Individual-Level Factors and Voter Participation in Judicial Elections

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Abstract

As scholarly interest in the importance of state supreme courts has increased, so has interest in the nature of voters’ behavior in judicial elections. Traditionally, judicial elections have been portrayed as staid, low-turnout affairs. However, in the last decade such elections have become increasingly competitive. Studies of aggregate ballot roll-off figures show wide variation from state-to-state on the basis of institutional factors, but ecological inference problems limit our ability to draw conclusions about individual-level variables determining participation in judicial elections. Using the first national study of individual voters in judicial elections, fielded on the 2010 Cooperative Congressional Election Study, we evaluate both state-level and individual-level factors that determine judicial race outcomes. We show that both state institutions and a variety of individual factors are strong predictors of ballot roll-off in judicial elections.
For decades, scholars of politics have been interested in the determinants of political participation. In order for elections to fulfill their purpose as effective mechanisms by which citizens can participate in the functioning of government, it is imperative that we understand the factors that make citizens more (or less) likely to participate in the political process. Scholars have spilled copious amounts of ink examining the causes of political participation, largely focusing on federal elections (Freedman, Franz, and Goldstein 2004; Henderson and Chatfield 2011; Kam and Palmer 2008; Krasno and Green 2008; Riker & Ordeshook 1968; Rosenstone and Hansen 1993; Sondheimer and Green 2010; Wolfinger and Rosenstone 1980), though scholars have recently turned their attention to down-ballot elections (Bonneau and Hall 2009; Bullock and Dunn 1996; Hall 2007; Schaffner, Streb, and Wright 2001).

In this paper, we seek to answer a simple yet unanswered question: do partisan elections increase voter participation compared to nonpartisan elections? At least since the time of the Progressives over 100 years ago, partisan elections have been frequently criticized for depressing the number of candidates, thereby stifling competition, and for making election officials beholden to their political party at the expense of their constituents (Duncan 1913; Gould 1986; Hofstadter 1955). Regardless of the empirical validity of these charges, the costs of partisan elections may be outweighed by their benefits. Here, we examine one such potential benefit: increased voter participation.

In order to examine the effect of the partisan ballot on voter participation, we first need an office where occupants are selected by both partisan and nonpartisan
elections. Fortunately, state supreme courts provide exactly such an environment. Indeed, state supreme courts have three forms of elections by which judges are selected: competitive partisan elections (partisan affiliation of candidates on the ballot), competitive nonpartisan elections (no partisan affiliation of candidates on the ballot), and noncompetitive retention elections (where judges are simply subjected to a yes/no vote on whether they should remain in office). This allows us to isolate the effect of ballot-type, holding the office constant. The second key component to examine the effects of the partisan ballot is individual-level data on voter participation across different states. Without this, we cannot ascertain the determinants of the behavior of individual voters. While existing studies of voter participation in state supreme court elections have gone a long way toward explaining the variance in voter participation rates (Bonneau and Hall 2009; Hall 2007), these studies all utilize aggregate-level data. Thus, these studies cannot tell us anything about the individual-level variables determining participation in judicial elections. We use the 2010 nationwide CCES survey in order to alleviate this limitation.

Our results indicate that the factors that predict general turnout differ to some extent from those that determine participation in judicial elections. We show that state institutional factors, particularly the partisan format of the election, as well as individual factors such as education, gender, and union membership are strong predictors of participation in judicial elections.
Partisanship and Voter Participation

The debate over the effects of partisanship on voter participation dates back to the early twentieth century. As mentioned above, the Progressives embarked on a campaign to purge partisanship from elections. As it relates to voter participation, the Progressives argued that “an active and properly motivated citizenry does not need party labels” (Schaffner, Streb, and Wright 2001, 8). The electorate should simply choose the candidates that were best qualified to run the government effectively and efficiently; party labels are unrelated to these characteristics. Thus, elections should be nonpartisan.

