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The Penalty of Party on Black Homeownership: The Impacts of Judicial Institutional Settings on the Black Political Economy

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Abstract

Black homeownership declines across the U.S.A. at significantly higher rates than white, Hispanic, or Asian homeownership. Although the cost to own a home is lower in Republican states, Black Americans are much less likely to maintain homeownership in those areas. This article attempts to gain leverage on the following question: "what is the penalty of political parties on Black homeownership in America?" The findings presented here provide support to the notion that there is a nationwide penalty of political parties on Black homeownership. The variation in this penalty is dependent on a given state's opportunity structure for institutional racism, which changes based on the state's foreclosure laws and partisan leanings. To support the nationwide findings, this article provides a case study on Black homeownership across the state of New York's judicial districts with 221 partisan-elected judges, revealing that there remains a penalty in Republican judicial districts. Previous scholarship has analyzed the relationship between parties and foreclosures, as well as the relationship between race and foreclosures. This article assesses the intertwined relationship of parties, race, and foreclosures.

Keywords Black homeownership · Insidious racism · Racism · Great recession · Foreclosure · Institutions · Judiciary · Homeownership

Introduction

A large component of family wealth in America is homeownership. Recent reports from the United States Census and United States Federal Reserve show that "Americans hold more wealth in their homes than in any other asset, making housing the most important economic tool for millions of citizens. The average homeowner reports more than twenty times the wealth of the average renter" (McCabe, 2016). According to the U.S. Census Bureau, in July of 2019, the Black homeownership rate was reported at 40.6%. In 1970, the Black homeownership rate was 42%. Over this same period, the white homeownership rate in America has remained above the 70th percentile. Very little research has been done to explain the relationship between Black homeownership and partisan politics. The literature that does address this political area does so with an eye on the response of federal representatives in the immediate aftermath of the 2007 housing crisis, which may or may not be generalizable (Mian et al., 2010). I address this gap in the literature by answering the question, what is the impact of American political parties on Black homeownership in America? I use a national dataset of homeownership to make the argument that there is a penalty of party on Black homeownership and that penalty is imposed, in part, through the institutional structures of state judiciaries. To support this national analysis, I also perform an analysis of changing homeownership across the State of New York's judicial districts. Taken together, I find evidence that points to the existence of a penalty of party on Black homeownership in regions where Democratic judiciaries are not actors in the prevention of discriminatory foreclosure practices.

This paper proceeds as follows. "Black People, Homeownership, and the Politics of Foreclosures" provides the contribution and relevance of this research. This section also provides a review of the relevant literature, and explains the placement of this research within current scholarship. "A

Portions of these findings were presented at the 2022 Politics of Race, Immigration, and Ethnicity Consortium (PRIEC) Conference, as well as the 2022 National Conference of Black Political Scientists.

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Theory of Partisanship Penalty" presents a theory of partisanship penalty. "Empirical Design" explains the research design, the three primary hypotheses, and the relevant variables to this research. "The Results section" highlights the results of this research. "The Discussion section" discusses the implications of the results. "The Conclusion" end with an overview of the significance of this research. There is also an online appendix that provides further analysis and supporting material as discussed below.

Black People, Homeownership, and the Politics of Foreclosures

Americans Want Homes

The "Happy Homeownership Narrative" is the long-standing preference of Americans to achieve homeownership (Dickerson, 2014). Throughout history, the U.S.A. has actively bolstered this narrative with hopes of receiving the benefits that homeownership grants the American economy (Dickerson, 2014; The State Of The Nation's Housing, 2016). As a result of this nationwide push, if provided the opportunity to own a home, most Americans will choose to do so, even in the face of rising affordability challenges (The State Of The Nation's Housing, 2019). The steep change in homeownership within the Black community leading up to the Great Recession corroborates the Happy Homeownership Narrative. Across the 24 years spanning 1970 and 1994, the national Black homeownership only increased from 42.0% only to 42.3%. However, over the following 10 years leading up to the housing crisis, the national Black homeownership rate increased over 22 times faster, rising to 49.1% in 2004 as mortgage lenders made access to homeownership dubiously more accessible to Black Americans (this change was the result of many unfair, subprime mortgages provided to the Black community, ultimately resulting in a foreclosure crisis. By 2019, the Black homeownership rate retreated back to 42%). The steep increase in Black homeownership leading up to the great recession is exemplary of how Americans will increase their levels of homeownership if homeownership becomes more accessible to them (Lacy, 2012). However, as individuals purchase homes with varying debt structures, their ability to keep and thrive in their homes is subjected to the political structure of their state. Specifically, the politics of foreclosures (as outlined below) provides a crossroads for analysis between elections, politicians, and homeownership.

