Protest Rights, Protest Rates, and Political Accountability
Evidence using Random Judge Assignment

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Motivation

- A large literature from (virtually) all political science subfields (+ economics) explores the determinants and influences of political protest.
- However, this literature has rarely used methods for causal inference.
  - **Exception**: Madestam et al. 2013 use rainfall as an instrument for protest attendance at Tea Party protests in April 2010.
  - **Finding**: Madestam et al. find that rainfall decreases protest participation + areas with greater protest rates see increased public support for Tea Party positions and more Republican votes in the 2010 midterm elections.
  - **Limitations**: Do these effects generalize to other forms of protest? Rainfall is not a perfect instrument. (e.g. no first stage for Women’s March)
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This Project

- We leverage the **random assignment of judges** in U.S. Circuit Courts to study the impact of freedom of assembly rulings on...
  - protests, voter turnout, incumbency rates, and social attitudes toward protest.

- **Data:**
  - **Circuit court freedom of assembly decisions:** original data collection on all circuit court freedom of assembly cases from 1960-1995.
  - Includes whether claimant prevailed against the government = the direction of the decision (additional/fewer protest rights).
  - **Judicial characteristics:** federal appeals court attribute data (Zuk, Barrow, and Gryski) and our own data collection
  - **Attitudes towards protest:** GSS
  - **Voter turnout:** Leip/McDonald

- **Methods:**
  - Instrumental variables (judge characteristics) + difference-in-difference (state FE, year FE, state time trends)
  - Lasso methods for selecting the judicial attributes that most influence freedom of assembly rulings
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U.S. Circuit Courts of Appeal

Three layers in the U.S. Federal Court system:
- Local level (District Court)
- Intermediate level (Circuit Court)
- National level (Supreme Court).

Circuit Courts:
- 11 regional Circuits, 3-9 states each – rulings binding only in those states.
- Adjudicate disputes at common law, constitutional law, and interpretation of federal statutes.
- Mandatory review. Vast majority (98%) of decisions are final.
- U.S. Circuit Judges are appointed by President, confirmed by Senate, and have life tenure.
- Each case is randomly assigned to a panel of three judges, drawn from a pool of 8-40 judges.
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Protest Caselaw

- In the United States, the Right to Peacefully Assemble is guaranteed by the First Amendment.

- The right to assemble is not, however, absolute.

- Over time the federal appellate courts have made decisions regarding the time, place, and manner of peaceful assembly.
  - How the police can/cannot interact with peaceful protestors
  - Protest rights and anti-loitering statutes
  - Permit requirements for protests
  - Can protests take place around airports, schools, military bases, abortion clinics, etc.?
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Judge Biographical Characteristics

- Data on judge biographical characteristics comes from Appeals Court Attribute Data, Federal Judicial Center, and own data collection (Chen and Yeh 2013):

<table>
<thead>
<tr>
<th>Variable</th>
<th>Mean Prob.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>0.1485</td>
</tr>
<tr>
<td>Black</td>
<td>0.0655</td>
</tr>
<tr>
<td>Non-white</td>
<td>0.1057</td>
</tr>
<tr>
<td>Protestant</td>
<td>0.387</td>
</tr>
<tr>
<td>Catholic</td>
<td>0.28070</td>
</tr>
<tr>
<td>Evangelical</td>
<td>0.088</td>
</tr>
<tr>
<td>Jewish</td>
<td>0.13681</td>
</tr>
<tr>
<td>Secular</td>
<td>0.0303</td>
</tr>
</tbody>
</table>

- Also: political party of appointing president, education, previous government experience, birth cohort, etc.
  - for lasso selection of instruments include full set of interactions (Catholic Democrat, female Republican, etc.)
Protest Activity Data

- Dynamics of Collective Action database constructed by McAdam et al.
  - Microdata on 23,000 protest events for the years 1960 through 1995
  - Right now we are working with the number of protests that occur in a given circuit/year.
  - In the future, we may collect data and form estimates on the number of people attending the protest.
Second-stage estimating equation

\[ Y_{ict} = \alpha_{ict} + \rho \text{Law}_{ct} + \beta_1 X_{ict} + \beta_2 W_{ct} + \varepsilon_{ict} \]

- \( Y_{ict} \), outcome measure for state \( i \) in circuit \( c \) at year \( t \) (e.g. log number of protests, turnout).
- \( \text{Law}_{ct} \), measure of pro-assembly-protection decisions:
  - Average of pro-claimant decisions (+1), pro-government decisions (−1), and no decision (0) in circuit \( c \) at time \( t \).
  - \( \rho \), main coefficient of interest.
  - Assumes that effects of pro-claimant and pro-governments decisions are opposite in sign but equal in absolute value relative to the baseline of no case.
- \( \alpha_{ict} \), state/time fixed effects and state trends.
- \( X_{ict} \), state characteristics (e.g. GDP) or individual characteristics (e.g. gender).
- \( W_{ct} \), characteristics of the pool of judges available to be assigned.
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\[ \text{Law}_{ct} = \alpha_{ict} + \phi Z_{ct} + \gamma_1 X_{ict} + \gamma_2 W_{ct} + \eta_{ict} \]

