

Practice beyond Education: Legal Leadership and Institutions

Craig O. Brown
Purdue University

Agenda

- **Rising authoritarianism**
- Government leaders, criminal justice personnel, and unequal treatment
- Data and empirical methods
- Legal leaders and the rule of law
- A model of unequal treatment and criminal justice outcomes
- Legal leaders and outcomes
- Concluding remarks

Freedom House: Rising Autocratic Regimes



FREEDOM IN THE WORLD 2021

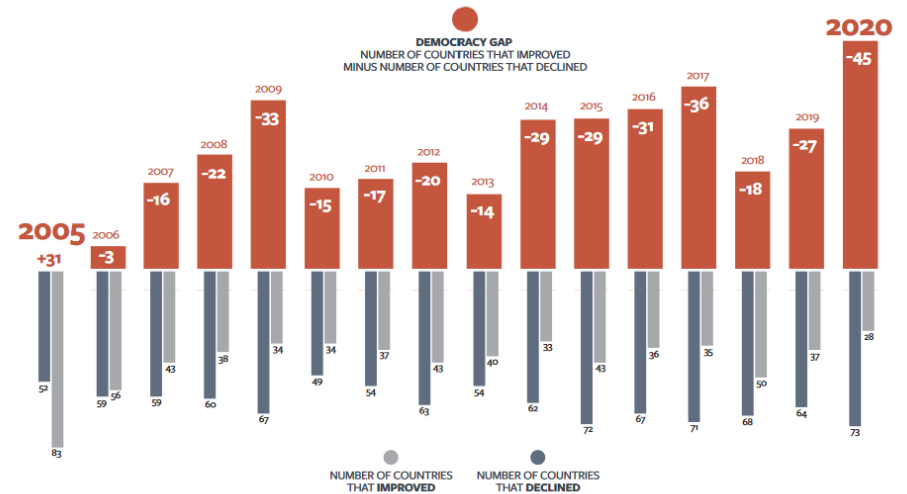
Democracy under Siege



Highlights from Freedom House's annual report on political rights and civil liberties

A GROWING DEMOCRACY GAP: 15 YEARS OF DECLINE

Countries with aggregate score declines in *Freedom in the World* have outnumbered those with gains every year for the past 15 years.



U.S. Government: 1st Democracy Summit

- During December 9-10, 2021, President Biden hosted a virtual summit for leaders from government, civil society, and the private sector
 - The summit focused on challenges and opportunities facing democracies
- Practicable ideas were solicited around three key themes:
 - Defending against authoritarianism
 - Addressing and fighting corruption
 - Promoting respect for human rights
- *Could criminal justice reform be important?*

Agenda

- Rising authoritarianism
- **Government leaders, criminal justice personnel, and unequal treatment**
- Data and empirical methods
- Legal leaders and the rule of law
- A model of unequal treatment and criminal justice outcomes
- Legal leaders and outcomes
- Concluding remarks

Government Leaders and the Justice System

- To consolidate power, “strong-man” government leaders tend to target the criminal justice system
- In 2016, Turkey’s leader, Recep Tayyip Erdogan purged over 2000 judges or prosecutors; and released 38000 inmates
- *During the purge, he favored supporters and punished enemies*



Research Question

Is a government leader's legal background (education and professional experience) related to the rule of law in his country?

Legal Leaders and the Rule of Law

- The rule of law (ROL) as a legal institution is defined as equal treatment under the law
 - A weak rule of law can be characterized as unequal treatment under the law
- Legal leaders could improve the ROL
 - Lawyers often swear an oath to the ROL
 - The median voter is unlikely to have sufficient knowledge of criminal-justice personnel
- A legal skillset is important for judicial reforms
 - Best suited to improve the rule of law **OR**
 - Best suited to corrupt justice

