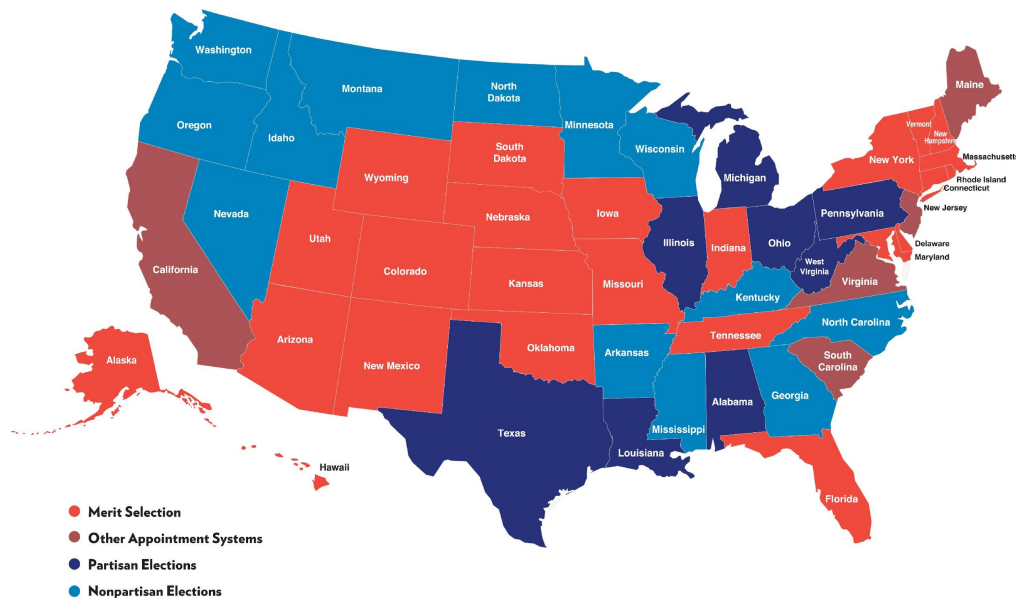


Figure 1, Source: American Constitution Society for Law and Policy

Many scholars have argued that appointed judges are of better quality than elected judges because appointed judges are subjected to less political pressure (Bonneau, 2012). This perception also has an impact on their confidence in the courts. However, many studies have been published that challenge this consensus and find that there are insignificant differences

¹ Synonymous with merit-based

between elected and appointed judges. In an article by Stephen Choi, M. Mitu Gulati, and Eric Posner, they measured three indicators of judicial performance: *productivity* (the number of opinions written per year), *opinion-quality* (the number of citations a case receives outside of the state in which the ruling was made), and *independence* (the number of dissents per year). These factors were then used to compare the relationship between performance and the four methods used to select judges in the United States (Choi et al., 2008). Based on their multivariate analysis, the authors reach a variety of conclusions. Judges with shorter tenure in larger states tend to be more productive and write more dissents, especially on highly salient issues. However, appointed judges produce more quality opinions and the quality decreases among judges in larger states. Overall, the authors argue that the conventional wisdom that appointed judges are more independent than elected judges is a simplification and probably an exaggeration” (Choi et al., 2008). A summary of these results can be found in table 1.

Selection Mechanisms and Quality				
Selection Mechanism	Tenure	Productivity	Independence	Quality
Election, partisan	Lower	High	Higher	Low
Election, nonpartisan	Lower	Middle	Lower	Middle
Merit-based	Higher	Middle	Lower	Low
Appointed	Higher	Low	Higher	High

Table 1 , Source: Choi et al., 2008

Charles Gardner Geyh (2003) goes a step further in his research, which posits that the judicial selection process should move away from elections. He refers to the *Axiom of 80* to argue that electing judges is a paradox. According to Geyh, 80 percent of the people believe judges should be democratically elected. However, 80 percent of the electorate does not participate in judicial elections and another 80 percent is unfamiliar with judicial candidates. In addition, studies have shown that 80 percent of the people believe financial contributions to judicial election campaign influence a judge’s decisionmaking. This Axiom of 80 thus creates a paradox in which the public believes judicial elections are important, but do not actively participate in them (Geyh, 2003).

Overall the literature seems to point to the conclusion that judges, regardless of how they are selected for the bench, are no different when it comes to how they make their decision. However, the study proposed in this paper seeks to challenge this conventional wisdom. By studying how individuals perceive the courts, we expect to find differences among respondents in how they perceive judges, explained later in the paper. Furthermore, a bulk of the literature on judicial legitimacy and the effect of partisanship within the justice system have one shared

weakness: the survey data and subsequent analyses were lacking strong *statistical power*. Many of the researchers based their findings on small sample sizes. This is one quality that differentiates our study from the other literature, as we have calculated a much higher level of power. The power calculation is discussed in section two, survey methodology.

Contributions of this Project

As the above review of relevant literature has shown, a great deal of past research on judicial legitimacy has confined its scope to within the United States, and has often focused on the impact of partisanship. We believe this project's main contributions to the existing literature will be its comparative approach and its focus on procedural legitimacy in addition to partisanship. The project also makes several methodological advancements. It addresses the previously mentioned lack of statistical power in similar studies by using a comparatively large sample population (the size of which was generated using a power calculation to maximize statistical power and efficiency) in our survey and lab experiments. The lab experiment is also innovative in that we invent a new variation on the typical ultimatum game that we believe is the first of its kind in the literature: an ultimatum game involving a third party in which the third party takes an action which is non-binding on the pay-offs of other players (acting as the "judge" by ruling an offer fair or not fair, but without any sanctioning power).

Comparative Approach

In the past, many studies on judicial legitimacy have understandably taken place within the United States. This was perhaps due partly to convenience (many political researchers live and work in the United States) as well as the interesting history of the US Supreme Court, its current strength as branch of the federal government, and the high salience of many of its verdicts. Some studies within the United States have also been done on judicial legitimacy in lower courts, including state and local courts. There has also been scholarly research on the judicial legitimacy of courts in other countries around the world, but less in developing countries, where courts are often newer and weaker. Recently, research on courts in the developing world has become a scholarly focus, especially since rule of law and access to justice issues have become hot button topics among policy, donor, and aid circles. This project aims to take a comparative approach by examining judicial legitimacy in three developing countries in addition to the United States: Qatar, Benin, and Egypt. While some comparative studies on judicial legitimacy have been done in the past, they have been few and far between. The comparative article we found in our search of the literature is fairly old, and only looks at developed countries. This project will be a much-needed update to previous comparative research. It will contribute both a survey experiment and lab experiment in each country, designed to be as comparable across borders as possible. The goal of the project is not only to measure judicial legitimacy in each country, but also to reveal potential commonalities and differences across contexts. The lab experiments, in particular, will present participants in each country with identical scenarios and choices, which may allow us to infer differences in judicial legitimacy

from results. The survey experiments, by necessity, must be adapted to each different context, but will ideally center on the same core issues (procedural legitimacy and partisanship). Ultimately we hope that this research will suggest actions courts in developing countries can take to strengthen judicial legitimacy.

Focus on Procedural Legitimacy in Addition to Partisanship

Although there has been some literature on procedural legitimacy in the United States and elsewhere, more often scholarship tends to focus on partisanship. This project differs in that it examines both, with procedural legitimacy as its primary focus and partisanship as secondary. This has an additional benefit in a comparative study because partisanship necessarily looks very different across borders (and may not be political – where in one country the project may look at political affiliation, in another it may look at gender, citizenship, or ethnicity), but procedural legitimacy may be more universal. In particular, this project looks at violations of procedural legitimacy through influence over presiding judges. In the lab experiments, the measures of procedural legitimacy are identical: whether or not a “judge” is able to be apportioned money in an ultimatum game. The measures of procedural legitimacy in the survey experiments in the United States and (proposed for) Qatar both focus on this question of influence as well, although they are expressed differently: in the US experiment influence is indicated by campaign contributions, and in the proposed Qatar experiment it is indicated by familial connections to the ruling family. We believe this rigorous focus on the impact of procedural on judicial legitimacy will be a valuable contribution to the existing literature.

II

Survey Methodology

As has been established in this paper, there is a substantial amount of research surrounding the development of judicial independence as a safeguard for civil liberties and rights in democracies. This same sort of analysis, however, is lacking when it comes to developing states. In order to understand perceptions of judicial legitimacy, this project designed and implemented a survey measure beliefs about court’s partisanship and procedural fairness among college students. The first phase of this survey experiment was implemented on the Texas A&M University campus among undergraduate students in order to both create a baseline for results and pilot the project. The survey will then be replicated in multiple contexts abroad, including in Benin, Qatar, Egypt and potentially a Latin American setting.