However, removing partisan affiliation from the ballot deprives voters of a key piece of meaningful information. It has been well-established in the political science literature that one of the best cues for voters to determine which candidates best reflects their ideology and policy positions is the partisan affiliation of the candidate (e.g., Aldrich 1995; Page and Shapiro 1992). That is, if a voter is a Democrat, then any Democratic candidate for an office will better represent the voter’s policy positions than any Republican candidate for an office. As Schaffner, Streb, and Wright (2001, 9) say, “It follows, then, that taking party labels away in nonpartisan elections and thereby raising the costs of information about candidates for voters, nonpartisan elections would make voting more difficult and thereby undermine the potential for popular control.” By removing an important piece of information from the ballot, voters may lack enough information to feel sufficiently informed to cast a vote. When voters feel uninformed, participation will decrease (Downs 1957; Hall 2007).
Schaffner, Streb, and Wright (2001) find evidence consistent with this. They find lower levels of voter participation when a nonpartisan ballot is used compared to a partisan ballot (see Tables 4 and 6). Additionally, Hall (2007) and Bonneau and Hall (2009) document that, on average, there are higher amounts of ballot roll-off (lower amounts of voter participation) in states that utilize nonpartisan elections versus partisan elections. In addition to the aggregate data, Bonneau and Hall (2009) examine two states that recently switched from partisan elections to nonpartisan elections (Arkansas and North Carolina). They find that voter participation decreased significantly in both states after the move to nonpartisan elections. Thus, there are good theoretical and empirical reasons to suspect that nonpartisan elections serve to decrease voter participation.

**Participation and Judicial Elections**

The advantage of examining voter participation in judicial elections is that these elections provide three different types of election in which we can examine voter participation. This source of institutional variation forms the basis for our primary hypotheses.

In some states, judges are selected in partisan elections. These are equivalent to the traditional type of election for most major offices in the United States: each major political party (Democratic and Republican) has a candidate on the ballot, and the partisan affiliations of each are noted on the ballot so voters know, at the time they cast their votes, which candidate represents which party. We hypothesize that voter participation will be highest under this institutional set-up.
There are two reasons for this. First, as we discussed above, this provides voters with an important piece of information that will help guide their vote choice. When voters feel more informed, they participate in higher numbers (Bonneau and Hall 2009; Downs 1957; Hall 2007). Second, and relatedly, voters who vote a straight party ticket will also have their vote registered for judicial candidates as well. Thus, every voter who selects the straight party option, has their vote recorded for every representative of that party on the ballot; there is no possibility for a voter to skip an office. Consequently, even if the voters had no information about the candidates, if they were to vote a straight-ticket, their vote would be recorded for all offices.

Another method of judicial selection is nonpartisan elections. In these states, multiple candidates run in contested elections; however, the partisan identification of the candidates is not provided on the ballot to the voters. Indeed, it is possible for both candidates to be from one political party in these states. This lack of information leads us to expect that voters will be less likely to participate in these elections compared to partisan elections. Additionally, voters who utilize the straight party ticket option would not have their vote counted for the judicial races, since these races are nonpartisan. Individuals who vote straight-ticket would need to vote for judicial races separately; voters might not be aware of this and thus may accidentally fail to participate in the election even when they intended to do so.

Finally, some states utilize retention elections to keep judges on the bench. These elections are “elections” in name only. Unlike partisan and nonpartisan elections, retention elections do not provide the voters with a choice between candidates. Rather, voters are simply asked whether Judge X should keep his/her
job. If a majority\(^1\) of them agree, then the judge keeps his/her position for another fixed term of office (six to twelve years). Retention races are characterized by a lack of campaigning and high affirmative vote totals for the incumbent (Bonneau and Hall 2009). As such, we omit retention elections from this study, leaving turnout in retention elections for future consideration.

