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In the 1960s, Murphy and Tanenhaus examined the linkages between public opinion and the U.S. Supreme Court. This article represents a new look at that question within the context of the 1970s, using national survey data. Four clusters of explanations are developed, based upon the previous literature, and tested, using trust in the Court as the dependent variable. The two most important explanatory variables found are race and education, but race is declining as an explanation for variations in support for the Court.

Where does the U.S. Supreme Court draw its support within the general public? This simple question poses a dilemma for the investigator because the relationship of the Court to American public opinion has usually been characterized as a murky one. Generally, the Court has very low salience for members of the general public. Relatively few citizens can identify a present Court justice or recall with any great precision specific policy decisions. Consequently, much of the research in this area has focused on relevant attentive publics such as attorneys, lower court judges (federal and state), legislators, and police officers (Sheldon, 1974: 186-199). Alternatively , the focus of analysis has been on limited statewide samples that may not be generalizable (Casey, 1976). As a result of this shift in emphasis, relatively little attention has been paid to the general public and changes that may have occurred. This article is an attempt to identify within the

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context of the 1970s those groups supportive of the Court and to reexamine some explanations of public support developed by Murphy and Tanenhaus (1968a, 1968b; Murphy et al., 1973). Thus, we seek to tie together diverse explanations and provide a longitudinal perspective to the earlier findings.

EARLIER WORK

Four related clusters of hypotheses have been proposed as explanations for variations in levels of public support for the Court. These four can be loosely labeled (1) a partisanship-ideological cluster, (2) a social groupings cluster, (3) a specific policy outcomes cluster, and (4) a diffuse political support cluster. From the labels alone, one could predict a substantial degree of overlap in terms of analytic categories.

The partisanship-ideological cluster of hypotheses is taken first because it has the greatest intuitive appeal and empirical support, based on public perceptions of the Court as a political institution. Essentially, this hypothesis is that support for the Court as an institution is determined by one's preexisting partisanship or ideological proclivities (Kessel, 1966; Dolbeare and Hammond, 1968). A Court perceived as dominated by the appointees of one political party will be rejected by adherents of the opposing party. For example, the Roosevelt Court, by that very characterization, provided a cue to partisans of both political parties. Such a strictly partisanship-based argument was found to be of little merit in the 1960s by Murphy et al. (1973: 49; Murphy and Tanenhaus, 1972: 207). A more satisfying result was found when they concentrated strictly on general political ideology rather than on partisanship (Murphy et al., 1973: 47-49; Tanenhaus and Murphy, 1981: 36). For example, individuals who are liberal will support a Court that they perceive as liberal and reject one that essentially is out of harmony with their ideological views.

Based on this earlier work, then, there clearly is the possibility that support for the Court can be explained by some combination of political ideology and partisanship. Generally, ideological

leaning has been found to have greater explanatory power than partisanship, especially in samples drawn from a single state (Casey, 1976: 21, 28; Lehne and Reynolds, 1978: 901-902). Also, Tanenhaus and Murphy reported in 1981 on the results of a panel study of the earlier 1966 sample. Using the "culled sample" as the sampling universe, they reinterviewed 381 of the original respondents in 1975. Generally, they found the patterns of the 1960s essentially unchanged. Party identification continued to be of little value in explaining variations in support for the Court, while political ideology was a major factor (1981: 38). One difficulty with the panel study is that it effectively eliminates a political generation from the analysis: those who came to political maturity in a time when the Court was the subject of intense political controversy. Also, by reinterviewing only the knowledgeables, the real changes may have been missed. The less knowledgeable may be the most susceptible to change, since they have the greatest deficits in terms of information and evaluation. Therefore, the Tanenhaus and Murphy results may still be an artifact of the 1960s. The 1970s raise a particularly interesting situation, since the Court itself was characterized by many as the Nixon Court, while the 1960s Court was never labeled as the Kennedy/Johnson Court.

The second cluster of explanations identifies certain groups in society as especially supportive of the Court. The explanation is basically that of self-interest. The Court has provided a particular group with some benefits or "moral victories" that create a sense of attachment to the Court as an institution. The only group that clearly has qualified under this rubric have been Black Americans. The earlier 1964 and 1966 surveys found that Black Americans were especially supportive of the Court, reportedly in response to the school desegregation and other civil rights issues decided by the Court (Murphy and Tanenhaus, 1968a: 372; Murphy et al., 1973: 21-22). No other social group was clearly as supportive as this particular one. By contrast, whites (especially southerners) were hostile to the Court, an almost mirror reversal of Black support for the Court. Although southern white hostility was not as strong as the support found among Blacks, it did

depress the general white support levels for the Court (Hirsch and Donohew, 1968: 559).

