



Millionaire Justices and Attitudes Towards the Supreme Court

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Abstract

Relying on theories positing general resentment of the rich, we argue that people who believe there are a greater number of Justices who are millionaires will have more negative attitudes towards the Court than those who believe there are fewer millionaires on the Court. Analyzing the results of a nationally representative survey, we find that individuals who believe a larger number of the Justices are millionaires are more likely to believe the Court gives special rights to the wealthy and are overall less likely to view the Court as legitimate. We supplement these results with a survey experiment, demonstrating that individuals believe the Court will become less fair if a millionaire nominee is confirmed to be a Justice and that individuals are less likely to support a millionaire nominee compared to nominees with a lower net worth. Our results have implications for perceptions of bias within the judiciary, the selection of judicial nominees, and how attitudes about the wealthy can influence attitudes towards institutions.

Keywords Supreme Court · Legitimacy · Public opinion · Wealth

Shortly after her confirmation, it was announced that Justice Ketanji Brown Jackson had accepted a book contract from Random House publishers that would pay her up to two million dollars. Neither Justice Jackson's book deal nor its seven figure payment are relatively unique for a Supreme Court Justice. Justices Thomas, Sotomayor, and Barrett have all recently signed book contracts that were worth over a million dollars.¹ While book deals and their large payments are not uncommon,

¹ https://www.bloomberg.com/news/articles/2023-01-07/ketanji-brown-jackson-memoir-joins-roster-of-image-buffing-supreme-court-books?utm_source=website&utm_medium=share&utm_campaign=copy Bloomberg "Ketanji Brown Jackson Book Deal Joins Trendy Supreme Court Side Hustle." Jan 7, 2023.

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they are starting to raise criticisms. Charles Geyh, a professor of legal ethics, stated that “from the perspective of the average American who is grinding out a living at 40k a year, the optics of a judge who is paid \$250,000 in tax dollars to do the people’s business as a justice earning several times her salary on a side deal may be problematic.”²

The recent book deals are not the only times the Justice’s personal wealth have been the source of media attention and criticisms. In fact, the media often discusses the Justice’s personal wealth. Recently, the *New York Times* published an article titled “Here’s How Much The Supreme Court Justices Made Last Year,”³ *Forbes* published an article asking how rich are the Supreme Court Justices⁴, and *USA Today* published an article titled “Nearly all Supreme Court Justices are Millionaires.”⁵ Outside of these episodic reports, the Justice annual financial disclosures are routinely reported on as they attract attention from media and government watchdog groups. These disclosures show that the Justices are well-paid for teaching short summer courses abroad, enjoy lucrative investment portfolios, and are highly sought keynote speakers. In 2018, Justice Gorsuch reported a sale of property valuing between \$250,001 and \$500,000, which was bought by the head of a major law firm.⁶ Chief Justice Roberts receives rental income from properties in both Maine and Ireland.⁷ Meanwhile, Justice Jackson reported receiving a dress and jacket combo valued at over \$6,500 for her photoshoot with *Vogue* magazine.⁸ All of this is in addition to the Justices’ government salaries.

Heightened media scrutiny around these disclosures illuminates several concerns. One is the possibility the Justices may leverage their positions to gain personal wealth. Consider how the Justices favor industries in which they invest (Peterson et al., 2021). Favorable rulings have a strong positive effect on profits for winning industries, including the specific businesses in which the Justices hold stock (Katz et al., 2017). Such observations lead to questions of legitimacy which are similar to those posed by Geyh. Does the size of a Justice’s personal wealth cause the public to view them less favorably? Are the Justices potentially biased, unfair, or out of touch due to their personal wealth?

² https://www.bloomberg.com/news/articles/2023-01-07/ketanji-brown-jackson-memoir-joins-roster-of-image-buffing-supreme-court-books?utm_source=website&utm_medium=share&utm_campaign=copy#xj4y7vzkg Bloomberg “Ketanji Brown Jackson Book Deal Joins Trendy Supreme Court Side Hustle.” Jan 7, 2023.

³ <https://www.nytimes.com/6186294/supreme-court-salary-book-deals/> Times. “Here’s How Much the Supreme Court Justices Made Last Year.” June, 9 2022.

⁴ <https://www.forbes.com/sites/brendancoffey/2011/09/07/how-rich-are-the-supreme-court-justices/?sh=7d13ad2c3790> Forbes. “How Rich are the Supreme Court Justices?” September 7, 2011.

⁵ <https://www.usatoday.com/story/news/politics/2014/06/20/supreme-court-justices-financial-disclosure/11105985/> USA Today. “Nearly all Supreme Court justices are millionaires.” June 20, 2014.

⁶ <https://www.nytimes.com/2023/04/25/us/neil-gorsuch-property-sale.html> The New York Times. “Head of a Major Law Firm Bought Real Estate From Gorsuch.” April 25, 2023.

⁷ <https://www.nytimes.com/2023/04/25/us/neil-gorsuch-property-sale.html> The New York Times. “Justices Thomas and Alito Delay Release of Financial Disclosures.” June 7, 2023.

⁸ <https://www.nytimes.com/2023/04/25/us/neil-gorsuch-property-sale.html> The New York Times. “Justices Thomas and Alito Delay Release of Financial Disclosures.” June 7, 2023.

In this paper, we ask whether the Justices' personal wealth influence perceptions of judicial legitimacy and support for judicial nominees. Drawing from research on public attitudes towards wealthy politicians, and how perceptions of wealth influence perceptions of government and public policy, we argue there is a general resentment of wealthy individuals. We expect this resentment is strong enough to damage the institutions in which wealthy individuals serve. We hypothesize those who believe that there are more wealthy Justices on the Supreme Court, will view the Supreme Court as less legitimate.

We evaluate our hypotheses in two contexts. First, we rely on survey data which asked individuals to give their best guess of how many of the nine Justices currently on the Supreme Court are millionaires. We find that those who believed there are more millionaires on the Supreme Court, are more likely to believe the Court gives special rights to wealthy individuals. Further, we find that those who believe there are more millionaires on the Supreme Court view the Supreme Court as less legitimate on two measures of judicial legitimacy. Second, we conduct a conjoint experiment which presented participants potential Supreme Court nominees with varying net worths. Participants believed the Court would become less fair if a millionaire nominee was confirmed and participants were less likely to support nominees who had over a million dollars of net worth.