The surveying was enumerated by four female, undergraduate Texas A&M students recruited from Dr. Ura’s political science classes. The enumerators were equipped with computer tablets and used SurveyCTO’s tablet application to collect the survey data. The enumerators used various strategies to recruit students, including remaining static with an advertising sign so students could approach them and by approaching students at the enumerators’ discretion. The enumerators collected roughly 4-5 surveys per hour of work, and worked roughly 10 hours per

week. Having four female enumerators potentially means that the experiment will have a bias towards having more female respondents, although our early evidence suggests that the enumerators have done a fairly good job of recruiting a representative sample male and female respondents.

In order to answer this project's research questions, roughly 500 undergraduate students at Texas A&M participated in a survey experiment. This number was determined using a power calculation that assumed a significance level of 0.05, a minimal detectable effect size of 0.3 standard deviations, pre-treatment covariates explaining 10 percent of the variance in the outcomes, an equal number of participants for the three treatment conditions and a factorial design that randomly assigned participants. This survey is similar to previous survey experiments with novel treatments. The survey was administered using tablet computers that delivered the responses electronically and took respondents roughly 10-15 minutes. A copy of the survey narrative can be found in Appendix 2.

Lab Experiment Methodology

Within the lab experiments participants will be asked to play three different games: a basic ultimatum game, a game with a judge that can rule but cannot be included in the distribution, and a game with a judge that can be included in the distribution. An ultimatum game was chosen because such games are typically used to measure fairness. This allows us to add in a judge as a third party actor and evaluate how the judge's presence affects participants' perceptions of fairness. In the ultimatum game there a proposer offers a split of ten monetary units. The responder has the option to accept the split and distribute the units accordingly or rejects the offer which results in nobody getting a payout.

In the second game, the proposer announces the proposed distribution, the judge has the ability to decide whether the distribution is fair or unfair. The decision of the Judge is advisory only and has no material impact on the distribution. After the judge's announcement, the responder has the option to decide whether to accept or reject the offer. This variation on the experiment allows us to evaluate how fairness is perceived when an institution that is broadly considered to be fair will affect perceptions of fairness when involved in the game.

In the last game, the rules are the same as the second game, but the proposer will decide whether or not to include the judge in the distribution of the monetary units. This effectively simulates the contributions to the judges. The judge does not have the ability to reject the offer, but only to state whether it is fair or unfair. By allowing the judge to receive part of the distribution, the way participants perceive the impartiality of the judge might be altered and their evaluation of the fairness of the distribution has the potential to be changed.

In the US the games will be played in the Economic Research Laboratory at Texas A&M University. For the other locations, a mobile lab will be set up where participants can play the

games. Because the simulations will be identical in different locations, a cross-sectional analysis can be done of the results to determine differences in outcome of the games.

Through the factorial design it is determined that a total of 848 participants are necessary to satisfy the minimum detectable effect size of 0.3. However, because this number is relatively high for locations outside the US, this required number might be lowered to get quantifiable results.

Although a three person game is not uncommon, the way it is set up in our experiment is relatively unique in its sort. In previous three person ultimatum games, the third person is usually an observer and not an actual participant in the games (Sääksvuori and Ramalingam 2015; Ma and Hu 2015; Pfister and Böhm 2012). In these studies the introduction of a third party affected the outcome of the game by purely having an observer over the game. This is similar to a judge, but the third person in question did not hold any power. Other games that had an active third person usually measure the outcome of the game when three parties have some equal power within the game (Buchner et al. 2004; Knez and Camerer 1994). These results calculate the outcome of three people directly interacting with each other.

The ultimatum game we conduct is difference in the sense that it involves an observer with direct power over the game (the judge). This type of ultimatum game can measure the perceived fairness that we try to discover, because an active observer with control can affect the outcome of the game. Whereas other studies used either a passive observer or an active participant, we combine the two by having an active observer who can judge over the proposed split. If the outcome without the judge is different or there is a difference whenever proposers are able to give contribution to the judge, a difference in perceived legitimacy of the judge can be seen.

III

Main Research Questions and Hypotheses

In the literature on judicial legitimacy, beliefs about courts' **procedural fairness** and **partisanship** have been established as two key determinants of the public's perception of judicial legitimacy. Yet, despite the critical role that courts can play in developing states, nearly everything known about the foundations of judicial legitimacy is derived from studies in established democracies, especially the US.

We developed a survey experiment and a behavioral game that measures beliefs about judicial legitimacy and its sensitivity to changing perceptions of procedural fairness and partisanship. In the future, we will replicate a similar survey experiment with a context-specific narrative across multiple countries and make descriptive inference about how the determinants of judicial legitimacy varies across contexts. The following research questions and hypotheses were taken from our survey pre-analysis plan.

Our key research questions are as follows:

1. **Procedural fairness (judge selection)**: Does a ruling from an appointed vs. elected judge increase the legitimacy of a ruling? Of the institution?
2. **Procedural fairness (independence)**: Do uneven contributions to an elected judge's campaign decrease the legitimacy of that judge's ruling or the institution itself relative to both an appointed judge and/or a judge elected in a less biased campaign?
3. **Partisanship**: Does co-partisanship with a judge enhance legitimacy of the ruling or institution? Similarly, does the absence of co-partisanship undermine legitimacy?

Hypotheses:

H0: When respondent is not told about judge selection procedure, they have a higher likelihood of perceiving judge to be appointed rather than elected.

H0a: In T2, participants more likely to assume neutral campaign contributions than in T3.

H1: Being told the judge is elected will make people think the court is more/less legitimate than when they are not explicitly told. (T1 vs. T2)

H3: Being told the judge received campaign contributions from the defendant will make the participant more likely to perceive the court as less legitimate relative to when the judge is elected and receives nothing, and relative to when no information about judge selection is given. (T1 & T2 vs. T3)

H4: Only when judges are elected, having a co-partisan judge and defendant will decrease perceptions of legitimacy of the court, all else equal. (T2n vs. T2p, T3n vs. T3p)

We consider H0 and H0a first order conditions or testing of assumptions. If these fail, we should not expect to see any treatment effects. Our main hypotheses of interest, H1, H3, and H4, we consider to be independent hypotheses that could be written up in separate papers, so we will not correct for multiple comparisons here. We are secondarily interested in sub-group comparisons, e.g. understanding the mediating effect of gender, co-partisanship, or educational background of the respondent. However, we see these as second-order analyses that are only interesting if we find significant results with respect to our main hypotheses.

Subgroup hypotheses

H5: Being a co-partisan of the judge and defendant will increase perceptions of legitimacy of the court, all else equal.

H6: Being a non-co-partisan of the judge and defendant will decrease perceptions of legitimacy of the court, all else equal.

H7: Caucasian participants will perceive the court to be more legitimate than African Americans (Caldeira & Gibson, 1992)

H8: Higher levels of education will increase perceptions of legitimacy of the court (Caldeira & Gibson, 1992)

H9: Participants who have positive indirect experience of the courts (e.g. knowing someone who works in the judicial system) will perceive the court to be more legitimate (Benesh, 2006)

H10: Participants with direct experience of the courts in a position where they had little or no control (e.g. plaintiff or witness) will perceive the court to be less legitimate (Benesh, 2006)

H11: Higher levels of knowledge of courts will lead participants to be more supportive of courts (Caldeira & Gibson 1992)

Mechanisms

H12a: Learning that the judge received campaign contributions from the defendant will make the participant more likely to perceive the court as more involved with and motivated by ordinary politics relative to when the judge is elected and receives nothing, and relative to when no information about judge selection is given. (T1 & T2 vs. T3)

H12b: Individuals who express greater belief that the court is involved with and motivated by ordinary politics will express greater disapproval of the decision, less belief in the court's fairness, less confidence in the court, and a greater willingness to limit the court's power. (T1 & T2 vs. T3)

H13a: Learning that the judge received campaign contributions from the defendant will make the participant more likely to perceive the court to be less trustworthy relative to when the judge is elected and receives nothing, and relative to when no information about judge selection is given. (T1 & T2 vs. T3)

H13b: Individuals who express less belief in the court's trustworthiness will express greater disapproval of the decision, less belief in the court's fairness, less confidence in the court, and a greater willingness to limit the court's power. (T1 & T2 vs. T3)

H14a: Learning that the judge received campaign contributions from the defendant will make the participant more likely express support for replacing elected judges with appointed judges relative to when the judge is elected and receives nothing, and relative to when no information about judge selection is given. (T1 & T2 vs. T3)

H14b: Individuals who express more support for replacing elected judges with appointed judges will express greater disapproval of the decision, less belief in the court's fairness, less confidence in the court, and a greater willingness to limit the court's power. (T1 & T2 vs. T3)

IV

Comparison Country 1: Qatar

In order to apply this study across contexts, one of the countries our team is interested in studying at a future date is Qatar. During the Texas A&M 2016 Spring Break (six days), three members of the capstone team traveled to Doha, Qatar to begin laying out the foundation for a future study. We had three main objectives for our trip:

1. Gain a better understanding of the Qatari justice system that went beyond what we could find through online resources.
2. Identify a salient social cleavage to study, similar to the Democrat and Republican divide used in the Texas A&M-College Station survey.
3. Find a court case that could be used in a narrative for a survey experiment, similar to the Massey case used in the Texas A&M-College Station survey.