The presence or absence of partisan labels in judicial elections is, at its core, an informational problem. From among the host of individual-level variables that predict voter turnout generally, the individual voter characteristics that we expect will have the greatest impact on turnout will be those that are related to voters’ levels of information. For example, we would expect education to influence participation in judicial elections more than home ownership because education has more direct bearing on a person’s level of information than home ownership.

In sum, we hypothesize:

H1: Participation in judicial elections will be greater in partisan judicial election states than in nonpartisan judicial election states.

H2: Individual-level factors related to the level of information of citizens will have larger effects than individual-level factors that are simply demographic in nature.

Data and Variables

To better understand the dynamics of voter participation in judicial elections, we placed a question about participation in judicial elections on several modules of

\(^1\) Illinois requires judges to receive 60% of the vote; New Mexico requires 57%.
the 2010 Cooperative Congressional Election Study (CCES). The CCES is a national stratified matched sample of voters that is administered on-line. Cross-validation of the CCES against mail and random-digit dial telephone methods suggests that the CCES provides a nationally representative sample (Ansolabehere and Schaffner 2011). The CCES is segmented into modules of 1000 respondents each, with the first half of the survey being comprised of common content asked of respondents on all modules. The second half of the survey is devoted to team content created by the respective sponsoring institutions. We posed a question on participation in judicial elections on three modules of 1000 respondents each. However, because not all respondents lived in states with contestable judicial elections, we are left 1205 potential voters to observe.

Recognizing that few (if any) voters are driven to the polls solely out of interest in a judicial race, we conceptualize participation in judicial elections as a two-stage process where initially citizens choose to vote at all (in an up-ballot race for president, governor, U.S. House, and/or U.S. Senate) and then choose whether to participate a particular judicial election. We can then build a model to explain turnout generally and roll-off (nonparticipation in a down-ballot race) specifically. We explain these two dependent variables using separate but overlapping sets of independent variables.

Variables Predicting Turnout

In the first-stage equation of our model, we delineate the factors that predict a voters’ decision to come to the polls at all (Turnout). In the phase in which a voter
is deciding to participate in an election at all, we suspect that factors specific to a judicial election have minimal impact (Bonneau and Hall 2009; Hall and Bonneau 2008). Instead, these factors are driven by the characteristics of individual voters and the characteristics of up-ballot races in the voter’s state.

In terms of voter characteristics, education (Education) stands out among demographic factors as a predictor of turnout. More educated citizens are more likely to vote than those with less education, likely due to the fact that education lowers informational costs associated with voting (Brady, Verba, and Schlozman 1995; Timpone 1998; Wolfinger and Rosenstone 1980). We measure education by whether or not the individual has earned a college degree. Historically, African-Americans and other minorities have faced unique impediments to registration and voting; studies have shown that Caucasian voters (White) continue to have higher rates of participation than minorities, even controlling for other factors (Caldeira, Patterson & Markko 1985; Shaw, de la Garza, and Lee 2000). We also include a dichotomous indicator for gender as some studies have shown that gender has a modest effect on turnout, with men (Male) voting at lower rates than women (Carroll and Fox 2009; Timpone 1998).

Connections with various community groups that often offer reminders of participation have been shown to increase voting. We include variables for respondents who are either union members or live in a household with a union member (Union) (see Leighley & Nagler 2007) or who attend church at least weekly (Weekly Church Attendance) (Timpone 1998). Along the lines of community connectedness, homeowners (Homeowner) are more likely to feel a stake in their
community, to have an interest in the long-term future of their community and state, and to believe they will be in a location long enough to make it worthwhile to register and determine the appropriate voting location. These types of characteristics make homeowners more likely to vote (DiPasquale and Glaser 1999).