Our results have many implications. First, they speak to the strategy of Justices leveraging their positions to gain wealth. The Justices typically write books as a form of institutional maintenance in which they constructively broadcast the positive aspects of the Court and minimize negative aspects (Glennon & Strother, 2019). This strategy might be somewhat flawed if the Justices' book deals create a lot of media attention that highlights the great personal wealth of the Justices, including investments, land sales, and rental properties. Calling attention to the Justices' lives off the bench may cause the public to view the Court less favorably. If the Justices are concerned with the Court's legitimacy, they should limit themselves in how they use their positions to leverage personal gain. Second, contemporary presidents rarely consider a potential nominee's net worth explicitly when making nominations to the Supreme Court. Our results suggest that presidents should consider wealth. Finally, our results speak to attitudes towards wealthy individuals. Previous research shows that there is public dislike of wealthy individuals and candidates (Bartels, 2008; Carnes, 2013; Piston, 2018), and our results go further to demonstrate that negative attitudes towards wealthy individuals can strongly affect the public's attitudes of the institutions those wealthy individuals work in.

Perceptions of Bias in Decision-Making

Citizens are quick to turn to government in a crisis environment, but day-to-day governing is viewed skeptically (Intawan & Nicholson, 2018). An individual's view of norms, satisfaction with services, and personal demographics all influence their perceptions of governing institutions (Christensen & Laegreid, 2005). While broken norms like political scandals harm institutions in the public's view (Bowler & Karp, 2004), co-partisan control of government is often seen as positive (Keele,

2005). Still more, factors ranging from race (Gay, 2006; Avery, 2009; Wilkes, 2015; Hwang, 2017), age (Kenski & Jamieson, 2010), and gender (Fix & Johnson, 2017; Ono & Zilis, 2022) can also influence how the public sees government, usually because these traits are perceived as likely sources of bias.

Among governing institutions, the judiciary, including the Supreme Court, is uniquely susceptible to these considerations. For courts, legitimacy is foundational. As noted by Hamilton, courts do not control the budget and they do not have a policing power (Hamilton et al., 1788/1982). It is through institutional legitimacy that a court's ruling has weight and gets enforced. There are certain factors that help courts with legitimacy. Since judges wear robes, use gavels, and operate in imposing environments, the public sees them as above the political fray (Baird & Gangl, 2006; Gibson & Caldeira, 2009a). Too, the adversarial process of briefing and oral argument can sway a judge's initial opinion (Collins, 2004; Johnson et al., 2006), which lends support to the idea that judges interpret the law fairly. This has given rise to the suggestion that courts are principled rather than politicized decision-makers (Gibson & Caldeira, 2011).

Yet the public do not think courts are without bias, especially the Supreme Court. In fact, the public perceives several potential biases for judges. In addition to policy preferences (Segal & Spaeth, 2002; Black & Owens, 2009) and strategic considerations (Epstein & Knight, 1998), a judge's personal characteristics are seen as influencing their decisions. Studies have shown evidence related to race (Kastellec, 2013; Scherer, 2004; Weinberg & Nielsen, 2011) and gender (Boyd et al., 2010).

Racial identity produces particularly strong perceptions of bias among Americans. This applies to the race of a judge, the racial makeup of a judicial panel, and the race of the individual evaluating the institution (Scherer & Curry, 2010; Scherer, 2023). While diversification helps legitimize the judiciary in the eyes of some, this is not a universal phenomenon (Scherer & Curry, 2010). In practice, Americans use a judge's race as a shorthand to predict which party may be victorious (Ono & Zilis, 2022). Evidence suggests this is reasonable. African American judges, for example, are more receptive than their white counterparts to claims of police misconduct when a defendant was African American (Scherer, 2004). African American judges are also more likely to support affirmative action programs (Kastellec, 2013) and are less willing to dismiss claims of employment discrimination (Weinberg & Nielsen, 2011).

This provides illumination to why the public views some case outcomes as it does. Ono and Zilis (2022) find that certain segments of the public believe female judges and minority judges are inherently biased and unable to render fair decisions. White respondents penalize courts when there are too many African American judges (Scherer & Curry, 2010). Achury et al. (2022) finds that white respondents will penalize an all-white panel for ruling against Latino plaintiffs. The same study saw similar penalization for Latino-majority panels, though that finding was conditioned on group consciousness.

Another heuristic is a judge's gender identity. Like race, Americans use gender to assume which party will have an advantage (Ono & Zilis, 2022). Again, there is evidence to suggest this is a reasonable approach. Current literature shows gender identity is predictive of decision-making, though it applies mainly to cases relating to

gender issues (Boyd et al., 2010; Harris & Sen, 2019). This, in turn, shapes how the public views case outcomes. For example, while a judge's gender identity itself has an negligible effect on whether individuals agree with a custody decision, respondents criticize outcomes by male-identifying judges when they think gender bias effected the case (Fix & Johnson, 2017). Female-identifying judges get more criticism from this perspective at the appellate level (Fix & Johnson, 2017). Respondents were more agreeable when a judge sided with the party whose gender identity matched the respondent's (Fix & Johnson, 2017).