In country, we gathered information exclusively with researchers and professors at Qatar University, American and Qatari lawyers, and local journalists². We also conducted five focus groups composed of Qatari and non-Qatari students in two of Dr. James Rogers³' political science courses at Texas A&M University-Qatar. Each class consisted of approximately 25 students and each focus group included about 7-8 students, divided into Qatari, non-Qatari, and mixed groups. The remainder of this section discusses our findings from our trip.

Brief background on the court system⁴

The judiciary in the State of Qatar is unique. Although the country is an Islamic emirate, its dual system of Sharia (religious) and civil courts differentiates itself from some of its Arab neighbors. After the country gained its independence in 1971, the void left by the departing British administration meant that limited protection was available for non-Muslims residents. As a result, Sheikh Ahmad bin Ali Al Thani established the *Adlia*⁵ (civil) courts, however, Muslims also have access to this branch of courts. In 2003, the judicial authority law was introduced to define the court's role and place in society, and state that judges are independent and cannot be removed unless the law allows for a dismissal. All courts are overseen by the Judicial Supreme Council, which has seven members (judges) that expresses opinion on the appointment, promotion, transfer and assignment of judges and is chaired by the Emir. Under Law No. 10 of 2003, the selection process to join the judiciary is set in two steps. First, a candidate is selected and nominated as an assistant judge by the Council. The position of assistant judge lasts three years, including one year of compulsory training at the Center for Legal and Judicial Studies,

² The interview and focus questions, as well as a description of how we found our interlocutors, can be found in the

³ Dr. James Rogers is a co-PI for this project.

⁴ Unless otherwise stated, the following information is derived from interviews in Doha, Qatar.

⁵ Rough translation: justice

where the assistant has to pass both oral and written examinations. After this mandatory period, the application of the candidate is considered again by the Council, which then decides whether or not to recommend the appointment to the Emir. The courts, in hierarchical order, are as follows:

- The Court of Cassation, similar to the Supreme Court in the United States, is the highest-ranking court in the country.
- The Court of Appeal is the second-highest court and has the power to overturn sentences of appellants given rulings in the lower courts.
- The Court of First Instance (Preliminary Court) is the first level of the justice system when entering into a legal dispute.

Many judges are non-Qatari. This is mainly due to the fact that there is no strong educational system for would-be Qatari judges and there is no incentive for Qataris to take up this line of work. A lack of Qatari nationals in the legal system means that many judges are foreign residents, particularly from Egypt, Jordan, Morocco, and Sudan. In 2013, compensation packages for judges and lawyers were increased to motivate more Qataris to enter the legal system. Additionally, Hamad Bin Khalifa University began offering a juris doctorate program in fall 2015, and Qatar University also launched a graduate law program that same year.

Some of this information, however, is contrary to what the capstone team learned during interviews in Doha. While some argue that the appointment by the Emir gives the judges legitimacy and the capacity to carry out their duties, it can be argued that this exposes them to undue political pressure. A law professor at Qatar University, for example, stated that judges could be appointed and dismissed at will for little or no reason, which pressures judges to issue rulings that would please the executive authority. Furthermore, the competency of judges varies across the levels of the courts, the highest the courts being the most competent. Many judges are not lawyers and, according to a lawyer at a private firm, they are not always the most professional or qualified. Overall, the system has a deficit of judges, which has created a general perception that courts are ineffective and time-consuming. As the American lawyer stated, courts are “overwhelmed” with cases and do not have the capability of processing cases in a timely fashion.

Procedural Legitimacy

Regarding the procedural legitimacy of the legal system, Qatar has a well-functioning legal system and procedures are followed. As a result, there are not any major issues with the legitimacy within the system. However, there are minor issues within the procedural system that could affect the legitimacy of the courts. Gabriela Knaul, the United Nations Special Rapporteur on the independence of judges and lawyers Mission to Qatar, reports there are three issues within the Qatari legal system that could affect the perceived legitimacy.

First, Knaul (2015) states that the selection and appointment of judges is questionable. The Emir of Qatar is in charge of the appointment, but there is no real check to ensure the judges appointed are impartial. There is a strong indication that judges are tied to the Emir's power and the Al-Thani family. Additionally, the Emir also has the power to dismiss judges adding the lack of independence and impartiality of judges. Because the system is not transparent (Brown 1997), it is hard to measure and find cases in which the appointment of a judge caused questionable legitimacy. To delve deeper into this issue close relationships to judges and the government are necessary to understand whether the appointment of judges is hurting procedural legitimacy.

A second issue identified by Knaul (2015) is the interference in the independence of judges. Because relationships with other families and officials in Qatar, also known as *wasta*, is important within the Qatari society, there are reasons to doubt that the judges are completely independent and not influenced by personal connections. Within the upper echelons of the Qatari society and especially within the 40,000 members of the royal Al-Thani family, *wasta* plays an important role to conduct business and remain powerful positions in Qatar. It is thus not unthinkable that members of the royal family might use their *wasta* to influence judges whenever they are summoned to court. This proves to be a salient cleavage within the Qatari society. According to Knaul and private lawyers at a Qatari law firm, there has been an instance where 33 judges resigned after a member of the Supreme Council of the Judiciary tried to interfere with a ruling of a judge. There is thus reason to question if interference is common or not. Once again, without the right connections this is almost impossible to prove and use to test the perception of legitimacy in the court system.

The last issue within procedural legitimacy of the Qatari legal system is the dichotomy between Qatari and non-Qatari judges. Because there is a lack of Qatari nationals interested in serving as a judge, a good amount of judges are from other Arab states, such as Egypt and Sudan. However, unlike the Qatari judges, the non-Qatari judges are on non-tenured contracts. Because their legal status in Qatar depends on their contract and if their contracts are not renewed they have to leave the country, there are chances that non-Qatari judges will rule in favor of Qatari nationals who have connections to ensure their contracts are renewed (Knaul 2015). Several interviewees admitted that within the Qatari society the idea that non-Qatari judges might favor Qatari citizen is prevalent. Although there have been no reported cases where this has been the case, it could cause a perception issue among the public.

For the analysis of judicial legitimacy, the most feasible cleavage to look at on a procedural level is the amount of influence the defendant might have on the judge since this might provide perception issue of corruption or unfavorable influence. A narrative in which the last name as Al-Thani of the defendant is revealed in different versions might result in different responses and ultimately a different perception. A major issue with this approach is that the names, and therefore ties to the royal family, are not published in verdicts, and the only way to know would be through journalists reporting about or lawyers working on certain cases.

Partisanship: Qatari vs. Non-Qatari

In the US version our lab experiment, partisanship is expressed through differences in gender. However, in the context of Qatar, gender is not a good measure of partisanship because judges in Qatar are almost never women, and so would never be co-partisans the other two players. Instead, we propose that partisanship in Qatar be examined through the lens of citizenship – that is, whether players in the lab experiment are Qataris or non-Qataris (of any foreign nationality). Similarly, in the survey experiment we think it is possible to include a partisan element based on citizenship - manipulating whether survey participants are aware that certain parties involved in the chosen case narrative are non-Qatari.