In addition to voter characteristics, the nature of politics in a citizen’s state may affect their probability of turning out. States with competitive elections have higher levels of turnout (Cann and Cole 2011; Cox and Munger 1989). We operationalize the competitiveness of a state’s political environment (Competitive Environment) using Ceasar and Saldin’s (2005) Major Party Index (MPI), which is a weighted average of the outcomes of presidential, congressional, gubernatorial, and state legislative elections and ranges from 100 (perfectly Republican) to 0 (perfectly Democratic). To transform the MPI to a measure of competitiveness, we take the absolute deviation of the MPI from 50. We use MPI values from the 2008 election because the vote percentages used to compute the 2010 MPI were not available to voters prior to the time when they made their decision to vote.

Beyond the general competitiveness of a state, a close race for major office can boost turnout. As such, we include dichotomous indicators for a close gubernatorial race (Close Gubernatorial Race) in a state and a close Senate race (Close Senate Race) in a state. Races are designated as “close” if they were categorized by the New York Times as a “toss-up” race about a month prior to the election.
Variables Predicting State Supreme Court Election Rolloff

Once a voter has decided to participate in the higher-profile races that draw voters to the polls, voters must decide whether or not to vote in a state supreme court election. To some extent, we expect the factors that affect turnout to affect roll-off as well. In the same way that education reduces the information costs of voting generally, it may decrease roll-off in judicial elections by reducing information costs in judicial elections specifically. In studies using aggregate data on judicial elections, Hall (2007) finds that states with more educated populations have lower aggregate roll-off, but Streb, Frederick, and LaFrance (2009) find no significant effect. Importantly, Nichols and Strizek (1995) contend that the effect of education on turnout is often masked in aggregate data; our use of individual-level data will allow us to address this question head-on for the first time with a national sample.

For our variables associated with group memberships and community connectedness, we expect that the same factors promoting voting (information coming from a union or church and the stronger ties to community that come with home ownership) will also decrease roll-off in judicial elections. For purely demographic traits such as race and gender, it is unclear whether the same things the drive women and whites to the polls in larger numbers will lead them to complete the ballot at higher rates than men and minorities. Indeed, we see it as possible that if men and minorities overcome the respective reasons that their demographics turn out in lower numbers, they may be more likely to complete the ballot than women and whites. While competitive gubernatorial and senate races
may boost participation in up-ballot races, we see no theoretical reason that such races would affect rates of roll-off in judicial elections. Hence, we omit these variables from the second-stage of the model. However, the state competitive environment should increase voter participation, thereby decreasing roll-off. A more competitive environment should affect voter participation for all races.

Beyond the factors that influence turnout, there are a number of factors unique to judicial elections that may influence roll-off in these elections. The foremost among these is the presence of partisan cues in the election (Partisan). Evidence at the aggregate level suggests that partisan cues in elections gives voters a simple means by which to distinguish between two candidates that they would otherwise know nothing about. The presence of a partisan cue gives voters enough specific information about the candidates to make them feel as though they can make an informed decision. As such we expect partisan election states to have higher voter turnout than nonpartisan states. Ohio and Michigan use a quasi-partisan system for electing judges where parties nominate judges and the party affiliation of judges often circulates during the campaigns, but party affiliations are not actually listed on the ballot (as they are in partisan elections). As such, we expect roll-off to be higher in quasi-partisan election states (Quasi-Partisan) than in partisan states but lower than in nonpartisan states.

Another factor that provides voting cues to citizens is incumbency. If a voter knows a particular candidate is an incumbent (Incumbent), they can use their opinion of their state’s justice system to inform their decision (a favorable view of their state’s justice system would imply a vote for the incumbent; an unfavorable
view would lead them toward voting against the incumbent). As incumbents often enjoy better name recognition than challengers, and as some states even formally identify the incumbent on the ballot, more voters may feel like they have more information about the race when the race involves an incumbent, leading to lower roll-off rates.

