

EXPECTATIONS AND IMAGES: A NOTE ON DIFFUSE SUPPORT FOR LEGAL INSTITUTIONS

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There has recently been a growing concern within political science with the public's support for governmental institutions. To date, the research in the judicial realm — focusing extensively on the United States Supreme Court — has measured support primarily in terms of the public's evaluation of court outputs and has attempted to explain support through variables believed to function as important bases or references for these evaluations, e.g., policy orientations, political party identification, and race (Murphy and Tanenhaus, 1968a and 1968b; Dolbeare and Hammond, 1968; Dolbeare, 1967; Hirsh and Donohew, 1968). Yet the public is not especially cognizant of court decisions and the low "visibility" of judicial bodies (Dolbeare, 1967; 198-201; Barth, 1968; Jacob, 1966) would suggest that the basis of support might well be more diffuse than specific. An analysis of diffuse support might be concerned primarily with the public's general willingness to comply with judicial decrees or with its willingness to maintain judicial institutions as bodies appropriate for resolving conflicts, and only secondarily with outputs.¹

One likely source of diffuse support is the official theory or mythology attached to American courts. Due process is the basic official normative principle governing judicial procedures and reflects the belief that the justness of judicial pronouncements is determined by the manner in which they are reached as well as by the specific outcome of the case. But the public can be expected to be as unfamiliar with the specifics of due process as it is with court decisions. At the level of the layman these normative expectations of courts may best be categorized under the rubric of "fairness." Fairness, intended to include elements of impartiality and objectivity, is an aspect of popular court myths² which has been reflected in public expectations of judicial officers (Mason, 1967: Ch. 3). Obviously, support derived from the simple existence of this due process or fairness norm within the society or culture would not require a knowledge of court outputs, or even a general political awareness, since such norms are part of the substance generally

disseminated through political socialization. Support of this origin thus might well be considered diffuse support of the compliance and maintenance type. In fact, the basic stability of these normative expectations would make them ideally suited to serve such a purpose (Hess and Torney, 1967: 58).

For this to be the case, however, two conditions must be met. *First*, the public must attach a positive value to fair procedures. If procedural fairness is *not* interpreted as a desirable characteristic, then neither can it be interpreted as a basis of positive support. *Second*, perceptions of the way courts really operate cannot be inconsistent with that norm. That is, if courts are perceived to violate the accepted norm by using unfair procedures, one would not expect support to be generated from the norm. On the other hand, perceptions of courts using fair procedures, or lack of knowledge to the contrary, would allow the official norm to function as a basis of support (Patterson, et al., 1969).

If the procedural fairness norm is a basis of support, a relationship between it and support should stand out at the pre-adult years of the life cycle. This is a period when norms concerning "how you play the game" are presumably stressed within the school environment.³ Yet an honest test of this norm as a source of support should not be made at a very early pre-adult stage, for condition two (perceptions of the way courts really operate) demands some level of cognitive awareness.⁴ Adelson and Beall suggest that the adolescent's view of law generally begins to mature between ages thirteen and fifteen, when he looks upon law from a functional perspective, but also from a more critical posture (Adelson and Beall, 1970). Therefore, to examine the relationship between the fairness norm and support for courts, data were collected from ninth-grade students. A paper and pencil questionnaire was administered to 165 such students in public schools in Lexington, Kentucky, during May of 1970. The multi-purpose survey was conducted within the classroom, administered by an outsider. Due to both the demands of the school system and the needs of the overall project, it was not possible to select classes randomly. However, classes were purposefully selected to acquire variance in the social background, intellectual achievement, and instructors of the respondents.⁵

I. FINDINGS

The first requirement for the due process norm functioning

as a basis for support is that fair procedures be recognized as a positive element in decision making. To determine this the students were asked: "Some people say that the way a decision is made is more important than the specific outcome. Would you agree that a decision is fair if it is arrived at through fair procedures?" Responses to this question (Table I) show that procedural fairness is generally interpreted positively by the respondents. Almost two-thirds agree with the statement, while only one-fifth register disagreement.

The second condition is that perceptions of reality which are inconsistent with the norm cannot be held. These perceptions were measured by asking our respondents, "Would you agree that courts always use fair procedures in making decisions?" The responses (Table I) show that this condition is not generally satisfied. Almost half of the respondents hold a perception inconsistent with the due process norm.

TABLE I: DISTRIBUTIONS OF RESPONSES CONCERNING CONDITIONS ONE AND TWO

Response	Condition One: Procedural Fairness Norm		Condition Two: Perceptions of Reality	
	n	%	n	%
agree	107	(64.8)	44	(26.6)
uncertain	22	(13.3)	37	(22.4)
disagree	33	(20.0)	81	(49.1)
no response	3	(1.8)	3	(1.8)
Total	165	(99.9)*	165	(99.9)*

*Total does not equal 100 due to rounding.

It is not yet determined, however, what the presence or absence of these conditions might mean in terms of support. To measure support, the students were presented with a set of four statements intended to relate to both compliance and the willingness to maintain courts in their present decision-making role. These were:

There are times when it seems better for citizens to take the law into their own hands rather than wait for the courts to act.