The third cluster, a specific policy outcomes cluster, suggests that people will be more supportive of an institution that protects or extends their interests. The difficulty is in disentangling the effects of demographic variables on specific policy measures. Generally, the converse occurs: Critics of Court policies are apt to be the most informed about what the Court does but are also least supportive of the Court as an institution. To know what the Court specifically does (such as make particular policy decisions) is often to dislike it (Murphy et al., 1973: 46-47). Thus, the specific policy outcomes hypothesis has been a relatively weak explanation of public opinion about the Court. The result (according to the earlier studies) is that the "winners" (except, apparently, Blacks) before the Court may not be aware they have "won." In fact, the more cogent expositions of this view hold that the groups that "really" win are the economic elites, whc are a miniscule segment of the population. Therefore, the "winners'" views on the subject get washed in the sea of apathy that often surrounds Court pronouncements on major substantive policy issues.

Part of this conceptual difficulty also may be explainable in terms of education levels and partisanship during the 1960s. The legacy of the Warren Court was an expansion of opportunities for "underdogs" within society. The more educated segments of society, however, tended to be Republican—those most likely to be hostile to the resulting policy outcomes. This particular configuration clearly may be a function of the specific historical era within which the earlier research took place; that is, an assertive liberal Court existed in the 1960s, an historically unusual event.

The final cluster, a diffuse political support cluster, was considered by Murphy and Tanenhaus (1968a) as an aspect of regime legitimation. The difficulty with this hypothesis has been the continuing problem of low visibility of the Court as an institution. It is difficult to speak of the legitimating power of an institution that is essentially invisible to most of the populace (Casey, 1974). The Court, like other political institutions, is

subject to the vagaries of the secular trend. As general support for political institutions declines, support for the Court also slowly declines. The difference in rate of change may reflect a reverence for the Court or instead be another indicator of the Court's invisibility to the general public (Kessel, 1966).

RESEARCH DESIGN

This article attempts to reexamine these four clusters within the limitations of the Center for Political Studies' data sets. A major limitation of the data historically has been the myopia with which the political system is approached. Political party and voting behavior is primary, while other political institutions, such as the presidency or Congress, are seen essentially through the prism of the political party. Therefore, the measures reported here are at best approximations rather than constructs developed to answer the specific questions posed within this article.

This analysis is based on national surveys conducted in 1972, 1974, and 1976 by the Center for Political Studies. The dependent variable is level of trust in the Supreme Court. Trust in the Court was chosen for two reasons, one theoretical and one practical. The latter is a function of these particular data sets—no other comparable question exists across the three time periods to aid us in assessing change. Theoretically, trust in the Court represents a consensual opinion response—one that even individuals with low information levels can make. Given the generally low levels of knowledge about the Court among the public, such an approach expands the groups under consideration and, of course, also makes the likelihood of weak findings greater.

The trust question is a comparative question. The respondents were asked, "Which part of the government on the list do you most often trust to do what's right?" For 1972, the results were Congress, 28%; Supreme Court, 22%; President, 36%; and political parties, 1%. In 1974, the percentages were Congress, 22%; Supreme Court, 42%; President, 18%; and political parties, 2%. Finally, in 1976, the totals were Congress, 23%; Supreme Court,

32%; President, 24%; and political parties, 2%. We treated the score for the trust questions as an ordinal measure of trust in the Court: Respondents could rank the Court as first through fourth in trustworthiness. In 1974 and 1976, two additional questions were asked concerning how good a job the Court was doing and how much influence the Court should have. The correlations between those questions and the trust questions were positive and in the .27 to .56 range. These correlations indicate that trust in the Court is part of a generally supportive view of the Court and its work.

In order to test the hypotheses, we chose several variables that are theoretically related to the underlying concepts. For the partisan-ideological cluster, the variables chosen consisted of party identification (tricotomized into Democrat, Independent, and Republican, with independent leaners included as independents), ideology (tricotomized into liberal [1,2,3] moderate [4], conservative [5,6,7]), and reports of attitudes toward President Nixon, measured by the standard CPS feeling thermometer.