Race and gender are but two potentially biasing characteristics of many, though they dominate past studies. This leaves considerable room for exploring other personal attributes. One attribute that has received relatively scant scholarly focus is judges' personal wealth, and current literature strongly indicates that the economic background of governing elites influences how they will approach economic issues (Carnes & Lupu, 2023). The media routinely places information about the Justices' wealth before the public. Reporters take an interest in the Justices annual income reports⁹, as well as judicial retirements, which are often pension-focused (Yoon, 2006), and the Supreme Court's discretionary docket, which may ultimately favor select industries (Katz et al., 2017; Peterson et al., 2021). Book deals are particularly lucrative for Supreme Court justices and receive media attention when announced. Justice Barrett received a \$2 million book deal shortly after her confirmation.¹⁰ Justice Sonia Sotomayor received over one million dollars for her memoir.¹¹ Other personal aspects of the Justices' lives also make the news. Justice Kavanaugh, for example, received considerable scrutiny during confirmation when his disclosure statements were provided by the White House.¹² These disclosures revealed significant levels of debt in 2016 that drastically reduced in 2017, causing media outlets to speculate on how. Returning to the annual reports, we find justices receiving additional income beyond their salaries in the form of speaking fees, teaching contracts, and rental properties.¹³

⁹ For example, the widely read SCOTUSblog did a deep-dive of the 2021 disclosures. <https://www.scotusblog.com/2022/06/justices-earned-extra-money-from-books-and-teaching-in-2021-disclosures-show/SCOTUSblog>. "Justices earned extra money from books and teaching in 2021, disclosures show." June 9, 2022.

¹⁰ https://www.bloomberg.com/news/articles/2021-04-22/barrett-s-big-book-deal-called-bad-optics-for-supreme-court?utm_source=website&utm_medium=share&utm_campaign=copy Bloomberg. "Amy Coney Barrett's Big Book Deal Is Called Bad Optics for the Supreme Court." April 22, 2021.

¹¹ <https://www.nytimes.com/2011/05/28/us/politics/28scotus.html> The New York Times. "Sotomayor Got 1.175 Million for Memoir, Forms Reveal." May 28, 2011.

¹² https://www.washingtonpost.com/investigations/supreme-court-nominee-brett-kavanaugh-piled-up-credit-card-debt-by-purchasing-nationals-tickets-white-house-says/2018/07/11/8e3ad7d6-8460-11e8-9e80-403a221946a7_story.html. The Washington Post. "Supreme Court nominee Brett Kavanaugh piled up credit card debt by purchasing Nationals tickets, White House says." July 11, 2018.

¹³ <https://www.scotusblog.com/justices-financial-disclosures/>, <https://www.scotusblog.com/2021/06/less-travel-plenty-of-royalties-for-justices-in-2020/>, <https://www.scotusblog.com/2022/06/justices-earned-extra-money-from-books-and-teaching-in-2021-disclosures-show/> SCOTUSblog 2019, SCOTUSblog 2020, SCOTUSblog 2021.

Why Wealthy Justices Might Lead to Perceptions of Bias

Recent research has examined how the wealth of politicians may influence the way they are evaluated by the public. In one study, Bartels (2008) found the public is less warm towards individuals who are wealthy. Piston (2018) found two factors that influence public opinion on wealth in politics. First is whether or not clear information is provided about the ways a policy or candidate helps or hurts various social groups. The second factor is how far a frame goes to draw attention to class considerations, such as income inequality. Applying this to elections, political candidates with extremely large incomes are less likely to gain voter support (Griffin et al., 2020). In contrast, voters are willing to support working-class candidates (Carnes & Lupu, 2016). A greater number of working-class politicians correlates to more positive views of government (Barnes & Saxton, 2019). This is important because there is unequal representation for lower-income individuals throughout the policymaking process (Bartels, 2008; Rigby & Wright, 2013; Carnes & Lupu, 2023).

In stark contrast to the elected branches, the impact of wealth on judicial decision-making has not received sufficient attention. The literature has asked whether monetary concerns and wealth affect judges' decisions. The answer is yes. Federal judges will plan their retirements based on their ability to garner a sufficient pension, and this outweighs political and institutional factors (Yoon, 2006). Similar findings occur when looking at state-level judges (Hughes, 2021). More relevant here, Peterson et al. (2021) found Supreme Court justices were more likely to rule favorably for businesses when those entities impacted industries in which the justices invested. While conservative justices are more probusiness on the whole, both conservative and liberal justices were equally more likely to vote for a business impacting industries in which they invest (Peterson et al., 2021).¹⁴ The affect of perceived wealth on public opinion of the courts remains unaddressed.

Americans are routinely exposed to discussions of wealth and inequality. Notably, Democratic presidential candidates have, over time, increased their rhetoric on the subject (Rhodes & Johnson, 2017). It is then unsurprising that individuals apply their considerations of class to their political decisions (Piston, 2018). Sympathy toward the poor and resentment toward the rich partly explains why Americans voted the way they have in recent elections (Piston, 2018). Sympathy is not driven by self-interest, and there is expressed concern that government is not doing enough to assist the poor (Piston, 2018). The public especially supports welfare when individuals compare themselves to those who are economically advantaged (Condon & Wichowsky, 2020). As these issues reach the Supreme Court, so do the complexities of public sentiment. As Americans show a resentment toward the wealthy, perceiving the Justices as wealthy should result in lower Court legitimacy.

To summarize, courts rely heavily on their legitimacy. Many things can and do affect how individuals view the judiciary. Though the public views judges differently from other government officials, they understand biases can affect decision-making.

¹⁴ It is possible, indeed likely, that wealth is only one factor that influences the probusiness leanings of the Supreme Court (Epstein et al., 2012).

The public also has a resentment toward the wealthy. While judges are expected to be principled rather than partisan, and procedural fairness is paramount to evaluations of legitimacy (Lind & Tyler, 1988; Gibson & Caldeira, 2011), where there is evidence of bias, public attitudes toward the judiciary are negative. The field has not yet studied how perceived wealth of the Justices impacts the Supreme Court's legitimacy. We address that issue here. We argue that due to resentment of the wealthy, individuals who believe more of the Supreme Court Justices are wealthy will view the Court as less legitimate.