Finally, the nature of the campaign in the judicial election may lower roll-off rates. Recognizing that these effects may be difficult to pick up at the individual level (particularly since there are only 18 races involved in the November 2010 election from which our data are drawn), which limits our observed variation at the campaign level, we nevertheless include them to control for any effects they may have. Specifically, we look at the combined per capita spending \((Per \text{ Capita Spending})\) of the candidates in a judicial election and whether or not there is a quality challenger \((a \text{ candidate who has held a previous judicial position})\) in a race \((Quality \text{ Challenger})\). Aggregate analyses of a large number of races over many years suggests that races with more spending and those that are competitive because of the presence of a quality challenger have higher turnout (Bonneau and Hall 2009; Hall and Bonneau 2006).

**Analysis**

Because of the two-stage nature of the choice we are modeling (first to turn out to vote at all and second whether to roll-off on a judicial election), we analyze our data using a probit model with Heckman’s sample selection correction (Van de Ven and Pragg 1981). If the errors in the two equations are correlated, the
estimates of the parameters in the roll-off equation would be biased in a single-equation probit model. As the degree of that correlation is an open question, it is appropriate to proceed without making the assumption of uncorrelated errors.

[Table 1 about here]

The results of the model appear in Table 1. Before analyzing our primary question, participation in the judicial election, we quickly review the first-stage equation of general turnout. The turnout equation has few surprises, with college-educated citizens, weekly church attenders, and homeowners being more likely to turn out, though race and union membership did not show significant effects. Perhaps the biggest surprise in our sample is the result showing that men had modestly higher turnout rates than women.

Looking at the equation of primary interest, the second-stage estimates of factors affecting roll-off in state supreme court elections, there are a number of interesting findings. First, the importance of partisan cues cannot be understated. Voters in partisan election states are much less likely to roll-off than those in nonpartisan election states. The same is true of voters in quasi-partisan states, though the magnitude of the effect is somewhat smaller. For the typical person in our data (a college-educated, white, female, who attends church weekly, does not live in a union household, is a homeowner, has no competitive senate or gubernatorial race, and lives in a very competitive state, with an incumbent judicial candidate, a quality challenger, and total spending of about $1,000,000 in the judicial race), the probability of roll-off is only about 0.04 in a partisan election compared to 0.09 in a quasi-partisan election and 0.23 in a nonpartisan election.
Incumbency is not statistically significant, but to really ascertain the causal effect of incumbency we need to directly compare states that list incumbency on the ballot with states that do not. Such a comparison would best be made in an experimental setting, which we intend to do in future work. Neither challenger quality nor per capita campaign spending came out as significant, which we suspect is due to the limited variation we observe on those variables over the 18 contested races took place in the November 2010 elections. As additional years of individual-level data become available, we suspect we will observe significant effects on these variables.

The demographic effects are also clear and pronounced. We find that having a college diploma decreases the probability of roll-off by about 10% for a typical person (as described above). Men are more likely to complete their full ballot compared to women as are union households, consistent with Hojnacki & Baum’s (1992) finding (based on Ohio data) that union activity may encourage voting both generally and in judicial elections specifically. Race, church attendance, and home ownership do not exert significant effects on roll-off rates. Finally, being in a state with generally competitive elections (as measured by the absolute deviation from a 50% MPI value) increases participation. The farther a state gets from a 50% (perfectly competitive) MPI value, the more likely it is that voters in that state roll-off in judicial elections. This effect is marginally significant ($p < 0.10$)
Discussion

Ultimately, we find strong and clear support for the hypothesis that the presence of partisan labels increases voter participation. The simple, concise voting cue enables citizens to make an “on-the-fly” judgment about candidates in down-ballot races (like judicial elections) where citizens might not otherwise have much information about the candidates. Even quasi-partisan elections, where candidates are nominated by parties but the party affiliation is not listed on the ballot, have higher levels of participation relative to nonpartisan elections. Removing partisanship from the ballot reduces the pool of voters who feel adequately informed to cast a ballot.