- \( \text{Law}_{ct} \), measure of pro-assembly-protection decisions
- \( Z_{ct} \), optimal instruments:
  - Realized characteristics of judges assigned to religion cases.
  - Selected for post-Lasso 2SLS using the method in Belloni et al. (2012)
- Standard errors clustered by circuit (Barrios et al. 2012); similar estimates for clustering by state or circuit-year
## First Stage: Effect of Judge Type on Protest Law Decisions

<table>
<thead>
<tr>
<th>Lasso-selected Instruments</th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
<th>(5)</th>
<th>(6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minority Democrat</td>
<td>0.388**</td>
<td>0.388**</td>
<td>0.341**</td>
<td>0.171</td>
<td>0.278*</td>
<td>0.145</td>
</tr>
<tr>
<td></td>
<td>(0.113 )</td>
<td>(0.112 )</td>
<td>(0.0935)</td>
<td>(0.110 )</td>
<td>(0.0912 )</td>
<td>(0.124 )</td>
</tr>
<tr>
<td>Prosecutor Republican</td>
<td>0.964**</td>
<td>0.964**</td>
<td>0.987**</td>
<td>1.120*</td>
<td>1.324**</td>
<td>1.354**</td>
</tr>
<tr>
<td></td>
<td>(0.234 )</td>
<td>(0.232 )</td>
<td>(0.261 )</td>
<td>(0.395 )</td>
<td>(0.275 )</td>
<td>(0.374 )</td>
</tr>
<tr>
<td>N</td>
<td>84</td>
<td>286</td>
<td>286</td>
<td>286</td>
<td>286</td>
<td>286</td>
</tr>
<tr>
<td>R-sq</td>
<td>0.0524</td>
<td>0.527</td>
<td>0.567</td>
<td>0.578</td>
<td>0.604</td>
<td>0.609</td>
</tr>
<tr>
<td>Fixed Effects</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Expectations</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Trends</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Drop ct without case</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Circuit-year regressions for first stage effect of lasso-selected instruments (dummy for racial-minority Democrat, and dummy for former-prosecutor Republican).
2SLS Effect of Pro-Protest Decisions on Log Protests

<table>
<thead>
<tr>
<th></th>
<th>OLS</th>
<th>Naive IV</th>
<th>Lasso IV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average five-year effect</td>
<td>0.00258</td>
<td>0.186*</td>
<td>0.292**</td>
</tr>
<tr>
<td>P-value of five-year effect</td>
<td>0.539</td>
<td>0.0256</td>
<td>0.00358</td>
</tr>
<tr>
<td>Average lead effect (placebo)</td>
<td>0.145</td>
<td>0.00543</td>
<td>0.669</td>
</tr>
<tr>
<td>P-value of leads (placebo)</td>
<td>0.134</td>
<td>0.0124</td>
<td>0.186</td>
</tr>
<tr>
<td>Anderson-Rubin F statistic</td>
<td></td>
<td></td>
<td>818.4</td>
</tr>
<tr>
<td>N</td>
<td>705</td>
<td>705</td>
<td>705</td>
</tr>
<tr>
<td>R-Sq</td>
<td>0.364</td>
<td>0.322</td>
<td>0.207</td>
</tr>
</tbody>
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Summary statistics on lead (placebo) and lag (effect) coefficients from circuit-year regressions. Columns give ordinary least squares (1), naively selected instruments (2), and lasso-selected instruments (3).
Robustness Checks

<table>
<thead>
<tr>
<th></th>
<th>No Trends</th>
<th>Expect Control</th>
<th>No Ind Control</th>
<th>No Weights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Five-year effect</td>
<td>0.533**</td>
<td>0.292**</td>
<td>0.533**</td>
<td>0.0895**</td>
</tr>
<tr>
<td>P-value</td>
<td>0.0000929</td>
<td>0.00358</td>
<td>0.0000929</td>
<td>0.000295</td>
</tr>
<tr>
<td>Lead (placebo)</td>
<td>0.990</td>
<td>0.669</td>
<td>0.990</td>
<td>1.073</td>
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<tr>
<td>P-value (placebo)</td>
<td>0.705</td>
<td>0.186</td>
<td>0.705</td>
<td>0.288</td>
</tr>
</tbody>
</table>

Coefficients move around, but effect is robust to the standard battery of robustness checks.
Summary and Discussion

- A random increase in pro-claimant assembly precedent is associated with an increase in protest rates.
  - Takeaway: the cost of protesting affects protest participation

Next steps

- Does voter turnout change in response to exogenous increases in protests?
- Do attitudes toward protest change in response to exogenous increases in protests?
- Do politicians respond to exogenous increases in protests?
- Do other types of court decisions influence protests?
- Write the darn paper. (Thanks for your patience.)