The specific policy outcomes and special groups hypotheses have been merged together in the analyses because, despite the conceptual clarity of the two hypotheses, the available operationalizations are not as clearly distinct as one might expect. Therefore, the variables selected reflect this amalgam. The variables that most explicitly represent the earlier work are race (coded as white/nonwhite), education (grade school, high school, some college, or more), and region (South/Nonsouth). Income and religion also have direct policy significance because of the Court's decisions in the late 1960s and 1970s on poverty as a "suspect category" and on the abortion issue. Sex became important because of women's rights issues, while race relates to the Court's work on rights of the accused, busing, and affirmative action. In any of these instances, one could conceptualize the Court's work in terms of "winners and losers." In fact, the issue cluster includes questions on busing, rights of the accused, abortion (1972 and 1976 only), and the Nixon resignation (1974 only). Busing, abortion, and rights of the accused are issues of

particular relevance to the Court, since the Court has been in the forefront of those issues over the past two decades. The abortion issue has become important since 1973. The Nixon resignation was an event that the Court, by its decision in *U.S. v. Nixon* (1974), made almost inevitable. Therefore, approval or disapproval of the resignation might prove to be an important force in determining levels of trust in the Court.

The diffuse political support hypothesis cannot be directly considered with the variables in these surveys. What we do have are psychological variables that are partial markers of the concepts embedded in the notion of diffuse political support. We include in this grouping political efficacy (a four-point scale), political trust (a five-point scale), political interest (a high/low dichotomy), and patterns of attention to media (for the latter two surveys only). Most earlier studies have not focused on these variables to any significant degree. The major exception was the Murphy and Tanenhaus paper dealing with the Court's legitimation function, although very little was done with efficacy because the basic pattern was washed out by education (1968a: 366-368). Casey, in his Missouri survey, also referred to exposure to political information but dealt only with newspaper reading habits (1976: 18).

ANALYSIS

In Table 1, we present the correlations between level of trust in the Court and the various variable clusters. Among the social variables, education, age, and sex are the most strongly related to trust in the Court. The race variable reverses over the four-year span—*possibly* reflecting Black America's increasing awareness that the Court was no longer the active defender of minority rights it had been in the Warren era.

The partisan explanations do not hold up, except for the evaluations made of President Nixon. The 1972 and 1976 rankings are consistent with expectations: Trust in the Court is negatively correlated with positive evaluations of Nixon. A large

TABLE 1
Relationship Between Selected Variables and Trust in the Court (gammas)

	1972	1974	1976
Social Variables:			
race	.23	-.03	-.15
region	.07	.18	.16
sex	-.13	-.11	-.10
income	.16	.02	.13
education	.27	.26	.35
age	-.14	-.11	-.19
religion	.05	-.06	.03
Partisan Variables:			
Party ID	-.06	-.06	.07
Ideology	-.16	-.11	-.05
Nixon	-.15	.26	-.12
Psychological Variables:			
Political Efficacy	.17	.21	.20
Political Trust	.01	.05	.13
Political Interest	.12	.16	.15
Media Use	NA	.16	.27
Issues:			
Busing	.17	.06	-.06
Abortion	.23	NA	.23
Rights of Accused	.22	.13	.10
Approve of Resignation	NA	.14	NA

NA – not applicable.

number of nonresponses to that question in 1974 effectively reverses the relationship by overrepresenting the number of his supporters. Nixon's ratings can be conceptualized as period effects similar to the results found in the 1960s with Barry Goldwater (Murphy and Tanenhaus, 1968a). Among the psychological variables, political efficacy has the most consistent relationship. Among the issue questions, only abortion appears to have a moderate and continuing relationship to attitudes toward the Court. Supporters of the Court are disproportionately

TABLE 2
Relationship Between Selected Variables and Trust in Court, Controlling for Level of Education

	1972			1974			1976		
Social Variables:	G.S.*	H.S.	Col.	G.S.	H.S.	Col.	G.S.	H.S.	Col.
Race	.23	.30	.36	-.14	.08	.11	-.06	-.02	-.17
region	-.25	.08	.17	.26	.10	.15	.13	.15	.06
sex	-.06	-.12	-.07	-.19	-.09	-.09	-.07	-.06	-.11
income	-.09	.15	.10	.04	-.02	-.14	.02	.09	-.03
age	-.02	-.09	-.09	.00	-.05	-.04	-.17	-.12	-.01
religion	-.22	.07	.05	-.11	.13	.02	-.21	.02	.05
Partisan Variables:									
Party ID	-.13	-.08	-.11	-.16	-.02	-.16	-.03	.06	.01
Ideology	.20	-.10	-.31	.00	-.12	-.17	-.15	-.07	-.07
Nixon	.06	-.19	-.19	.06	.23	.33	-.16	-.08	-.12
Psychological Variables:									
Political Efficacy	.17	.06	.08	.12	.15	.07	.14	.10	.08
Political Trust	-.18	-.02	.03	-.02	.01	.03	.03	.10	.08
Political Interest	.22	.00	.02	.22	.11	.01	.24	.05	.05
Media Use	NA	NA	NA	.05	.14	.04	.29	.16	.14
Issues:									
Busing	-.00	.05	.33	-.10	-.03	.34	-.24	.05	.11
Abortion	.03	.13	.22	NA	NA	NA	.12	.16	.14
Rights of Accused	.02	.21	.24	.07	.06	.24	.14	.10	.05
Approve of Resignation	NA	NA	NA	-.04	-.06	-.29	NA	NA	NA