Related Literature

- Leaders and economic growth
 - Deaths and output volatility (Jones and Olken, QJE 2005); education (Besley, Montalvo, and Reynal-Querol, EJ 2011); and economics education in particular (Brown, JME 2020)
- Legal skills
 - Education (Heckman and Sedlacek, JPE 1985); and professional experience (Yoon, OHLE 2017; Berdejó and Chen, JLE 2017)
- Criminal justice personnel and justice outcomes
 - Judicial discretion (Cohen and Yang, AEJEP 2019; Ash, Chen, and Naidu, WP 2021); and selection (Hagle PB 1993; Faccio, AER 2006; Mehmood, WP 2021)

Agenda

- Rising authoritarianism
- Government leaders, criminal justice personnel, and unequal treatment
- **Data and empirical methods**
- Legal leaders and the rule of law
- A model of unequal treatment and criminal justice outcomes
- Legal leaders and outcomes
- Concluding remarks

Government Leaders

- Rather than focus on national leaders, the paper focuses on government leaders
 - A country's government leader is the chief executive responsible for decision-making for most of the year
- The World Bank's Database of Political Institutions (DPI) is used to classify each political system and determine the government leader for each economy-year observation
 - President (presidential systems; e.g. the USA)
 - Prime Minister (parliamentary systems; e.g. the UK)
 - Prime Minister* (dual systems; e.g. France)

Leader Background and ROL Data

- I, along with multiple research assistants, hand-collected leader background data
 - Sources include academic books, obituaries, news articles, and hardcopy encyclopedias
 - Birthdate, age, and gender
- University education background
 - Advanced degree, or first degree only
 - Major (e.g. STEM, law, medicine, economics, political science)
- Professional background
- 1016 leaders; 147 economies; years 1980 to 2014
- *Rule of law* is the ICRG rule-of-law index

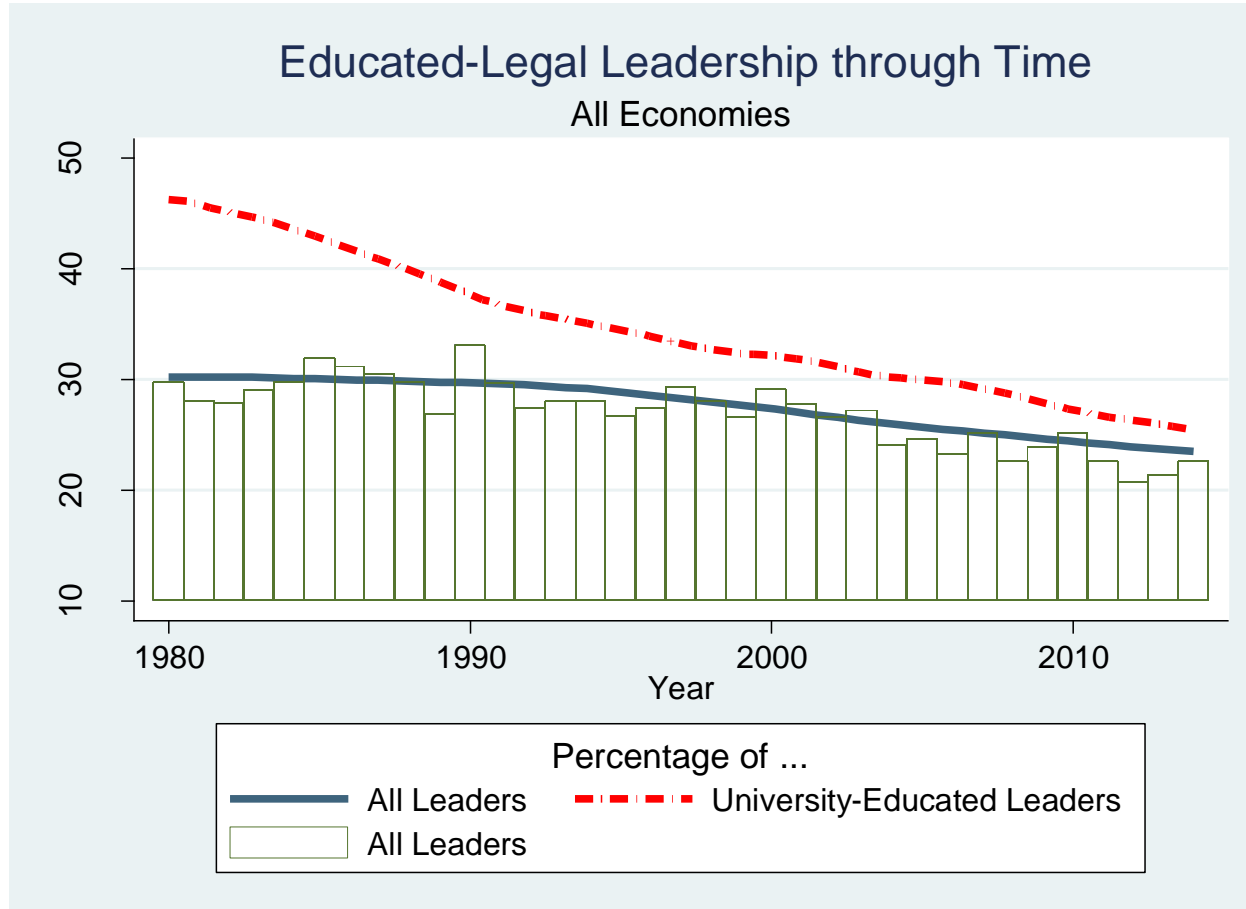
Sample Statistics (T. I)