Data and Analysis

YouGov Survey: November 2020

Our expectation is that those who believe there are more wealthy Justices on the Supreme Court are more likely to view the Court negatively. To assess this, we conducted a survey. The survey was fielded to a nationally representative sample of 1000 participants in November 2020 and was conducted by YouGov.¹⁵

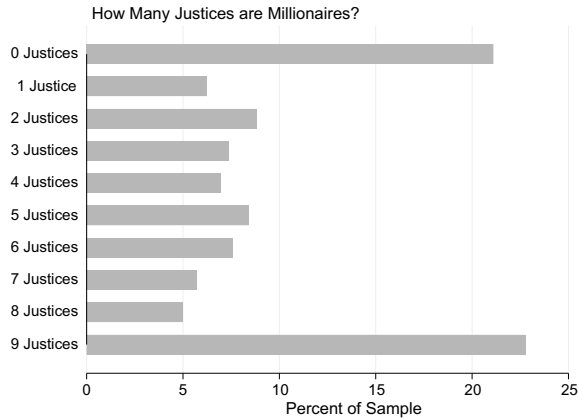
To measure our key independent variable, we asked participants how many of the nine Justices they believed were millionaires. We selected millionaires because polling indicates that a majority of the public believes to be considered “rich” you need to have a net worth over a million dollars and one million dollars was the modal response.¹⁶ Further, there is a strong cultural association between being a millionaire and being wealthy (Cooper-Chen, 2005). This measure has many benefits (Stauffer, 2021). First, individuals may not have accurate beliefs about the actual number of Justices who are millionaires. Analyzing attitudes towards the Supreme Court over time as the number of Justices who are millionaires fluctuates may lead to inaccurate conclusions about how wealthy Justices influence the attitudes towards the Court. Second, individuals are most likely using their own *perception* of the number of Justices who are millionaires when evaluating the Court rather than the correct number, even if their own perceptions are incorrect. This approach better captures the relevant information individuals rely on when evaluating political institutions (Stauffer, 2021; Badas et al., 2023).

The distribution of responses to the question are presented in Fig. 1. The median response was that four Justices were millionaires, but as Fig. 1 highlights, there is considerable variance in perceptions of the number of million Justices. In fact, the

¹⁵ The survey was conducted shortly after the confirmation of Justice Amy Coney Barrett. Barrett's confirmation was somewhat controversial because the Senate Republicans quickly conducted her hearing and confirmed her prior to the presidential election. They did so even though four years prior they refused to undertake the confirmation hearing of a Democratic nominee. This may have influenced attitudes towards the Court and could potentially effect the results we present. To rule this out, we re-estimated the regressions presented in Table 1 controlling for favorability towards Justice Amy Coney Barrett. Our key results are unchanged. Thus, we are confident that the confirmation hearing of Justice Barrett is not driving our results. These results are provided in the appendix.

¹⁶ <https://doi.org/10.25940/ROPER-31088941> Cornell Gallup Poll from 2012.

Fig. 1 Distribution of respondents' idea of number of millionaire justices



two most common selections are all nine of the Justices are millionaires (22.7%) and none of the Justices are millionaires (21.1%). The true number of Justices who are millionaires is between 8 and 9.¹⁷

Our key dependent variable is the respondent's perception of the Supreme Court's legitimacy. We rely on three measures of attitudes towards the Court and do so for several reasons. First, we rely on one measure that specifically focuses on issues related to the wealthy and two measures that are broader conceptualizations of legitimacy. This allows us to determine whether effects based on perceptions of the number of millionaire Justices have on legitimacy are limited to issues related to the wealthy or whether these perceptions implicate the Court's legitimacy in a broader institutional sense. Second, by relying on three distinct measures, we can be more confident in our results than we would be if we only relied on a single measure.

The first measure is focused directly on issues involving the wealthy. We ask whether participants agreed or disagreed that the Supreme Court grants special rights to the wealthy. While this question may not be a direct measure of legitimacy, foundational theories of legitimacy rely on procedural fairness and ensuring all parties are treated equally (Lind & Tyler, 1988) and this question likely taps into an aspect of procedural fairness. The question also allows us to target information directly relevant to the Justices' status as millionaires.

The second measure we rely on is the Gibson et al. (2003) index. The Gibson index creates a summated scale using agreement and disagreement with a set of questions about the Court. We use three questions: (1) whether the respondent would do away with the Court if the Court started making decisions most people disagreed with, (2) whether the respondent agreed that the Court gets too mixed up

¹⁷ 8 of the 9 Justices report assets that exceed one million dollars. Justice Brett Kavanaugh reported assets between \$15,000 and \$65,000. However, disclosure forms do not require the Justices to report all sources of wealth, including homes and federal retirement plans. <https://news.bloomberglaw.com/us-law-week/supreme-court-justices-are-richer-than-about-90-of-americans> Bloomberg Law. "Supreme Court Justices Are Richer than 90% of Americans." April 20, 2023.

Table 1 OLS regressions: legitimacy

	(1) Special rights to wealthy	(2) Gibson index	(3) Applied index
Number millionaire justices	0.0116*** (0.00331)	-0.00897*** (0.00231)	-0.00941*** (0.00236)
Ideological distance	0.0607*** (0.0148)	-0.0518*** (0.0119)	-0.0586*** (0.0120)
Follows Court	-0.0148 (0.0119)	0.00521 (0.00914)	0.0202* (0.00933)
Court knowledge	-0.00197 (0.0174)	0.0185 (0.0144)	-0.00888 (0.0137)
Democrat	0.0445 (0.0288)	-0.0473* (0.0217)	-0.0825*** (0.0219)
Republican	0.0443 (0.0304)	0.0232 (0.0259)	-0.00825 (0.0246)
Very liberal	0.0616 (0.0502)	0.0146 (0.0406)	0.0498 (0.0390)
Liberal	0.0317 (0.0376)	-0.00409 (0.0277)	-0.00252 (0.0269)
Conservative	-0.0562 (0.0320)	0.0911*** (0.0259)	0.117*** (0.0259)
Very conservative	-0.128** (0.0468)	0.0991** (0.0333)	0.220*** (0.0379)
\$100,000 + Income	-0.0248 (0.0229)	0.0459* (0.0188)	0.0818*** (0.0178)
Male	0.0343 (0.0212)	-0.0218 (0.0155)	-0.0543*** (0.0157)
Education	-0.0103 (0.00734)	0.00985 (0.00611)	0.0183** (0.00571)
White	0.00747 (0.0240)	0.0391* (0.0181)	0.0372* (0.0173)
Age Group	-0.00805 (0.00635)	0.00625 (0.00456)	0.00603 (0.00469)
Constant	0.532*** (0.0461)	0.413*** (0.0342)	0.397*** (0.0327)
Observations	939	945	949

Standard errors in parentheses

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

in politics, and (3) whether the Court treats some groups more favorably than others.¹⁸ The questions load on a single factor (1.36 eigenvalue) and have a Cronbach's α of 0.702.