The difference in citizenship status is especially salient in Qatar for a number of reasons. Non-Qataris make up a large proportion of the population: 88 percent in 2016 (Fahmy 2016). For this reason, they are very visible in society and regularly interact with Qatar's court system. However, non-Qataris are not always treated equally under the law. There are a number of legislated differences in the treatment of Qataris in regards to non-Qataris, including exclusion from labor laws, (Amnesty 2013) a sponsorship system which requires migrant workers receive permission from their employers to leave the country, not allowing non-Qataris to form labor unions, (Stork 2013) and only allowing them to own property in designated areas (US Department of State 2013). In addition, there are non-legislated but still impactful dilemmas that non-Qataris face when it comes to the court system, including language barriers, a relative lack of influence, being less likely to be granted bail (US Department of State 2013), and fear of deportation.

Qatar has been in the news in the past year for its inadequate labor conditions for migrant workers, especially after its successful bid to host the World Cup in 2020. Facing more international pressure than ever (although still not much), the state has made some changes in its treatment of migrant laborers, and has argued (disingenuously) that those laborers have unimpeded access to the courts in the event of abuse. Recent human rights reports often say otherwise, arguing that many migrant workers are too afraid of retaliation or deportation to bring court cases against their employers, and that even when they do, their cases may be dismissed (for example, in the case of sexual harassment charges brought by domestic workers against their employers) (US Department of State 2013). Implementation of this research project would help to measure whether residents of Qatar believe that citizens and non-citizens are treated equally fairly by the courts or if they believe there is more discrimination against non-citizens.

Meetings with several academics, one at the Qatar University law school and two at the Social and Economic Survey Research Institute (SESRI) at Qatar University, reinforced our own preliminary research by affirming that citizenship is a salient cleavage in Qatari society with regard to the judicial system. Although most judges in Qatar today are foreign nationals, their legitimacy is based not on the independence of the courts, but on the approval of the Emir.

According to one of our academic sources, judges have a strong incentive to keep the Emir happy, and thus to favor Qatari citizens. Many cases involving a dispute between Qataris and non-Qataris never even make it to court, whether because non-Qataris are afraid to press their cases, or because influence and enforcement mechanisms in the wider system so strongly favor Qataris. For example, our source stated that law enforcement officials, who are likely non-Qataris, are sometimes afraid to enforce laws against Qataris and Westerners who may be politically connected. A journalist for a prominent Qatari English-language news site described how non-Arabic-speaking defendants are not always provided with translators during the judicial process.

Not all of our interviewees agreed that there was a consistent bias against non-Qataris. For example, all three of the practicing attorneys we spoke with insisted that there was little or no bias against noncitizens (although two of those attorneys seemed less than objective, more interested in defending their court system from perceived criticism - likely due to the recent international spotlight on human rights abuses against migrant laborers - than in sharing information). One of the attorneys agreed that bias was apparent outside of the court system (in those cases and disputes that never actually make it into court). Meetings with five groups of students from two of TAMU-Qatar's political science classes revealed that there is disagreement among students about whether and to what degree non-Qataris are treated differently by the court system. Some students argued that Qataris would be likely to achieve better court outcomes because of better connections, money, and knowledge of the system, while others thought that non-Qataris might be favored by courts presided over by non-Qatari judges (the latter opinion was held only by Qatari students). Students reiterated the idea that better-connected Qataris often manage to keep disputes out of the court system (and resolve them favorably).

Narrative Case

The survey experiment portions of the project each center around a “narrative” – an actual court case that can be used to draw conclusions about the sources of judicial legitimacy in each of our case countries. In Qatar, the most promising case we have found is a series of trials about a fire in a luxury mall. In May 2012, a fire broke out in the Villagio mall. 19 people were trapped in the mall's daycare center and died, including 13 children, 4 nursery staff, and 2 firefighters. None of the victims were Qatari citizens. Investigators found that the daycare center was not properly up to code (nor was the mall itself, which, for example, did not have a sprinkler system or a loud fire alarm). In 2013, the owner of the daycare center, Sheikh Ali Bin Jasim Bin Al Thani, his wife, the chairman of the mall, and the deputy mall manager were all ordered to pay blood money to the families of the victims and were sentenced to six years in prison (the maximum sentence for manslaughter). In 2015, a court of appeals overturned this ruling. The courts still held the company that owned the mall guilty of manslaughter, but did not fault the individuals, who no longer face jail time or need to pay compensation. The case is currently in court once more, this time in the Court of Cassation, Qatar's highest court. The hearings were

delayed more than once because the defendants have failed to appear in court (including Al Thani, who is the current Ambassador to Belgium). On April 25th, the hearings began, despite the fact that Al Thani and his fellow daycare center co-owner were still absent from the proceedings. That same day, the court ruled that none of the defendants would serve jail time, although they would be required to pay a combined total of 200,000 Qatari riyal to each victim's family in compensation. The judge did not explicitly address the question of whether the defendants were innocent or guilty.

Potential Treatment Manipulations

This case is ideal for a narrative for the survey experiment because it has the potential to offer several treatment manipulations, both procedural and partisan. On a procedural level, judicial legitimacy may be lessened by the knowledge that one of the defendants, Al Thani, is a member of the royal family and thus has a certain degree of influence. On a partisan level, judicial legitimacy may be lessened by the knowledge that all of the victims of the fire were non-Qataris. In the survey manipulations, we can conceal or reveal these facts randomly to learn if they have an impact on people's responses, without directly asking participants whether influence or citizenship have effects on fairness within the courts. These treatment manipulations should give us more accurate measures of judicial legitimacy. The case is also exceptional among Qatari court cases in that there is plenty of information about it available to the public. Most court cases in Qatar are not written about (at least not in English), and even when they are, many important details are not published. Multiple people we met with in Qatar told us that the only sources of information on many court cases are the people who were actually involved with those cases – the defendants, plaintiffs, and attorneys.

It is also important to consider the main weakness of this court case, which is its notoriety. Many Qataris are at least peripherally aware of the fire at the Villagio and the trials that followed. This means we may face the risk that participants in the survey experiment will come to it with preconceived notions about fairness and legitimacy. If their knowledge of the case is extensive enough, they may be unaffected by our manipulations to the narrative (which rely on being able to control the information available to participants). However, in our conversations with students from TAMU-Qatar, we found that though almost all students were broadly aware of the case, most had little specific knowledge. Many were unable to state the facts of the case or the court verdicts. In particular, students were not sure whether any of the victims of the fire were Qataris, and most did not seem aware that one of the defendants was a member of the royal family (although they did know that one or all of the defendants were extremely well-connected).

Alternate Cases

There are two alternate cases that could be used as a narrative to assess the perception of judicial legitimacy. Both cases are civil and involve a cleavage mentioned earlier that could lead

to a difference in perception. The first case involves a 24 year old British woman who was murdered by Qatari nationals in October 2013. Lauren Patterson, who taught at a British school in Doha, was murdered after allegedly sexually assaulted after a night of going out with a friend. The two Qatari nationals met the two at a nightclub in Doha and brought Lauren to the home of one of the Qatari's. Although it is unclear what exactly happened that night in the Qatari's home, the two men were caught burning the body of Lauren Patterson the same night out in the desert.

During the first trial, the alleged murderer received the death penalty while the accomplice received a three-year prison sentence. When the case moved to the Court of Appeals, the sentences were upheld. However, the Court of Cassation threw out the verdict arguing that it was erroneous and not based on a sound legal foundation. Currently, the case is under retrial at the Court of Appeals.

This case, although high profile, provides the necessary cleavages for the narrative that can be used to measure perceived legitimacy. First, the case involves two Qatari nationals against a non-Qatari family (Patterson family). Because of this, the narrative can be changed to remove the nationalities of the defendants and victim to test the perception of the court's legitimacy. The idea here follows the intuition that respondents would think that the sentence was too harsh if they know it was a Qatari citizen against a non-Qatari citizen.

However, because it is such a high profile case it also proves to be a difficult one, since most Qataris have strong emotional feelings about it. One of the reporters of Doha News pointed out that when reporting the story they received a lot of comments from Qatari citizen arguing that because the defendants are Qatari that they should actually be held to higher standards and therefore respondents would most likely not perceive a difference in outcome with different narratives. Additionally, because the case is well reported respondents might already preconceived notions about the case and could be aware that the defendant is a Qatari citizen. To avoid this issue it could be useful to use the accomplice as the test subject in the narrative. Because the story of the accomplice is not well known and he received a relatively light sentence, it would be of better use for the narrative. By masking the nationality of the accomplice in certain versions of the narrative and stating the fact of his case, might result in a difference in responses. It would be likely that if respondents do not know that the accomplice is Qatari they would think the sentence was too light whereas knowing he is Qatari might result in responses stating the sentence was right.