*Grade school, high school, and college.

drawn from the ranks of abortion advocates even prior to the rulings on the topic in 1973. The busing issue did not maintain its position as a significant determinant of attitudes toward the Court, reflecting the localized and episodic nature of the issue.

Given that education is often an important factor in explaining variations in political views and activity levels, a control for education was introduced to see if the relationships reported in Table 1 were explainable in terms of differences in educational level (see Table 2). When one controls for level of education, the social variables' correlations are reduced, indicating that education and its concomitant attributes are an important explanation for differences in trust levels. This pattern is especially true as regards the influence of income, age, and sex on trust levels. For the other variable cluster, the pattern is more mixed, though generally in the direction of reducing correlations. Among the

psychological variables, especially political interest, the pattern was reversed in that the less educated group had a higher trust level compared to the more educated respondents. Among the issue questions, more educated respondents were much more inclined to support busing and abortion than their less educated compatriots.

Given that educational differences helped explain a portion of the trust variable, the analysis now moves to a more generalized model of the problem. Here we take a two-stage approach. Since race was an important variable in determing levels of support for the Court in the 1960s and that variable's contribution to explaining differences in trust levels is high at least until 1972, we constructed a regression model in which a control is imposed on race. In effect, race was held constant and the patterns within the two groups, whites and nonwhites, were examined. Second, we constructed a simplified model and applied it to all three surveys, using all respondents regardless of race.

The variables used in the multiple regression analyses are reported in Table 3 and are drawn from those variables reported in Table 1. In effect, we have controlled for both race and education, since the variables used are those least affected by the education control reported in Table 2. Theoretically, these variables represent an explicit test of the ideological preferences and specific benefits hypotheses within the context of two very diverse populations. Nonwhites, in the past, represented the one major source of evidence for the specific benefits hypothesis.

None of the reported results is overpowering in terms of R^2 values, but what does appear consistently is the importance of the education variables in explaining differences in levels of trust in the Court. In addition, we note the apparently declining impact of party identification upon levels of trust in the Court, especially among white respondents. The relationship of ideology to trust is also a declining one. This decline may reflect the fact that the Court has become more obscure and its image more ambiguous in terms of policy content. The policy questions have very little explanatory power (except for busing) for the nonwhite respondents. Republicans and conservatives have been neutralized as a source of criticism because of the five Republican presidential

TABLE 3
Multiple Regression of Trust in the Court on Selected Variables, Controlling for Race (betas)

	1972	1974	1976
		Nonwhites	
education	.18	.20	.15
ideology	-.14	-.12	-.15
party identification	-.15	-.12	-.02
political efficacy	-.12	.08	-
interest	.04	-.14	.07
busing	.17	.17	.11
rights of accused	-.06	.03	.04
media use	na	-.03	.22
resignation	na	-.06	na
		Whites	
education	.12	.11	.17
political efficacy	.12	.09	.06
ideology	-.07	-.04	-.02
party identification	-.02	-.04	.01
media use	na	.06	.11
interest	.00	-.05	.02
rights of accused	-.12	-.07	-
abortion	-.09	na	-.09
busing	-.02	.01	-.07
resignation	na	-.05	na

Court appointees, while liberal Democrats may be mollified by the Court's relatively moderate decisions in certain highly visible policy areas, notably abortion.

Based on the analysis reported in Table 3, a simplified generalized model was attempted. Four independent variables were selected for inclusion into the model: race, education, party identification, and political ideology. Each was found to be theoretically and empirically important in earlier work on the Court in the 1960s and also was found to have some importance in our analysis of the 1970s reported here. The model used there reflects an amalgamation of the specific benefits and partisan-ideological hypotheses, and attempts to explain public opinion toward the Court across two decades.