The third measure we rely on is the Badas (2019) applied legitimacy index. The applied legitimacy index creates a scale using a graded response item response theory model. It is based on questions asking respondents how strongly they would support or oppose specific reforms to the Supreme Court. The specific questions we used asked respondents whether they would support term-limits, whether they would support the direct election of the Justices, and whether they would support policies that made it easier to remove Justices from their position. The three questions load on a single factor (1.59 eigenvalue) and have a Cronbach's α of 0.803. We recode each measure to range between 0 and 1 for comparability.

To estimate the effect of respondent's perceptions of the number of Justices who are millionaires has on perceptions of the Court's legitimacy, we estimate three linear regression models. In addition to our primary independent variable of interests, we control for other variables that may influence perceptions of legitimacy. We control for the perceived ideological distance between the respondent and the Supreme Court (Bartels & Johnston, 2012). We measure this by taking the absolute value of the difference between the respondent's self-reported ideology and their placement of the Supreme Court on the same scale (Bartels & Johnston, 2012). Then we control for measures of Court knowledge and awareness (Gibson & Caldeira, 2009a). First, we ask individuals how closely they follow the Supreme Court on a four-point scale ranging from not closely at all to extremely closely. Second, we ask two knowledge questions about the Court and create a scale of correct responses that range from 0 to 2. The questions asked respondents to (1) identify the length of the Justices term and (2) to identify who was responsible for nominating the Justices to the Court (Gibson & Caldeira, 2009b). Outside of these variables, we control for respondent's partisan identity measures on a three-point scale with leaners included as partisans, ideological disposition measured on a five-point scale, and demographic traits.¹⁹

The results of our models are presented in Table 1. The substantive findings for the respondent's perception of the number of Justices who are millionaires is

¹⁸ Gibson et al. (2003) recommend a six question battery. We asked participants only these three questions for the sake of efficiently using the survey space available to us. Some may worry that conceptualize slippage may occur by not relying on the complete index. To rule this out, we searched for publicly available surveys that included all the legitimacy questions. The closest match we found was the Annenberg Supreme Court survey of 2005 (Bartels & Johnston, 2012) This survey asked participants five of the six legitimacy questions, including the three used in our manuscript. The five questions asked were: 1: Do away with the Court 2: The Court gets too mixed up in politics. 3: The Court favors some groups over others. 4: General trust in the Court. 5: Trust the Court to do the right thing. We estimated the legitimacy index using the five questions using the standard summated scale approach and then we estimated the legitimacy index using the three questions we used in the manuscript. We find that the two are correlated at .90. This leads us to be confident our three questions are capturing the underlying measure proposed by Gibson et al. (2003).

¹⁹ For partisan identity, moderates are the baseline reference category. For ideological disposition, moderates are the baseline reference category. The wording of all the survey questions used are available in the appendix.

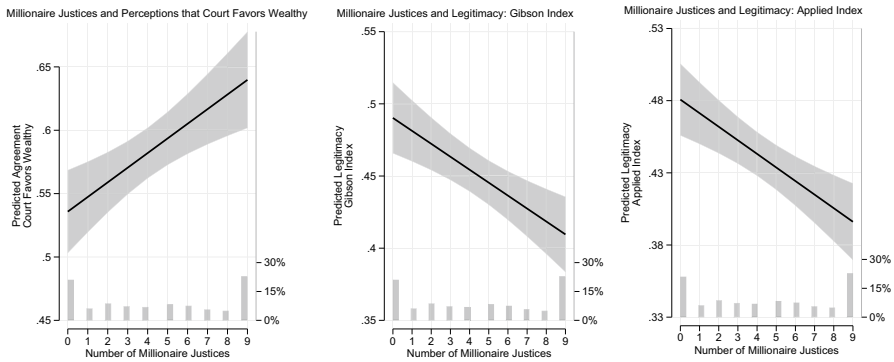


Fig. 2 Millionaire justices and court legitimacy

presented in Fig. 2. Overall, the results support our hypothesis that believing there are more millionaire Justices will lead to diminished perceptions of the Court’s legitimacy. This finding holds both in terms of fairness as measured as granting the wealthy special rights and broader measures of institutional legitimacy.

To draw substantive examples, the difference between someone who believes zero of the Justices are millionaires and someone who believe all nine Justices are millionaires is 0.11 points on the question asking about giving special rights to the wealthy. To highlight the substantive nature of our effects, we compare them to the effect of ideological distance. In our models, ideological distance had the strongest association with legitimacy. The difference when moving minimum ideological distance to the maximum ideological distance is 0.24 points. Thus, the beliefs about millionaire Justices is 41% of the effect of ideological distance.

The effect is similar for the broader measures of legitimacy. On the Gibson legitimacy index, someone who believe none of the Justices are millionaires has an expected value of 0.49 while someone who believes all the Justices are millionaires has an expected value of 0.40 for a 0.09 difference across the range of millionaire Justices. The difference across the range of ideological distance is 0.207 legitimacy points. Thus, in the context of the Gibson index, the number of millionaire Justices represents 39% of the effect of ideological distance. For the applied legitimacy index, someone who thinks each of the Justices is a millionaire their expected legitimacy value is 0.39 while someone who does not believe any of the Justices are millionaires has an expected value of 0.48. The 0.09 point difference, represents 35% the effect of moving from minimum ideological distance to the maximum level of ideological distance (0.23 points).

Using an original survey, we demonstrated that those who believe there more millionaires on the Supreme Court have diminished perception of the Court’s legitimacy. This was true in both situational contexts—perceptions of fairness in dealing with wealthy individuals—and in broad contexts using measures of institutional legitimacy. While the survey provides compelling evidence of our arguments, there are some potential problems relying exclusively on observational survey data.