Variable Name	Mean	sd.	Q50	N
Rule of law	3.785	1.466	4.000	3606
Educated legal	0.287	0.452	0.000	4149
Experienced legal	0.164	0.370	0.000	4170
Leader age	57.614	9.793	57.000	4209
Advanced degree	0.380	0.485	0.000	4048
Advanced STEM	0.076	0.265	0.000	4171
Economic leader	0.205	0.404	0.000	4157
Police (in thousands of persons)	66.611	99.150	23.786	1875
Judges (in thousands of persons)	1.740	2.413	0.697	1527
Prosecutions (in thousands of persons)	251.403	415.067	65.877	1465
Convictions (in thousands of persons)	133.844	212.713	47.133	1615
Population (in millions of persons)	45.179	147.853	10.161	3952
Log (Real GDP per capita)	8.266	1.635	8.275	3911
Inflation	1.663	7.858	0.324	3348
Economic growth	10.492	16.508	10.046	3978
Lending rate	17.600	17.437	13.169	3127
Autocracy	0.349	0.477	0.000	3843
Presidential system	0.636	0.481	1.000	4030
Right ideology	0.411	0.492	0.000	2574
Regime duration	4.169	4.325	3.000	1077

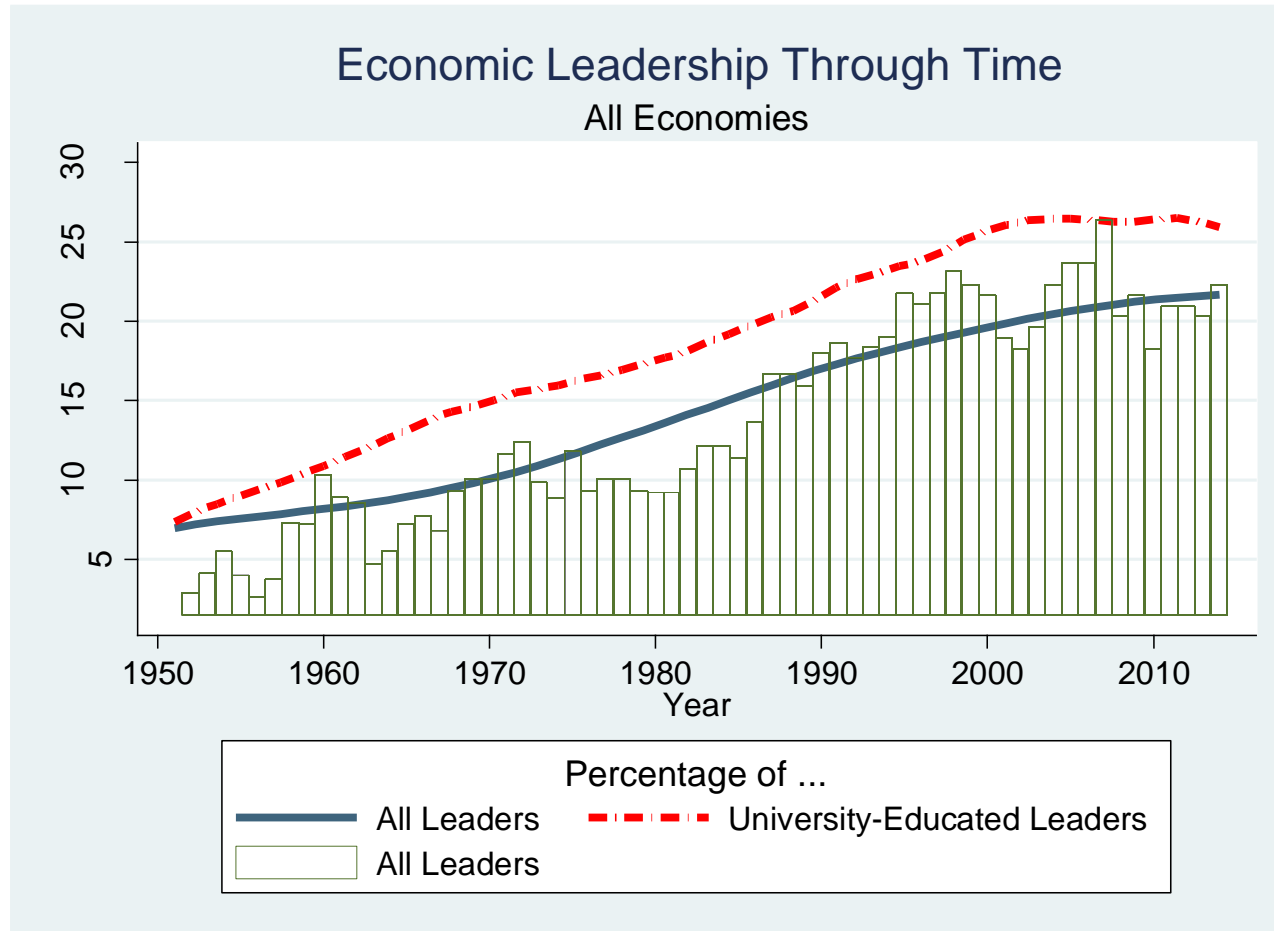
The Difference in Means (T. II)

Variable Name		Educated Legal	No Legal Education	Difference
Rule of law	Mean	3.988	3.729	0.259**
	se.	0.048	0.028	0.054
	N	1014	2537	3551
Variable Name		Experienced Legal	No Legal Experience	Difference
Rule of law	Mean	4.159	3.713	0.446**
	se.	0.062	0.026	0.067
	N	568	3009	3577
Variable Name		Autocracy	Democracy	Difference
Rule of law	Mean	3.331	3.961	-0.630**
	se.	0.038	0.031	0.051
	N	1195	2242	3437
Variable Name		Right-Leaning Ideology	No Right-Leaning Ideology	Difference
Rule of law	Mean	4.148	3.921	0.226**
	se.	0.049	0.041	0.063
	N	931	1348	2279

Legal Leadership through Time (F. I)



Economic Leadership through Time



Differences in Leader Changes

- To study the relation between legal leadership and the ROL, a desirable specification is one which allows a legal leader to improve the rule of law during his entire stay in office (or his regime)
 - $Legal\ leader_{it}$ (educated or experienced), is equal to one when a legal person is the government leader, and zero otherwise
 - $\Delta y_{it}^r = \varphi \cdot \Delta Legal\ leader_{it}^r + \Delta a_{t,5y} + \Delta \varepsilon_{it}^r$
 - y_{it}^r is the rule of law for the last year of each leader's regime
 - φ provides a difference-in-leader-changes (DL) estimate at the regime level