Additionally, it is by no means clear that eliminating voters who rely on solely on the partisan ballot’s explicit partisan cues to inform their vote that nonpartisan elections genuinely remove the partisan element from elections. Indeed, Bonneau & Cann (2011) show that voters’ party ID is a significant predictor of vote choice even in nonpartisan judicial elections and that the effect of voter party identification is no weaker in nonpartisan elections than in partisan elections. It is no understatement to say that empirical investigations have not been kind to the fundamental claims of proponents of nonpartisan elections.

Beyond providing a clearer portrait of the effect of the partisan ballot format on participation in judicial elections, we also provide some unique insight on the individual characteristics that affect participation in judicial elections. Because of the ecological fallacy, it is difficult to draw meaningful conclusions about the effect of individual level characteristics on participation with the aggregate level data on
which existing studies of participation in judicial elections are based. This study allows us to definitively confirm the effect of education on participation in judicial elections. Gender and union membership also show significant effects on participation. Our results clearly show that there is significant non-random variation in participation at the level of the individual voter, and that no portrait of participation in judicial elections is complete without accounting for the variation at the individual level.
References


Table 1: Heckman Probit Model of General Turnout and State Supreme Court Election Roll-Off

<table>
<thead>
<tr>
<th></th>
<th>Roll-off</th>
<th>Turnout</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Coefficient (Std. Err)</td>
<td>Coefficient (Std. Err)</td>
</tr>
<tr>
<td>Partisan</td>
<td>-0.971**  (0.393)</td>
<td>-</td>
</tr>
<tr>
<td>Quasi-Partisan</td>
<td>-0.616**  (0.209)</td>
<td>-</td>
</tr>
<tr>
<td>Incumbent</td>
<td>-0.054    (0.093)</td>
<td>-</td>
</tr>
<tr>
<td>Quality Challenger</td>
<td>-0.005    (0.104)</td>
<td>-</td>
</tr>
<tr>
<td>Per Capita Spending</td>
<td>1.432     (1.391)</td>
<td>-</td>
</tr>
<tr>
<td>Education</td>
<td>0.428**   (0.145)</td>
<td>0.452** (0.162)</td>
</tr>
<tr>
<td>White</td>
<td>0.173     (0.178)</td>
<td>-0.127</td>
</tr>
<tr>
<td>Male</td>
<td>-0.329**  (0.154)</td>
<td>0.420** (0.174)</td>
</tr>
<tr>
<td>Weekly Church Attendance</td>
<td>-0.050    (0.163)</td>
<td>0.454** (0.188)</td>
</tr>
<tr>
<td>Union member in household</td>
<td>0.622**   (0.233)</td>
<td>0.028</td>
</tr>
<tr>
<td>Homeowner</td>
<td>-0.112    (0.173)</td>
<td>0.518** (0.184)</td>
</tr>
<tr>
<td>Competitive Environment</td>
<td>0.096*    (0.058)</td>
<td>0.096** (0.028)</td>
</tr>
<tr>
<td>Close Senate Race</td>
<td>-         (0.198)</td>
<td>1.023** (0.318)</td>
</tr>
<tr>
<td>Close Gubernatorial Race</td>
<td>-         (0.198)</td>
<td>-0.088</td>
</tr>
<tr>
<td>Constant</td>
<td>-1.551**  (0.317)</td>
<td>-0.400 (0.274)</td>
</tr>
<tr>
<td>Wald $\chi^2$</td>
<td>47.80**   (p &lt; 0.001)</td>
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<tr>
<td>$\rho$</td>
<td>0.946     (0.232)</td>
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<tr>
<td>Wald test of $\rho = 0$</td>
<td>0.65      (p = 0.421)</td>
<td></td>
</tr>
<tr>
<td>$n$</td>
<td>1205      (1088 Uncensored/117 Censored)</td>
<td></td>
</tr>
</tbody>
</table>

** $p < 0.05$, two-tailed; * $p < 0.10$, two-tailed. Standard Errors are robust and clustered by respondent.