First, results may be modelling choices (Steege et al., 2016; Young & Holsteen, 2017). We rule this out by conducting multi-verse analyses for each of our dependent variables. Across all of the 2048 possible models for each dependent variable our key finding remains. Therefore, it is unlikely that modelling choice is the cause of our observed result.

A second problem with observational studies is the potential for an unobserved confounder. To rule out an unobserved confounder, we conduct sensitivity analyses for each of our dependent variables. The results to our sensitivity analyses show that a potential confounder would need to have an effect much larger than ideological distance (the variable with the largest effect in our models) to overturn our key finding. This is unlikely. Further, we conduct placebo tests. The placebo tests predict attitudes towards Congress and the executive as a function of the belief about millionaire Justices. If there was an unobserved confounder that tapped into government attitudes more broadly, we would anticipate millionaire Justices to predict these outcomes. However, the results indicate that it does not. In a secondary set of placebo tests we predict whether belief about millionaire Justices predicts belief that the Court favors atheists, favors women, or favors racial and ethnic minorities. If there was an unobserved confound that tapped into Court attitudes more broadly, we would anticipate million Justices to predict these outcomes. The results indicate that it does not.

A third potential problem is observational studies are susceptible to endogeneity concerns. In the context of our study, this would mean that individuals formulate their beliefs about the Court's legitimacy and then use this information to come to conclusion about the number of millionaires on the Court. More specifically, those who view the Court as more legitimate may then believe there are fewer millionaires on the Court. If legitimacy was causing perceptions of millionaire Justices, we would anticipate them to be predicted by the same variables. We show that the number of millionaire Justices is not predicted by the same variable that predict legitimacy. The results to all of these analyses are presented in the appendix.

CloudResearch Conjoint Experiment: September 2022

While we conduct additional analyses to rule out the potential problems with survey data, we take the additional approach of conducting an experiment. This approach allows us to directly rule out potential confounders and the potential for endogeneity. If the results to our experiment match those produced in the analysis of survey data, we can have greater confidence that beliefs about wealthy Justices diminishes the legitimacy of the Court rather than the relationship being spurious or due to endogeneity.

We conduct a conjoint experiment.²⁰ Conjoint experiments have been widely used in judicial politics to understand preferences towards judicial nominees (Sen, 2016; Badas & Stauffer, 2019; Badas, 2022; Krewson & Owens, 2021, 2022). We follow the conventional approach of these studies. We provide respondents with a hypothetical profile of a potential future Supreme Court nominee and ask the respondent to evaluate the nominee. The key conjoint manipulation for our hypothesis is the nominee's net worth. The net worth manipulation varied to include options including: \$25,000, \$50,000, \$75,000, \$100,000, \$425,000, \$500,000, \$1,000,000, \$2,500,000, and \$5,000,000. While at least 8 of the 9 Justices are currently millionaires, this does not mean they were millionaires before they reached the Court. Justices Alito, Thomas, Kavanaugh, and Sotomayor each reported assets less than one million at the time of their nomination. The conjoint also followed the standard of existing designs and manipulated the potential nominee's partisanship, gender, race, education, expert evaluation of qualifications, law school attended, judicial philosophy, and prior experience.

After viewing a profile, we asked the respondent to evaluate the nominee on two key dimensions. The first question asked assuming the nominee was confirmed whether the respondent believed their presence on the Supreme Court would make the Court more or less fair. This question allows us to confirm the observational survey findings that found that perceptions of millionaires on the Court decreased perceptions of legitimacy. The second dimension is how strongly the respondent would support or oppose the potential nominee. This will allow us to determine if wealthy nominees are less supported than non-wealthy nominees. Such a finding would further confirm negative affect towards wealthy nominees. In total, respondents viewed and rated five distinct profiles.

We fielded our conjoint experiment to a sample of 673 on CloudResearch's Prime Toolkit platform. Because each participant evaluated 5 profiles, our total number of observations is 3,365. The Prime Panel platform leverages Amazon's

²⁰ We ultimately decide to use a conjoint design rather than a vignette experiment for a few different reasons. First, in a vignette experiment of this type, it is difficult to come up with credible treatments. For example, 21% of our sample believed there were 0 millionaires on the Supreme Court. For these individuals receiving a "low" treatment that indicated that there was just 1 millionaire on the Supreme Court would be higher than their prior belief. So for these individuals the "low" treatment would in fact not be low. We thought that making a mock news report indicating that there were 0 millionaires on the Supreme Court would come off as awkward and unrealistic. Likewise, 23% of our sample believed there were 9 Justices on the Supreme Court. For these individuals receiving a "high" treatment of anything between 5 and 8 would actually be less than their prior belief. So for these individuals a "high" treatment would not in fact be high. Second, we thought that considering the timing of our experiment, fielded as discussions of Justice Amy Coney Barrett's book deal were circulating in the media, a conjoint was preferable because the research question is less obvious in this context. Since the conjoint experiment has a profile with many different attributes of nominees, it is unlikely for the participant to guess what we are attending to research. In the vignette experiment, the indication is clearer because only one piece of information is presented to the participants. Participants may then make assumptions about who the millionaires are on the Court (Justice Barrett, for example) and evaluate the Court based on affect towards her rather than the treatment of wealth. Again, we acknowledge that these experimental designs have many benefits, but for our particular study we felt the conjoint experiment was better suited to test our research question. We hope that other researchers will build off our work and attempt to replicate or extend our findings using many different types of designs.

Mechanical Turk platform but takes additional precautions to ensure data quality. For example, CloudResearch takes a more active role in screening out bots and those who are using virtual private networks (VPNs) to misrepresent their location as being within the sampling frame. CloudResearch also excludes participants from their sampling frame who frequently give inconsistent responses to static demographic questions. Studies comparing CloudResearch to other convenience sample recruitment platforms such as Qualtrics, Prolific, MTurk without CloudResearch, and undergraduate student samples demonstrate that survey responses collected using CloudResearch had the highest quality of data (Douglas et al., 2023). In addition to the screeners used by CloudResearch, eligible participants for the experiment had to be located in the United States, be aged 18 or older, have had 97% of their prior tasks completed on MTurk accepted, and have completed at least 50 prior tasks on MTurk (Thomas & Clifford, 2017). The conjoint experiment was conducted in September 2022.