The second alternate case involves an American expatriate couple that was tried for child abuse for one of their adopted children. According to several Arabic and Western media source the Huang couple, who had four adopted children, were expatriates in Doha. One of their daughters had a severe eating disorder causing her to not eat for several days in a row. In January 2013, she was found dead. The cause of death was determined to be starvation and dehydration.

Subsequently, the Huang couple was detained and suspected of child neglect and possible manslaughter.

There are a lot of complexities and judicial errors surrounding this case. First and foremost, the prosecutors have stated multiple times that it was odd that the Huang family, who is from Asian origin, adopted not good looking African children. Throughout the trial a sense of racism and superiority feelings to the Huang couple was present. Although the evidence of the couple actually starving their child was almost non-existence, the court when through with the trial. One lawyer told us that the trial was a farce and more a sign to expatriates that they are not above the law and untouchable. Because the Huang family was an easy target the legal system could use them as a scapegoat.

Although the case can be used for the narrative because it shows such a clear disparity between Qatari and non-Qatari citizen, the complexities of the case create major issues. With describing the right amount of facts and giving the respondents to the narrative a clear overview of the case, it could be used. However, because there are questions whether the legal system was fully functionally at all in the case, it would be a difficult narrative to create.

Implementation suggestions

Before the project can be implemented outside of the United States, there are three challenges that need to be addressed. The first is the different recruitment strategies for undergraduate students. What we have done thus far on the Texas A&M University campus is unlikely to be replicated on Qatari campuses as we will explain below. Second, connections are imperative to carrying out any administrative tasks, and therefore, partnerships between Texas A&M and universities in Doha must be established if we are to recruit local students (our current research design calls for a larger sample than would be available at just TAMU-Q and other international institutions). Last, and most important, are the Institutional Review Board (IRB) and administrative barriers that must be addressed before the survey can even be produced.

Recruitment

In order to effectively recruit students at national and American-based universities in Qatar, our advertising for respondents must use something other than monetary incentives. At Texas A&M University's main campus in the U.S., our capstone team acquired five hundred \$5 dollar Starbucks Coffee gift cards to attract undergraduate student participation. However, we recognized prior to our focus groups with Qatari nationals and residents at Texas A&M-Qatar that a similar tactic would not work well given the wealth of the country and the potential student participants. We confirmed after conducting focus groups with students that monetary rewards would not be practical because students would not be sufficiently motivated by reasonable sums of money (from the perspective of the project budget). Therefore, when, or if, the survey and lab experiments are implemented in this country, our team recommends the following incentives,

ranked in the order of effectiveness based on student feedback, to successfully motivate and collect information from undergraduates:

- Food, such as pizza or sweet products
- Petition professors and lecturers to offer extra credit for participation. Alternatively, researchers could convince professors to schedule the survey place during class time.
- Garner sponsorship from professors and lecturers to advertise the survey and lab experiment opportunities to their classes.

Partnerships

Partnerships are also essential to carry out any successful survey collection. In addition to the collaboration between Texas A&M and Qatar universities needed for IRB authorization (discussed below), support from political science, economic, business, and law faculty will aid in the search for survey respondents. Although direct endorsements may or may not lead to an increase in participation, they will cast a wider net.

IRB and administrative hurdles

Qatar University students need to be recruited to meet a minimum sample size requirement, similar to the current design (approximately 450-500 students). In order to recruit enough students and utilize space at the QU campus, we will need IRB approval from QU administrators. IRB approval from QU has, based on our discussion with researchers at the Social and Economic Survey Research Institute (SESRI), been a long and non-transparent process that is contingent on pressure being put on IRB officers from top university officials. Moreover, as mentioned earlier, without a strong network, little can be accomplished when trying to establish a new business relationships, even one such as this amongst academics. In order begin the process of building connections for this research project, SESRI researchers recommend the dean of Texas A&M's Qatar campus reach out to the President of Qatar University or the Vice President of Research. It is unlikely that anything other than putting hierarchical pressure on the QU IRB office will result in project approval.

V

Benin's Court System

Research was conducted on Benin's court system, social cleavages and potential cases online by students in the capstone using both French and English resources. Government websites as well as third party evaluations of the issues studied were consulted.

Following Benin's emergence from the repressive communist regime of General Mathieu Kerekou in 1990, the country set about establishing a new constitution (Rotman, 2004, p. 282).

The country's new constitution, which was ratified later in 1990 following the National Conference called by General Kerekou, would establish a new court system (Rotman, 2004, p. 283). Benin's new judiciary was instilled with a special focus on the protection of human rights, an area that was especially abused under Kerekou's communist regime (Rotman, 2004, p. 284). While they serve different administrative purposes, Benin's three highest courts, the Constitutional Court, the Supreme Court and the High Court of Justice, all serve an important role in the country's new democratic structure.

Established under Article 114 of the 1990 Constitution of the Republic of Benin, the Constitutional Court is the "highest court of the State in constitutional matters" ("Cour Constitutionnelle du Benin," 2013). The Court possesses powers to judge the constitutionality of laws, guarantee the fundamental rights of the people of Benin, ensure public freedoms and liberties, and regulate the functions of governmental institutions ("Cour Constitutionnelle du Benin," 2013). As a result, the Constitutional Court of Benin serves a dual role as both a traditional constitutional court and as an institutional protector of human rights (Rotman, 2004, p. 285). The Court is comprised of seven members, four of whom are appointed by the National Assembly, while the remaining three are appointed by the National President ("Cour Constitutionnelle du Benin," 2013). The justices are appointed for a five-year term, which can be renewed by the President or National Assembly once, based on who appointed the individual justice ("Cour Constitutionnelle du Benin," 2013). The Court also serves as the arbiter of Benin's elections and all proposed laws must be submitted to the Court for review (Rotman, 2004, p. 289).

As can be inferred from the above analysis, the Constitutional Court is tasked with performing a number of important duties that put it in prime position to be influenced by other political actors. Despite its precarious position, the Court remained mostly neutral and unbiased towards any other government institution in its rulings (BTI - Benin Country Report, 2016, p. 10). This perception of impartiality has helped the Constitutional Court carry out the investigative tasks mandated to it by the constitution and allowed the Court to exert pressure on other branches of government to ensure proper protection of human rights in Benin (Rotman, 2004, p. 290). This mechanism remains more effective when the same party does not dominate the president and the National Assembly, which has been the case roughly half the time in the 1990s and early 2000s (Rotman, 2004, p. 296). Even when the president and National Assembly have been controlled by the same party, and appointed judges are likely have links to that party, it appears that Beninoise still tend to believe the court is impartial when ruling on human rights issues (Rotman, 2004, p. 296-297). This does not mean the Court is above reproach, as its role in the controversial presidential election of 2001 that saw General Kerekou return to Benin's top office demonstrates (Rotman, 2004, p. 290). But the direct appeal that any Beninese citizen or organization can issue to the Court in order to resolve a rights issue has helped cement the Constitutional Court as a foundational and trusted piece of Benin's democracy, something that cannot be said for the nation's other high courts (Rotman, 2004, p. 292).

Benin's other two top courts, the Supreme Court and High Court of Justice, are viewed less favorably than the Constitutional Court. The Supreme Court performs some similar functions as the Constitutional Court, but at a lower level. It can make judgments on the rulings of lower courts, sanction administrative bodies for violating laws, monitors local elections and provides advice on bills before they are sent to the National Assembly ("The Supreme Court," 2014). Its members are appointed from among other judges and lawyers with at least 15 years of experience, and are not allowed to be concurrently serving in any of government or official position ("The Supreme Court," 2014). The High Court of Justice, which was established by Articles 135-138 of the Benin Constitution, is responsible for trying members of the government on charges of treason, offenses committed while they are in office, or to judge their guilt in conspiring against the security of the state ("The High Court of Justice," 2014). The High Court's body is made up of the members of the Constitutional Court, six additional members jointly chosen by the National Assembly and the President of the Supreme Court, and a President the High Court itself elects ("The High Court of Justice," 2014).