The Politics of Foreclosures

One issue that is pertinent to homeownership is that of foreclosure. Every American state has different laws that govern the methods available to lenders who would like to foreclose on a home (Ghent, 2012; Ghent & Kudlyak, 2011). Foreclosure laws matter because they determine whether or not lenders who wish to foreclose on a borrower's home are allowed to handle the foreclosure in an out-of-court process or are required to appear in court. Going through the courts is a much more costly endeavor for lenders (Pence, 2006). As a result of the higher cost of going through the courts, during economic downturns, foreclosure rates are doubled in states that do not require lenders to go through the courts (Mian et al., 2015), and threats of foreclosure are also significantly increased (Fields et al., 2007). Furthermore, in anticipation of new federal regulations during economic downturns, big banks delay foreclosures and avoid threats of foreclosure in the districts of members of Congress who serve on the Financial Services Committee (Agarwal et al., 2018). Finally, in making the decision to foreclose on a home, lenders also consider whether or not the state allows for recourse, which entitles lenders to pursue additional action against the borrower to retain the full value of a loan if the market value of the home is not enough (Ghent & Kudlyak, 2011). Taken together, this foreclosure literature provides evidence that lenders actually practice discretion when choosing which homes to foreclose or threaten to foreclose on, and this discretion opens the door to discrimination.

Homeownership As an Outcome of Party Control

An intersecting view of homeownership between party, race, and foreclosures has not been readily explored. There has been scholarship on the voting behavior of federal representatives during financial crises (Mian et al., 2010). This literature finds that Republican and Democratic members of Congress are both likely to put away partisan ideologies when their own-party constituents are facing high levels of defaults on their homes. These findings tie neatly with the reigning underlying assumption, which is that each political party equally wants to avoid a decrease in homeownership. This assumption stems from the Happy Homeownership Narrative and typically extends to the belief that each party operates in a manner to boost all homeownership rates (Dickerson, 2014; McCabe, 2016). However, this assumption extends rather carelessly to Black Americans, and in this research, I affirm the importance of analyzing the impediments Black Americans face in varying political environments (Sen & Wasow, 2016). More acutely, research on the relationship of race and homeownership needs to address the economic implication of party, which also provides a rationality aspect of Black voter decision-making (Downs, 1957; Green & Shapiro, 1994). To address this gap in the literature, I determine if and how party control impacts Black homeownership. This research analyzes racially disparate changes in homeownership across states and judicial districts and tests three hypotheses.

A Theory of Partisanship Penalty

"What used to be a mountain is now a molehill." This saying is a popular mantra of those who believe America has entered into a post-racism era. However, a more realistic mantra would be to say that, "the lion of racism has crouched low in tall grass," the implication being that racism has taken a more insidious form. Evidence of insidious racism at an institutional level is typically only unearthed after years of implementation. A recent example is when the Department of Justice sued Wells Fargo in 2010 for targeting minorities, referring to Black people as "mud people," and discriminatorily pushing subprime mortgages on them (Baradaran, 2017). Wells Fargo settled the case. A more recent example is from 2015, when the Consumer Financial Protection Bureau found that Hudson City Savings Bank was redlining (Ficklin, 2019). As a result, Hudson City consented to pay the largest redlining settlement in history (*Consumer Financial Protection Bureau and United States v. Hudson City Savings Bank, F.S.B. (D.N.J.)*, 2015).

Insidious racism continues to lurk within financial institutions. The *intentionality* of this form of racism differentiates insidious racism from other prominent types, such as Symbolic, Color-Blind, and Aversive Racism. My theoretical argument is that *resistance* to insidious racism against Black Americans is greatest in states controlled by the Democratic party. I theorize that insidious racism does not as easily flourish in Democrat-controlled states because the ideology of the Democratic party has a much more hands-on approach to their anti-discrimination agenda than that of the Republican party.

The mass majority of state judges are elected or appointed with respect to their party affiliation. As alluded to above, studies have shown that lenders that provide mortgages across multiple states do not simply decide on some criteria and say, "we are going to foreclose on anyone that meets these criteria." Instead, lenders are strategic about who they foreclose on, with profit maximization in mind (Mian et al., 2015). Part of the decision-making process on who to foreclose on, is "what is the process for foreclosure in this state, and if I have to go before a judge, who is the judge and how might they decide?" These lenders operate within the institutional opportunity structure they're provided.