Agenda

- Rising authoritarianism
- Government leaders, criminal justice personnel, and unequal treatment
- Data and empirical methods
- **Legal leaders and the rule of law**
- A model of unequal treatment and criminal justice outcomes
- Legal leaders and outcomes
- Concluding remarks

First-Difference Regressions (T. III)

[a] Educated legal	0.035 (0.954)		-0.067 (1.523)	-0.070 (1.574)
[b] Experienced legal		0.115 (2.247)*	0.167 (2.529)*	
[e] Experienced legal (Non-Ed Legal)				-0.087 (2.033)*
[f] Experienced legal (Educated Legal)				0.172 (2.560)*
Last regime year only	Yes	Yes	Yes	Yes
Practice beyond education: [b] or [f] - [a]			0.234	0.242
p-value of the triple-difference estimate			[0.021]*	[0.019]*
Margin of education: [f] - [e]				0.259
p-value of the marginal effect				[0.001]**
Number of obs.	962	977	949	949
Adjusted R-squared	0.130	0.141	0.140	0.139

Close Elections (T. VIII)

[a] Educated legal	-0.081 (1.442)	-0.210 (1.139)
[b] Experienced legal	0.118 (1.793)+	0.417 (2.064)*
Leader-change type	Close election	
Last regime year only	No	Yes
Practice beyond education: [b] - [a]	0.199	0.627
p-value of the triple-difference estimate	[0.086]+	[0.095]+
Number of obs.	3381	949
Adjusted R-squared	0.146	0.136

Agenda

- Rising authoritarianism
- Government leaders, criminal justice personnel, and unequal treatment
- Data and empirical methods
- Legal leaders and the rule of law
- **A model of unequal treatment and criminal justice outcomes**
- Legal leaders and outcomes
- Concluding remarks

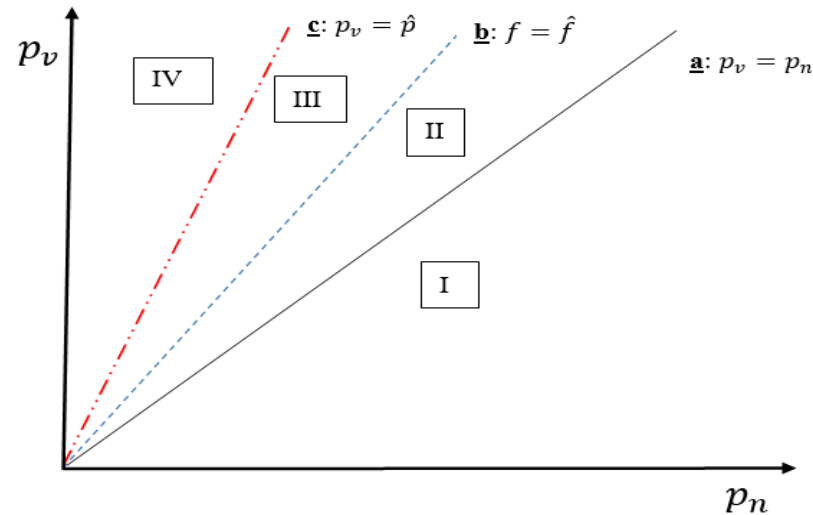
A Becker Model of Equal Justice

- Consider the benchmark model of Becker (JPE 1968)
 - Individuals commit criminal offenses $O(p, f)$; are convicted with probability p ; and if convicted, can be punished by imprisonment f
 - The cost of bringing criminals to justice is $C(p, O)$; the cost of meting out punishment is pO multiplied by bf
 - The planner chooses p and f to minimize the loss to society L
 - $\min_{p,f} L = D(O) + C(p, O) + bpfO$
 - $MC_p = MR_p; D'O_p + C'O_p + C_p = -bpfO_p - bfO$
 - $MC_f = MR_f; D'O_f + C'O_f = -bpfO_f - bpO$