Unlike the Constitutional Court, however, the Supreme Court, High Court of Justice and Benin's lower courts are not viewed as impartial and independent. According to a report from the Bertelsmann Stiftung, "more than one-half of the country's magistrates have been involved in financial scandals" (2016). Benin's courts are regarded as being heavily influenced by the executive and have been known to pressure other departments to act in line with the executive branch's wishes ("Benin Country Report," 2016). The courts rarely prosecute public officials due to a lack of proper staffing and close relations within the political elite that lead to protective pressures being put on courts ("Benin Country Report," 2016). Even when high levels officials are tried in court, they are rarely found guilty or sanctioned, a trend that extends down to the lowest levels of the judiciary in Benin ("Benin Country Report," 2016). While civil liberties have mostly been protected, legal redress against wrongdoing has largely escaped the average citizen, and when civil rights have been abused, it has mostly been a result of poor resources as opposed to deliberate actions by the government ("Benin Country Report," 2016).

Social cleavages

The area of land now known as the Republic of Benin was previously divided between two large coastal kingdoms: Dahomey and Porto-Novo, and a large number of tribes in the north. The French grouped together all of these groups into the colony they named 'French Dahomey', as it was known until its independence in 1960. After gaining independence, Benin was highly unstable with a large number of governments and military coups. Kérékou led a military coup in 1972 and was the head of state, imposing a strict Marxist-Leninist regime until 1991, when multi-party elections were put in place, spurred in part by the collapse of the Soviet Union. In 1990 Benin adopted a new constitution aiming to institute, among others: accountability, transparency, freedom of religion and independence of the judiciary.

On one hand, Benin's constitution of 1990 established relatively effective democratic institutions after a period of leftist military dictatorship and a politically very unstable first postcolonial decade. As a consequence, constitutional stability has been given high priority since the democratic transition: the constitution is difficult to amend and has not been revised so far. It is guarded by a highly respected Constitutional Court that warrants stability to the democratic system. From a literature review, we have identified the following potential social cleavages which may affect judicial legitimacy.

1. Ethnic groups

The population of Benin is made up of more than 40 ethnic groups, with four main ethnolinguistic groups: Fon (39.2%), Adja (15.2%), Yoruba (12.3%) and Bariba (9.2%). The remaining 24% of the population is mostly made up by four other ethnic groups, with 4.5% of the population listed as 'other' or 'unspecified' (The CIA Factbook, 2016).

According to Beatty Riedl, (2008) in Benin, political party affiliation is directly tied to the ethnic identity of the party leader. Local level party officials, when asked what drives their vote choice and party affiliation, responded overwhelmingly with the refrain "l'homme du terroir" meaning "a man of their soil". This may suggest that those with an "homme du terroir" present as a judge may find the judicial system more legitimate.

Generally speaking, the African judiciaries seem more likely to experience informal interference by power holders. In Heyl et al, surveys indicated that approximately 81% of those surveyed believed the courts to be under influence of political leaders, shown in personal threats of violence, physical attacks, and rhetorical attacks.

2. Urban vs. Rural

According to the CIA Factbook (2016), 44% of Beninois live in urban areas, and 56% in rural locations. It would appear that there is a large difference between the standard of living in urban and rural areas. 22.1% of population do not have improved drinking water sources, 80.3% do not have improved sanitation facility access. Areas without access to improved drinking water and sanitation facilities are predominantly rural.

It appears that there are enclaves existing at the local and rural level, causing the rural populations to be disinterested in elected representatives. BTI (2016) states that elected municipal councillors enter a political terrain occupied by various chiefs, notable members and non-elected actors. State capacities in these areas tend to be very low, and these rural populations instead turn to local actors that render more effective services, including customary and religious leaders. According to BTI (2016) civil liberties are generally guaranteed, but the legal

procedures to seek redress for violations often exist only on paper, and the poor level of literacy in the countryside makes the effective use of these rights difficult.

In government, rural and urban interests do translate into the party system and explain the astonishingly high number of political parties (BTI 2016). Urban interests combined with personal rent-seeking are over-represented. If this were to translate to the judicial system, one would assume that those living in rural areas would assume the courts to be less legitimate if their interests are not represented, along the same lines of the ethnic divides mentioned above.

3. Religion

The religious make up of Benin is: Catholic 27.1%, Muslim 24.4%, Vodoun 17.3%, Protestant 10.4%, other traditional religions 6% (CIA Factbook, 2015)

The separation of church and state is guaranteed by the 1990 constitution. Although politics is still defined along ethno-regional cleavages, there is a fundamental national sense of solidarity and an elementary constitutional patriotism. Concerns about President Yayi exhibiting growing favoritism for evangelical Christians are growing but have not been substantiated (BTI, 2016). Catholics are over-represented in state offices as a result of the role of the church in education.

It is likely that any cleavages would include Vodun. According to Kahn (2011) Benin as a postcolonial state organized a centralized, nationwide witch-hunting movement, targeted at those practising voodoo. Unlike the former colonies of Great Britain, French colonies had no significant legal practices for the control of ‘witchcraft’ or accusations of practising witchcraft. In sum, the government gave witch-hunters (often practisers of voodoo themselves, with ulterior motives) the power to exercise its policing functions; and to help create the administrative laws surrounding voodoo. As such, we may expect this religious group to find the courts less legitimate.

4. Gender

In terms of gender equality, Benin’s Gender Related Development Index ranked them as 126 out of 140 ranked countries. Women hold 7.2% of the seats in the lower parliamentary house, and 0 seats in the upper house. Information on female judges is limited, however, Benin had its first female judge in 1937. Although Benin has signed and ratified the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), women’s rights are still under customary law (USAID, 2007). In Benin, 49.9% of males are literate compared with 27.3% of women. This alone may prevent women having their full legal rights protected. This is even more the case in rural areas, where traditionalists still widely practice female genital mutilation, and where women may be denied equal property rights (BTI 2016).

Narrative Case

In order to source a case comparable to that used in the American study, we first began performing Google searches with generic search words including: court case Benin, controversial court case Benin, affaire controversée au Bénin, cour du Bénin, etc. Unfortunately, there did not appear to be any useful information from this search alone. However, these Google searches led us to La Nouvelle Tribune, the largest daily newspaper based in Cotonou, the largest city in Benin. When searching for the word ‘cour’ in this newspaper’s archives, the only articles describing court decisions involved one very salient case: the alleged attempted poisoning of former President Yayi in 2012 by the current President Patrice Talon (Talon was pardoned in 2014 by Yayi). The salience of this case and the fact that any survey may ask participants to select negative opinions of the current president renders it unusable. The search ‘cour constitutionnelle’ through their archives produces few hits, or which none describing cases themselves.

We were unable to find dissents for the Constitutional Court published online. However, it is possible to read about cases heard in the Supreme Court on a website named Juricaf, which published cases from Supreme Courts in Francophone countries. However, the most recent cases listed on this site are those decided in March 2008. Further research in both English and French for ‘Constitutional Court cases’ or ‘Constitutional Court dissents’, and the same searches for the Supreme Court, did not prove fruitful.

In terms of future research for a narrative case, we believe that the Constitutional Court may not offer a comparable case to that used in the survey experiment in the United States. As previously mentioned, the Constitutional Court mostly rules on the formation of new laws and their constitutionality, and ensures the regularity of elections. It is responsible for hearing cases concerning human rights, if citizens bring a case against the state itself. However, one could assume that these cases would be highly salient, and in a country that still demonstrates some political influence on the courts, citizens may be unwilling to bring these kinds of cases to court. The Supreme Court, however, acts as an appellate court for the lower courts (commune, village, etc) and hears both civil and criminal cases. As such, we recommend that the Supreme Court may rule on cases which are the most compatible to the Massey case used in the survey in the United States.

The Future

Though we have discussed the preliminary results of the survey experiment undertaken at Texas A&M University, it is interesting to note that the first set of results have begun to show divides along the lines of partisanship. The survey experiment at Texas A&M University will be continued through summer 2016 until the required number of participants have taken part, and the results will be analyzed. The lab experiment is currently scheduled for the summer of 2016. Our team hopes for the survey experiment to be adapted to a Qatari context for Spring 2017. With regards to Benin, it is clear that more research is needed and as with Qatar, partnerships

with Beninois on the ground will be beneficial in order to obtain information on cases and social cleavages.