TABLE 4
Multiple Regression of Trust in the Court on Four General Model Variables (betas)

Variables	1972	1974	1976
race	.11	-.02	-.04
education	.21	.19	.26
ideology	-.11	-.07	-.05
party ID	-.03	-.06	-.00
	R = .27	R = .22	R = .27
	R^2= .07	R^2= .05	R^2= .07

Table 4 summarizes the multiple regression results across the three surveys. This basic model explains less of the variance than does the collection of variables in Table 3, but it does highlight the changing levels of importance of time for the major explanatory variables. It also provides more obvious evidence for the alternative hypotheses regarding sources of support for the Court. Education remains stable as a predictor, while race, another social grouping variable, declines in importance. The two variables representing the partisan-ideological hypothesis are of little importance in these findings. The diffuse support hypothesis is not represented in this model, because none of the substitute measures of diffuse support were of any value in the earlier stages of the analysis. A regression analysis (not reported here) including political efficacy, the diffuse support measure most consistently correlated with trust in the Court, showed virtually no additional variance explained. We must note that the failure of other hypotheses to explain support for the Court could suggest inferential support for the diffuse support hypotheses, as it could be considered a "residual" kind of explanation.

DISCUSSION

Analysis of public evaluations of the Court is a difficult process because of the paucity of information held by the public about the

Court. Citizens are able to evaluate the Court at least along the simplistic dimensions inherent in the concept of trust in the Court. The difficulty is that no simple set of variables appears to explain variations in evaluations. This failure to explain can be attributed to two factors: (1) failure of the surveys to ask theoretically relevant questions, and (2) the apparent collapse of historically significant variables, such as party identification, that earlier structured citizen perceptions of the political system and, by extension, the Court (Dolbeare and Hammond, 1968).

In fact, the two most important explanatory variables are race and education. Race appears significant primarily as a carryover from the earlier Warren Court era, when a generation of nonwhites were socialized into a positive perception of the Court as the protector of minority rights. By 1976, that perception was no longer as clear. Additional evidence for this shift in attitudes among nonwhites can be drawn from an analysis of the Social Surveys. Sigelman (1979) found Black support of the Court to have declined but, unfortunately, his method of analysis made it impossible to identify when the shift occurred. Education continues as a strong explanatory variable because of the whole complex of attributes that correlate to education: income, political interest, and information. As a result, the educated can observe and assess the Court with at least a more generalized frame of reference than can the uneducated.

At this stage in the research, what we have is an educational differences model of evaluations of the Court. Referring back to Table 3, one can observe there that the variable configurations, while similar, do contain significant differences. The primary similarity is the impact of education on trust levels. Support for the Court is also a function of race, which reflects differences in perceived benefits, represented in the 1970s by busing and abortion issues. Education, however, is an important factor for both, and its total impact over time appears to be increasing as the other structuring variables decline in relative importance.

REFERENCES

ABRAHAM, H. J. (1974) Justices and Presidents. New York: Oxford Univ. Press.
CASEY, G. (1976) "Popular perceptions of Supreme Court rulings." Amer. Pol. Q. 4: 3.

——— (1974) "The supreme court and myth: an empirical examination." Law and Society Rev. 8: 385.

DOLBEARE, K. M. and P. E. HAMMOND (1968) "The political party basis of attitudes toward the Supreme Court." Public Opinion Q. 32: 16.

HIRSCH, H. and L. DONOHEW (1968) "A note on Negro-white differences in attitudes toward the Supreme Court." Social Sci. Q. 49: 557.

KESSEL, J. H. (1966) "Public perceptions of the Supreme Court." Midwest J. of Pol. Sci. 10: 171.

LEHNE, R. and J. REYNOLDS (1978) "The impact of judicial activism on public opinion." Amer. J. of Pol. Sci. 22: 896.

MURPHY, W. F. and J. TANENHAUS (1972) The Study of Public Law. New York: Random House.

——— (1968a) "Public opinion and the Supreme Court: the Goldwater campaign." Public Opinion Q. 32: 31.

——— (1968b) "Public opinion and the supreme court." Law and Society Review 2: 357.

——— and D. L. KASTNER (1973) Public Evaluations of Constitutional Courts: Alternative Explanations. Beverly Hills, CA: Sage Publications.

SHELDON, C. H. (1974) The American Judicial Process. New York: Dodd, Mead.

SIGELMAN, L. (1979) "Black-white differences in attitudes toward the Supreme Court: a replication in the 1970s." Social Sci. Q. 60: 113.

TANENHAUS, J. and W. F. MURPHY (1981) "Patterns of public support for the Supreme Court: a panel study." J. of Politics 43: 24.

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