A Two-Group Model on Unequal Justice

- Consider two separate groups of potential criminals
 - The normal group, n
 - The connected group, v
- The planner incurs a personal cost $c(p_v, O^v)$ from convicting people in the connected group, and from the criminal offenses that those people commit; he chooses p_n , p_v , and f to minimize the loss L
 - $$\min_{p_n, p_v, f} L = D(O^n, O^v) + C(p_n, p_v, O^n, O^v) + c(p_v, O^v) + bp_n f O^n + bp_v f O^v$$
 - $$D' + C' + c' + \frac{c_{p_v} + c_{p_v}}{O_{p_v}^v} = -bp_v f \left(1 - \frac{1}{\epsilon_{p_v}^v}\right)$$

Model Equilibria (F. III)



Function	Normal vs. Connected Conviction Probabilities	Conviction Probability Relative to the Benchmark	Punishment Relative to the Benchmark
a	$p_v = p_n$	Lower; $p_v = p_n < p^*$	Heavier; $f > f^*$
b	$p_v > p_n$	Equal average; $\bar{p} = \frac{p_n + p_v}{2} = p^*$	Heavier; $f = \hat{f} > f^*$
c	$p_v = \hat{p} > p_n$	Greater average; $\bar{p} = \frac{p_n + p_v}{2} > p^*$	Equal; $f = f^*$
Region			
I	Favoritism	Lower; $p_v < p_n < p^*$	Heavier; $f > f^*$
II	Light shame	Lower; $p_n < p_v < p^*$	Heavier; $f > f^*$
III	Moderate shame	Greater; $p_v > p_n > p^*$	Heavier; $f > f^*$
IV	Extreme shame	Greater; $p_v \gg p_n > p^*$	Lighter; $f < f^*$

Agenda

- Rising authoritarianism
- Government leaders, criminal justice personnel, and unequal treatment
- Data and empirical methods
- Legal leaders and the rule of law
- A model of unequal treatment and criminal justice outcomes
- **Legal leaders and outcomes**
- Concluding remarks

Legal Leaders and Outcomes (T. V)

LHS Variable	Police	Judges	Prosecutions	Convictions	
Population	0.0004 (0.005)	0.001 (0.156)	2.017 (0.163)	1.657 (0.467)	0.467 (0.229)
Police			2.032 (1.557)	0.233 (0.899)	-0.030 (0.131)
Judges			4.152 (0.306)	7.943 (1.610)	7.514 (1.171)
Prosecutions					0.127 (2.109)*
[a] Educated legal	7.950 (1.728)+	0.036 (0.624)	-3.990 (0.186)	-4.892 (0.955)	-8.005 (1.528)
[b] Experienced legal	-7.998 (1.766)+	0.074 (0.759)	88.518 (1.996)+	26.465 (2.304)*	26.984 (2.285)*
Last regime year only	Yes	Yes	Yes	Yes	Yes
Practice beyond education: [b] - [a]	-15.948	0.038	92.508	31.357	34.990
p-value of the triple-difference estimate	[0.082]+	[0.735]	[0.104]	[0.040]*	[0.036]*
Number of obs.	371	300	153	170	141
Adj. R-squared	0.028	-0.002	0.034	0.223	0.427

Agenda

- Rising authoritarianism
- Government leaders, criminal justice personnel, and unequal treatment
- Data and empirical methods
- Legal leaders and the rule of law
- A model of unequal treatment and criminal justice outcomes
- Legal leaders and outcomes
- **Concluding remarks**

Conclusion

- *Compared to other government leaders, a leader with professional legal experience, strengthens the rule of law by the end of her tenure*
 - *is robust controlling for economic conditions and other leader characteristics*
 - *is robust for various subsamples*
 - *most evident for autocracies*
- *Consistent with a model of unequal treatment, an experienced-legal leader is **also associated with roughly 27,000 (or 20%) more convictions per year** by the end of her tenure*
- *Experienced-legal leaders seem to improve justice performance without expanding resources*

Thank You