Appendix 1

Interview Questions:

For Qatari Students:

1. What do you think is the level of knowledge of the court system in the general population? What is your understanding of the legal system? Get specifics, e.g. understanding of types of courts, differences between Islamic and civil courts, relationship between the judicial and executive branches (do courts have any power?).
2. Has anyone had firsthand experience with the legal system? (If not comfortable, do not have to answer).
3. Are courts important to the way you live your life (salience), e.g. do you think about courts, care about courts, talk about them with friends and family?
4. How fair do people generally consider judges to be?
5. Have there been any recent verdicts that some people have considered unfair, or in which some people perceived judicial bias? If so, where does the bias come from, e.g. unfair treatment of a particular group, failure to weigh evidence? Ask specifically about the mall fire case -- which details do they know about?
6. Are there any groups that judges may be expected to favor? Are some Qataris favored over others depending on political connections? Are men favored over women? Are Qataris favored over non-Qataris?
7. Have you ever participated in a research project as a subject? What would motivate you to do so, e.g. small payment for your time, course credit, resume builder, food, endorsement from professors, done during class time?

For Non-Qataris Students:

1. Same as above.
2. First assess nationality of all participants in the group.
3. Would you expect to be treated differently than Qataris by judges or lawyers if you participated in a court case? If so, how? Why?
4. Do you act differently on a day to day basis here because you are concerned about what would happen if you got in trouble?

General note for all below:

- Ask about language of courts, publication, extent to which this is discriminatory.
- Ask specifically about gender, nationality, class, other political divisions/minorities
- Salient court cases -- what about them was salient, why? How salient are the cases below? We want a case that exhibits favoritism of the non-marginalized group, but is not so salient that a “control” version of the case would give away our hand.

Questions for Lawyers:

1. How fair do Qataris generally consider judges to be? Non-Qataris?
2. Have there been any recent verdicts that some people have considered unfair, or in which some people perceived judicial bias?
3. Are there any groups that judges may be expected to favor?
4. Is there a difference between dealing with Qatari and non-Qatari judges?
5. Religious vs. civil courts. How does it work? How do you decide which court to take a case to? Is there flexibility? How are cases handled differently?

Questions for Scholars:

1. What is the relationship between civil courts and religious courts?
2. How are judges selected?
3. What is the judiciary's relationship to other branches of government?
4. How fair do Qataris generally consider judges to be? Non-Qataris?

Questions for Journalists:

1. How fair do Qataris generally consider judges to be? Non-Qataris?
2. Do Qataris consider the judiciary to be an important institution?
3. Have there been any recent verdicts that some people have considered unfair, or in which some people perceived judicial bias?
4. Are there any groups that judges may be expected to favor?
5. Do people have an awareness of how judges are selected? If they do, how is this process perceived?
6. How often do you write about courts or court cases? If not very much, why? Is it because people don't care about judicial issues?
7. Are there any restrictions or pressure from the government about how they write about or portray judicial issues?

Appendix 2: Survey questionnaire

1. States have:
 - a. An executive branch only, e.g. a governor
 - b. An executive and legislative branch only, e.g. a governor and state Assembly and/or Senate
 - c. An executive branch, a legislative branch and a judicial branch, e.g. a governor, state Assembly and/or Senate, and state courts
 - d. None of the above
 - e. Don't know

2. Which of the following is the Texas State Representative for College Station?
 - a. Travis Clardy
 - b. Kay Bailey Hutchinson
 - c. John Raney
 - d. Ron Reynolds
 - e. Don't know

3. Who is the current Governor of Texas?
 - a. Greg Abbott
 - b. Rick Perry
 - c. John Cornyn
 - d. Dan Patrick
 - e. Don't know

4. Who is the Chief Justice of the Supreme Court?
 - a. Anthony Kennedy
 - b. Ruth Bader Ginsberg
 - c. John Roberts
 - d. Clarence Thomas
 - e. Don't know

5. Some judges in the U.S. are elected; others are appointed to the bench. Do you happen to know if the justices of the U.S. Supreme Court are elected or appointed to the bench?
 - a. Elected
 - b. Appointed
 - c. Don't Know

6. Some judges in the U.S. serve for a set number of years; others serve a life term. Do you happen to know whether the justices of the U.S. Supreme Court serve for a set number of years or whether they serve a life term?
 - a. Set number of years
 - b. Life term
 - c. Don't Know

7. Do you happen to know who has the last say when there is a conflict over the meaning of the Constitution – the U.S. Supreme Court, the U.S. Congress, or the President?
 - a. Supreme Court
 - b. Congress
 - c. President
 - d. Don't Know

Please read the below text carefully. You will then be asked to answer questions about what you read.

In 1997, Harman Mining Company, located in Virginia, entered into a supply contract with Wellmore Coal, located in West Virginia. Wellmore agreed to buy nearly six hundred thousand tons of coal a year from Harman.

Later that year, Massey Coal purchased Wellmore Coal, taking over its contract with Harman Mining. Because one of its buyers went out of business, Massey announced it would purchase only 206,000 tons of coal from Harman instead of the 573,000 tons the contract required. Because Massey's actions came at the end of the year, Harman was unable to find new buyers; most coal contracts for the next year had already been concluded. This forced Harman's cash-strapped owner to enter negotiations to sell Harman to Massey. Massey eventually abandoned efforts to purchase Harman when it was unable to renegotiate leases on Harman's primary coal fields. In May 1998, Harman filed for bankruptcy.

Harman and its former owner sued Massey in Virginia for breach of contract. Harman won, and a Virginia court ordered Massey to pay \$6 million in damages.

Harman also sued Massey in West Virginia where Wellmore Coal (the company Massey had purchased) had been incorporated. Harman claimed that Massey fraudulently interfered with Harman's business by intentionally violating Harman's contract with Wellmore. In 2002, a West Virginia jury ruled against Massey and ordered it to pay \$50 million in damages to Harman. Following Harman's victory in West Virginia, Massey[**'s CEO, an active financial backer of the Republican party,**] appealed to West Virginia's Supreme Court. In a 3-2 decision, West Virginia's [five-member state Supreme Court][five elected Supreme Court justices] overturned the verdict and voided the damage award. The court's three judge majority—which included a [new **Republican** justice] [newly elected justice whose campaign had been supported by an independent political organization that received \$3 million in donations from Massey Coal's CEO]—reasoned that the earlier Virginia lawsuit prevented Harman from later suing Massey in West Virginia for the same bad acts. In contrast, the two dissenting justices argued that the West Virginia lawsuit was valid since the earlier Virginia lawsuit was based only on the narrow issue of Massey's breach of the Wellmore coal supply contract. The dissenters argued that the West Virginia lawsuit involved a larger set of fraudulent business practices by Massey.

8. Do you agree or disagree with the West Virginia Supreme Court's majority decision to overturn the jury's verdict against Massey Coal? Please mark your opinion on the following scale, where 1 is strongly disagree and 6 is strongly agree. **(Randomize order of Q8, Q9 and Q10.)**

Strongly disagree (1) ----- (2) ----- (3) ----- (4) ----- (5) ----- (6) Strongly agree

9. Regardless of how you feel about the result in the case, how fair was the West Virginia Supreme Court's decision to overturn the jury's verdict against Massey Coal? Please mark how you feel on the following scale, where 1 is extremely unfair and 6 is extremely fair.

Extremely unfair (1) ----- (2) ----- (3) ----- (4) ----- (5) ----- (6) Extremely fair

10. How much confidence do you have in the West Virginia Supreme Court? On a scale of 1 to 6 where 1 is no confidence and 6 is extreme confidence, where would you put yourself?

No confidence (1) ----- (2) ----- (3) ----- (4) ----- (5) ----- (6) Extreme confidence

11. Regardless of how you feel about the result in this case, if you lived in West Virginia, would you support or oppose a new law that limited the state Supreme Court's power?

Strongly oppose (1) ----- (2) ----- (3) ----- (4) ----- (5) ----- (6) Strongly support

12. How are judges on the West Virginia Supreme Court selected?

- a. Appointed by the Governor
- b. Appointed by an independent commission
- c. Elected by citizens of the State
- d. Don't know

13. As you may know, some states use elections to choose judges for their court systems. Thinking about courts with elected judges, please mark your opinion on the following scale, where 1 is strongly disagree and 6 is strongly agree for each of the following statements.

Strongly disagree (1) ----- (2) ----- (3) ----- (4) ----- (5) ----- (6) Strongly agree

- (13.1) Courts with elected judges can usually be trusted to make the right decisions
- (13.2) Courts with elected judges gets too mixed up in politics.
- (13.3) Courts with elected judges usually make principled decisions.
- (13.4) All things considered, it would be better to have courts with appointed judges instead of courts with elected judges.