Even if one strongly disagrees with a court decision, after it has been made it should be obeyed.

One should be willing to do everything he can to make sure that any proposal to abolish the courts is defeated.

If the courts, continually make decisions that the people disagree with, it might be better to do away with the courts altogether."

Responses were recorded on a Likert scale of agreement. A respondent's support score was constructed by summing re-

sponses, with a five indicating high support and one low support, and then dividing the sum by the number of items (four). The result was rounded, providing an ordinal scale ranging from one for low support to five for high support. A non-response on any of the four questions resulted in the individual's score being excluded from the data analysis, as this would artificially lower the average.

These four statements and the question concerning the way courts really operate were varied in respect to the courts to which they referred. Thus three respondent groupings resulted: (1) those receiving questions about the United States Supreme Court, (2) those receiving questions concerning "local courts," and (3) those receiving questions that referred only to "courts." These groupings were undertaken to determine if variations in support might be related to the particular level of court system under investigation, a consideration not realized in prior research on support for the Supreme Court but of ultimate importance to the generalizability of any findings, either in that work or the work undertaken here. Initial analysis of the data indicated that no significant differences on either variable could be attributed to the different references. Therefore, the groupings are combined in the data analysis and we feel justified in referring to support for courts in general.

Table II presents the relationships between the presence or absence of the conditions (acceptance of norm and perception of reality) and support. Group A consists of those students who attach a positive value to procedural fairness, and have a perception of reality not inconsistent with the fairness norm (i.e., fulfill both conditions). Group B consists of those who perceive courts as operating inconsistently with the fairness norm, which they evaluate positively (i.e., fulfill condition one but not condition two). Group C includes the students who failed to agree with the procedural fairness norm, and therefore could not be expected to support courts *on these grounds*.

As the table shows, those respondents fulfilling both conditions (Group A) are significantly more supportive than are either of the other two groups. In addition, those positively evaluating procedural fairness but having a "poor" perception of reality on the dimension (Group B) are not significantly different in terms of support than those for whom we would not expect procedural matters to be important (Group C). Indeed, the way in which members of Group C perceived courts to operate in reality had no significant impact on their support

levels. The X^2 goodness of fit between the support scores of those in Group C who perceive courts to operate fairly and those who do not was .0171 ($p > .99$). The satisfaction of both conditions therefore appears to be a basis on which support might well be developed.

TABLE II: SUPPORT SCORES, BY GROUPS

Support	Group A: Fairness Norm, No Inconsistent Perception		Group B: Fairness Norm, Inconsistent Perception		Group C: No Fairness Norm	
	n	%	n	%	n	%
positive	48	(82.8)	27	(55.1)	33	(60.0)
uncertain	4	(6.9)	9	(18.4)	8	(14.5)
negative	6	(10.3)	13	(26.5)	14	(25.5)
Total	58	(100.0)	49	(100.0)	55	(100.0)

AB: X^2 goodness of fit = 26.24 $p < .001$ BC: X^2 goodness of fit = 0
 $p > 1.0$

AC: X^2 goodness of fit = 20.38 $p < .001$

II. SUMMARY

In view of the public's relative unawareness of judicial outputs, it is logical to assume that support for judicial institutions may well be more diffuse than specific. The findings reported in this note represent a preliminary attempt to discover a possible basis for such support. It was hypothesized that such a basis might be found within the normative prescriptions for court decision making (procedural due process or fairness). While, of course, no *direct* relationship between this abstract prescription and support was measured, it was discovered that when two necessary conditions for its being operative were satisfied, support was demonstrably higher than when they were found wanting. This suggests that acceptance of the official theory attached to courts may function as a source from which support develops, provided the existence of corresponding congruent perceptions.

FOOTNOTES

- See Boynton, et al. (1968: 169) for institutional support measured in this manner.
- Myths surrounding court decision making contain numerous elements—impartiality, honesty, objectivity, justness, etc.—but the recurring emphases are usually synonymous with some idea of fairness. For a synopsis of judicial myth literature, see Miller (1965); Mason (1962); and Dolbeare (1967: 208-209). Although this literature reflects the “upper court myth,” key elements are applicable to courts in general.
- For a general discussion of the role of schools in the transmission of social norms see I. Torney (1967).
- On the importance of attitudes in determining attitudes toward authority, see Koepfen (1967).

⁵ Precise data descriptive of the socioeconomic characteristics of the student bodies in the two junior high schools used, except for racial composition, are not available. Administrative personnel describe one as "middle to low" in socioeconomic status, with 75.8% white and 24.2% black; the other as "middle to high" on socioeconomic dimensions with 97.5% white and 2.5% black. (We would like to thank Mr. Carl B. Spivey, Head, Division of Research and Statistics, Fayette County Public Schools, for this information.) Within the schools, students of similar intellectual achievement are grouped together into classes. These groupings are made on the basis of largely subjective assessments by teachers and principals. The classes sampled include two each which reflect low, average, and high academic progress. While we have confidence in this selection assuring us of a heterogeneous sample in terms of academic achievement, the grouping process was not judged sufficiently objective to allow us to utilize these groupings for control purposes confidently.

⁶ The statements were adopted in modified form from Boynton, *et al.* (1968: 166).

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