Figure 3 presents the estimated marginal means (Leeper et al., 2019) for the question which asked assuming the nominee would be confirmed to the Supreme Court, would their presence make the Court more fair or less fair. This question included a five-point response set with the middle option being “their confirmation would not make any difference.” The dashed line represents the average response on the change in fairness question for the entire sample. The point estimates and associated 95% confidence intervals display the average level of support for nominees who had that specific attribute displayed on their profile. The results show that individuals believe that millionaire Justices will lead the Supreme Court to become less fair.

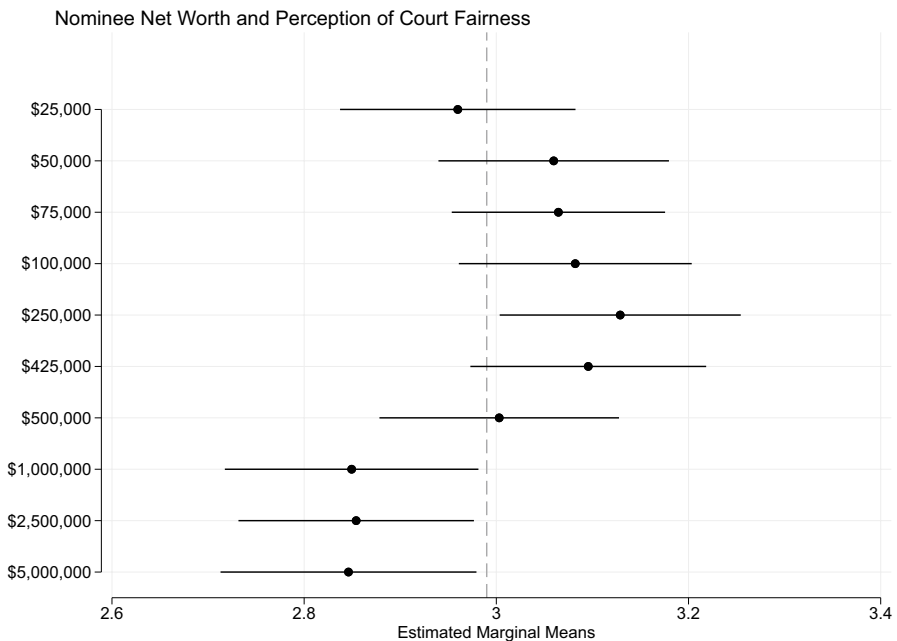


Fig. 3 Marginal means for influence on fairness: dashed line represents overall mean level of influence on fairness

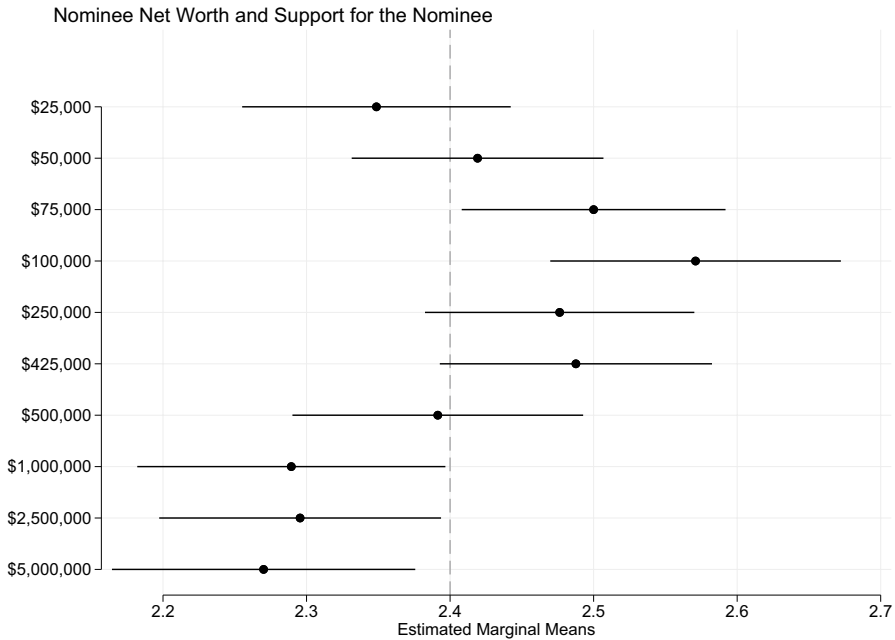


Fig. 4 Marginal means for nominee support: dashed line represents overall mean level of nominee support

Each of the three millionaire attributes saw significant decrease in perceived Court fairness from the mean. Justices who had a net worth of over a million dollars saw a consistent 0.14 decrease in perceptions of how they would influence the fairness of the court. The effect size is roughly 12.9% of a standard deviation observed on the fairness scale and is roughly equivalent of the penalty a nominee with only one year of legal experience receives (0.13 points).

Figure 4 presents the marginal means for the question which asked how strongly the respondent would support or oppose the nominee. The question had a four-point response set, ranging from strongly support to strongly oppose. The results indicate that individuals are less likely to support nominees with high net worths.

Again, each of the three millionaire attributes saw reduced support compared to the overall average nominee. Justices who were had a net worth of over a million dollars saw a consistent 0.11 decrease in support relative to the average nominee. These effects represent roughly 13.6% of a standard deviation and is roughly equivalent of the penalty a nominee with only one year of legal experience receives (0.16 points).

Overall, the results to our conjoint experiment further validate the results to our survey data. Our survey data found that individuals who believed that many of the Justices were millionaires were more likely to believe the Court granted special rights to millionaires. They were overall likely to view the Court as less legitimate. The conjoint experiment demonstrated that individuals believe the Court will become less fair if a Justice with a net worth of over a million dollars is confirmed. Individuals are less likely to support a millionaire nominee being confirmed to the Court.