14. Generally, when judges are elected, do you expect campaign contributions to be:

- a. Relatively equal toward all candidates
- b. Slightly biased toward one candidate
- c. Relatively biased toward one candidate
- d. Very biased toward one candidate
- e. Don't know

15. In the West Virginia Supreme Court case you read about, were campaign contributions:

- a. Relatively equal toward all candidates
- b. Slightly biased toward one candidate

- c. Relatively biased toward one candidate
 - d. Very biased toward one candidate
 - e. Don't know
16. What is your gender?
- a. Female
 - b. Male
 - c. Other
 - d. Prefer not to state
17. What is your race?
- a. White
 - b. African-American
 - c. Hispanic
 - d. Asian
 - e. Native American/Pacific Islander
 - f. Other
 - g. Prefer not to state
18. What year are you in school?
- a. Freshman
 - b. Sophomore
 - c. Junior
 - d. Senior
 - e. Graduate or professional student
19. Are you pre-Law or a Political Science major/minor?
- a. Yes
 - b. No
20. What is your home state (If question does not apply, put "Other")?
21. What is the approximate population of your hometown:
- a. 0–10,000
 - b. 10,001–50,000
 - c. 50,001–100,000
 - d. 100,001+
22. Have you or someone in your immediate family ever had personal experiences with the state or federal judicial system [can choose more than one]:
- a. Served on a jury?
 - b. Been a defendant in a court case?
 - c. Worked in the judicial system?
 - d. Been a plaintiff in a court case?
 - e. None of the above
 - f. Don't know

- g. Prefer not to state
23. Generally speaking, do you usually think of yourself as a Republican, a Democrat, an Independent, or what?
- a. Democrat
 - b. Republican
 - c. Independent
 - d. Other
 - e. Prefer not to state
24. [IF REPUBLICAN OR DEMOCRAT] Would you call yourself:
- a. A strong (REPUBLICAN/DEMOCRAT) or
 - b. A not very strong (REPUBLICAN/DEMOCRAT)?
25. [IF INDEPENDENT, OTHER OR NO PREFERENCE] Do you think of yourself as closer to:
- a. The Republican Party or
 - b. The Democratic Party?

REFERENCES

American Bar Association

https://www.americanbar.org/content/dam/aba/migrated/JusticeCenter/Justice/PublicDocuments/judicial_selection_roadmap.authcheckdam.pdf

Amnesty International, (2013). Annual Report: Qatar 2013.

<http://www.amnestyusa.org/research/reports/annual-report-qatar-2013>

Bartels, Brandon L., and Christopher D. Johnston. 2013. "On the Ideological Foundations of Supreme Court Legitimacy in the American Public." *American Journal of Political Science* 57(1):184-99.

Beatty Riedl, R., (2008). *Institutions in New Democracies: Variations in African Political Party Systems*. Ph.D. Dissertation, Princeton University

Benesh, S.C., (2006). Understanding Public Confidence in American Courts. *Journal of Politics* 68(3): 697-707

Bertelsmann Stiftung, (2016). *BTI - Benin Country Report*. Retrieved from

https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Benin.pdf.

Bonneau, C. W. (2012). A Survey of Empirical Evidence Concerning Judicial Elections. *The Federalist Society For Law and Public Policy Studies*. Retrieved April 29, 2016.

Brown, N. J. (1997). *The rule of law in the Arab world : courts in Egypt and the Gulf*.

Cambridge ; New York : Cambridge University Press, 1997.

Büchner, S., González, L. G., Güth, W., & Levati, M. V. (2004). Incentive contracts versus trust in three-person ultimatum games: an experimental study. *European Journal of Political Economy*, 20, 673–694.

Caldeira, G.A., Gibson, J.L., (1992). The Etiology of Public Support for the Supreme Court. *American Journal of Political Science*, 36(3): 635-664

CIA, (2016). "Africa: Benin" Retrieved from

<https://www.cia.gov/library/publications/the-world-factbook/geos/bn.html>

CNN, F. J. K. (n.d.). 5 convicted in Qatari mall fire that killed 13 toddlers - CNN.com., from <http://www.cnn.com/2013/06/20/world/meast/qatar-mall-nursery-fire/index.html>

CountryWatch Incorporated. (2015). *Benin 2015 Country Review* (pp. 1–229).

Doha News. (2015, October 26). Qatar judge exonerates Villaggio fire defendants; Families

- storm out., from <http://dohanews.co/families-storm-out-as-qatar-judge-exonerates-villaggio-fire-defendants/>
- Doha News. (2016a, April 11). Defendants miss first Qatar court hearing in Villaggio fire retrial., from <http://dohanews.co/defendants-absence-qatar-court-delays-villaggio-fire-retrial/>
- Doha News. (2016b, April 24). Final verdict set for Villaggio case; settlement talks raised in Doha court., from <http://dohanews.co/final-verdict-set-villaggio-case-settlement-talks-raised-court/>
- Fahmy, Mohamed, (2016). “Doha’s Domestic Troubles.” *The New York Times*. http://www.nytimes.com/2016/01/14/opinion/mohamed-fahmy-doha-qatar.html?_r=0
- Gibson, J. L., & Nelson, M. J. (2015). Is the U.S. Supreme Court’s Legitimacy Grounded in Performance Satisfaction and Ideology? *American Journal of Political Science*, 59(1), 162–174. Hamzeh, A. N. (1994). Qatar: The Duality of the Legal System. *Middle Eastern Studies*, (1), 79.
- Hans-Rüdiger Pfister, & Gisela Böhm. (2012). Responder Feelings in a Three-Player Three-Option Ultimatum Game: Affective Determinants of Rejection Behavior. *Games*, (1), 1.
- Kahn, J., (2011). Policing ‘Evil’: State-Sponsored Witch-hunting in the People’s Republic of Benin. *Journal of Religion in Africa* 41:4-34
- Knaul, Gabriela, United Nations, Human Rights Council, (31 March 2015). Report of the Special Rapporteur on the independence of judges and lawyers, Mission to Qatar, *A/HRC/29/26/Add.1*
- Knez, M. J., & Camerer, C. F. (1995). Outside Options and Social Comparison in Three-Player Ultimatum Game Experiments. *Games and Economic Behavior*, 10(1), 65–94.
- La Cour Constitutionnelle du Benin. (2013). *Presentation*. Retrieved from Constitutional Court of Benin website: <http://www.cour-constitutionnelle-benin.org/?pg=contenu&ssmenu=presentation>
- Llanos, M., Tibi Weber, C., Heyl, C., Stroh, A., (2014). Informal Interference in the Judiciary in New Democracies: A Comparison of Six African and Latin American Cases. *German Institute of Global and Area Studies, Working Paper No 245*

Ma, Q., & Hu, Y. (2015). Beauty matters: Social preferences in a three-person ultimatum game. *PLoS ONE*, 10(5).

Interviews in Qatar: with one professor of law, two academics from a research institute, three attorneys, one journalist, and five focus groups made up of Qatari, non-Qatari, and mixed citizen groups from a university course on American politics

Qatar Ministry of Foreign Affairs. (n.d.). The Judiciary. Retrieved from <http://www.mofa.gov.qa/en/Qatar/Pages/Judiciary.aspx>

Republique du Benin. (2014). *The High Court of Justice*. Retrieved from Republic of Benin website: <http://www.gouv.bj/institutions/la-haute-cour-de-justice>.

Republique du Benin. (2014). *The Supreme Court*. Retrieved from Republic of Benin website: <http://www.gouv.bj/institutions/cour-supreme>.

Rotman, Anna. (2004). Benin's Constitutional Court: An Institutional Model for Guaranteeing Human Rights. *Harvard Human Rights Journal*, 17, 281-314.

Sääksvuori, L., & Ramalingam, A. (2015). Bargaining under surveillance: Evidence from a three-person ultimatum game. *Journal of Economic Psychology*, 51, 66–78.

Stork, Joe and Nicholas McGeehan, (2013). Qatar's Human Rights Record. *Norwegian Peacebuilding Resource Centre*.

https://www.hrw.org/sites/default/files/related_material/MENA_2013_September_Qatar's%20human%20rights%20record.pdf

US Department of State, (2013). Qatar 2013 Human Rights Report.

<http://www.state.gov/documents/organization/220583.pdf>

USAID, (2007). "The Women's Legal Rights Initiative". Retrieved from:

http://pdf.usaid.gov/pdf_docs/Pdack946.pdf