Implications and Conclusions

Extant research has analyzed how different traits of judges may lead to the perception that their decision-making is more or less legitimate. There has been research on gender (Fix & Johnson, 2017; Ono & Zilis, 2022; Scherer, 2023), race (Scherer & Curry, 2010), and ethnicity (Achury et al., 2022). Yet, no existing research investigates how judges' wealth might influence perceptions of the court's legitimacy. Considering that the wealth of the Justices on the Supreme Court is a recurring theme in media coverage and many opinions expressed in those media stories indicate having wealthy Justices is less than ideal, the lack research on this topic limits our understanding of judicial legitimacy.

Drawing on research that finds a general dislike of wealthy individuals (Piston, 2018; Bartels, 2008), we hypothesized that this dislike of wealthy individuals can harm the legitimacy of the Supreme Court when individuals believe there are more millionaire Justices on the Supreme Court. We found support for this hypothesis in two contexts. First, we asked individuals to make their best guess at how many of the nine Justices were millionaires. We found that those who believed there were more millionaire Justices were more likely to believe that the Court gave special rights to the wealthy and that these individuals have lower perceptions of the Court's overall legitimacy. This finding withstood multiple specifications and placebo tests.

Second, we conducted a conjoint experiment that asked individuals to evaluate potential Supreme Court nominees. One of the manipulated factors in the conjoint profile was the nominee's personal wealth. Here, we found that individuals presented with millionaire nominees thought that the Court would become less fair if the nominee was confirmed. We also found that individuals presented with wealthy nominees were less likely to support those nominees. In addition, our models show that individuals with relatively high net worths (\$100,000, \$250,000) saw an increase in support and fairness. What explains this finding? One possibility is that, to a point, perceptions of competence and wealth are correlated. Individuals tend to rate wealthy individual as more competent (Durante et al., 2017), but perhaps at higher levels of wealth perceptions of competence turn towards resentment. Future research should explore at what point do the public begins to view wealthy individuals with resentment rather than competence.

Our findings have many implications. One implication speaks to the behavior of the Justices. It is well established that Justices are strategic actors (Epstein & Knight, 1998). This may explain why they take certain business cases (Katz et al., 2017; Peterson et al., 2021). Financial disclosures give further insight to how they may use their government positions to gain wealth. Many of the Justices write books that outline their judicial philosophies, their personal biographies, and their observations on being a Supreme Court Justice. Part of the motivation of these books is to portray the Court in a positive light and facilitate judicial legitimacy (Glennon & Strother, 2019). However, these presentations may come with a catch. The Justices typically receive large monetary advances from publishers. These million dollar contacts are widely discussed and scrutinized in the reporting on the books. Similar reporting occurs when justices have rental properties, land sales, and receive gifts. Each of these could

be framed as seeking to leverage their positions for personal wealth or symbolizing justices as out-of-touch with the average citizen. This reporting makes the public aware of the Justices' wealth and their status as millionaires, as well as some sources of that wealth. Based on the research presented in this paper, that information should diminish perceptions of judicial legitimacy and affect towards the specific Justice. Thus, the initial motive, bolstering or maintaining the Court's legitimacy, may in fact be harmed because of the media's focus on the Justices' wealth and how the Justices leverage their positions to gain opportunities to expand their wealth.

Another implication is for presidential selection of nominees. There is no evidence that suggests contemporary presidents give much consideration to an individual's wealth prior to making their nominations. The research presented here suggests that presidents should consider a nominee's wealth. A nominee with a high net worth, may receive less support from the mass public than a nominee with a more modest financial situation. Other research finds that presidents do consider potential nominees' race, ethnicity, and gender when making selections (Scherer, 2005). Not only do presidents consider it, but they appear to go out of their way to advertise their diverse nominees (Holmes, 2008). There is good reason for this, as research has shown diverse nominees can gain more support and even positively influence presidential approval (Badas & Stauffer, 2018, 2022). If presidents were more willing to consider and advertise nominees with modest financial situations, they may see similar increases in support for their nominee and potentially for themselves.

A final implication is how the net worth of politicians influence perceptions of the institutions to which they belong. Much of the current research focused on how a politician's wealth influences support for them or how ideas of wealth and inequality influence support for specific policies (Bartels, 2008; Carnes, 2013; Piston, 2018). Our research moved beyond this to analyze how the personal wealth of individuals influences the perception of the institutions those individuals serve in. Our research found that people who believed there were more millionaire Justices felt the Supreme Court was less legitimate. This demonstrates that the public extends the negative affect they hold toward wealthy individuals to the institutions in which those wealthy individuals serve. It suggests negative attitudes toward the wealthy are quite strong and can have downstream institutional consequences. This is in-line with previous literature. As the public's view of class is strong, it places those views on institutions (Piston, 2018). Institutions that have greater working class representation are viewed more favorably (Piston, 2018). As political institutions have continued to lose support over the last decade, it is worth investigating whether and how much of this decrease in support is due to perceptions that these institutions are largely composed of the wealthy in a time when income inequality is a salient political concern. It may be the case that other institutions would suffer similar penalties that we observed here for the Supreme Court. Yet at the same time, the Supreme Court is often viewed in a non-partisan way (Scheb & Lyons, 2000; Gibson & Caldeira, 2011; Bybee, 2010). Further, the partisan and ideological makeup of the Supreme Court are not always clear to the mass public (Ansolabehere & White, 2018; Jessee et al., 2022). This may allow for the public to rely more on non-partisan or non-ideological considerations when evaluating the Court. Thus, the wealth penalty for the Court may be particularly high when compared to other institutions,

such as Congress, where partisan and ideological frames tend to dominate. Future research then should explore how the wealth of members of Congress or members of the executive branch influence attitudes towards these institutions.

Supplementary Information The online version contains supplementary material available at <https://doi.org/10.1007/s11109-023-09905-7>.

Data Availability The data and code required to reproduce the results presented in this manuscript can be found on the Political Behavior Dataverse at <https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/PSOWOV>.

Declarations

Conflict of interest The authors report no conflict of interests.

Ethical Approval This research uses human subjects. The research was approved by the Institutional Review Board at the authors' university. The research participants were given an informed consent sheet and agreed to participant in the research voluntarily.

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