There are three key assumptions to my theoretical argument. The first assumption is that business entities operate under a paradigm of profit maximization. This is an important assumption because lenders have the onus to initiate the foreclosure process by suing borrowers. As such, I assume that business entities are going to operate in ways that minimize cost, such that any action resulting in a reduction in profit is outweighed by cost savings. Further, I also assume that lenders will choose homes to foreclose on with an eye on the probability of success, which varies on a state-by-state basis and is dependent on state judiciary laws.

The second assumption is geared toward U.S. Citizens and basically states that individuals operate in the utility maximization framework. As it is employed in this work, I assume that individuals prefer homeownership over non homeownership because of all of the major economic and social benefits that come with it. I do not expect homeowners to voluntarily end their homeownership and begin renting on a significant scale.

The last assumption is that institutions controlled by Democrats are more resistant to racial inequity than similarly situated Republican institutions. I adopt this assumption because of the key differences in the role of government in liberal and conservative ideologies. While both Democrats and Republicans have anti-discrimination agendas, the liberal ideology of Democrats provides for a more hands-on role for government institutions in fighting discrimination. It is through this increased role of government that I assume institutions controlled by Democrats are more resistant to racial inequity (which is an assumption supported by the results of this research).

The final segment of my theoretical argument is the scope condition. This theory of insidious racism applies in forums in which actors have a high level of discretion with little equity oversight. As alluded to above, Wells Fargo provides a great example of insidious racism. Based on employee testimonies uncovered by the U.S. Department of Justice, Wells Fargo loan officers were targeting Black people for what they called "ghetto loans" and referring to Black people as "mud people." Further, they were using outreach programs with Black churches to influence Black people into accepting subprime mortgages. These mortgages led to financial devastation for many Black families during the great recession. The intentionality of these loan officers and their acutely designed targeting scheme is an example of insidious racism. As this scope condition states, Wells Fargo loan officers were operating in a forum where they had a high level of discretion and very little equity oversight.

Empirical Design

To understand how partisan politics impacts Black homeownership, I employ a quantitative research design to evince and test the factors that contribute to the penalty on changing Black homeownership levels. Specifically, I use a statistical design to test the strength of the association between party control and changing levels of Black homeownership across states. The unit of analysis in this research are racial and ethnic groups across states (Black, white, Hispanic, and Asian). I use the results from this analysis to identify and analyze a state for a case study. Following this, I employ a case study of the state of New York to gain leverage on the potential causal mechanisms through which party control impacts Black homeownership. New York is an ideal location for this analysis because it is a Democrat-controlled state that has judicial foreclosure laws, and at the statewide level, changes in Black homeownership in New York were more aligned with other races. Further, New York's land is about 87% rural, and the rural areas are home to around one in five of New York's population. This geographic breakdown for New York is strikingly similar to that of the entire U.S.A., where the U.S. Census Bureau has determined that one in five Americans lives in rural areas (Ratcliffe et al., 2016). Finally, as a Democratic state, the finding of a penalty on Black homeownership is subject to a downward bias. In New York, many judicial vacancies are filled by gubernatorial appointment including in Republican judicial districts. Due to the stronghold Democrats have had on the New York gubernatorial seat over the examined time period, many of New York's judges in the Republican districts are actually more liberal than the elected judges. Their existence and operation in Republican judicial districts can be assumed to lower the perceived penalty of having a more Republican judiciary.

Hypotheses

Overt racism has been largely on the decline, alternative forms of racism have increased significantly (Burke, 2016). This changing form of racism has resulted in economic hardship for Black people in the U.S.A., including less access to affordable health care (Tesler, 2012), less access to aid in the aftermath of natural disasters (Henkel et al., 2006), less favorable judiciary decisions (Johnson et al., 1995; Rice et al., 2022), less access to welfare (DeSante, 2013), and less access to jobs (Nunley et al., 2015). Aligned with these impacts of modern racism, I posit the following hypothesis to reveal whether the current racial homeownership disparity is converging, diverging, or remaining the same over time. I expect the rate of change in the homeownership of Black Americans to be worse off because wealth inequality between Black Americans and other Americans has been exacerbating as time goes on (Chiteji, 2019), and homeownership is a significant determinant of wealth accumulation.

H1 Across the United States, homeownership levels will decline at a greater rate for Black Americans than white Americans, Hispanic Americans, and Asian Americans.

Black in America → Penalty on the Change in Homeownership Levels Over Time

While on average I expect that there is a penalty on Black homeownership across states, there is significant variation of the penalty at the state level. To elucidate some nuance in the penalty on Black homeownership, I look at whether there is an effect of political party on Black homeownership. Previous research has shown that, during times of economic turmoil, struggling Black people are perceived less favorably than similarly situated white people, and this perception is greater in populations of conservative Republicans (DeSante, 2013). Thus, as I assess changing homeownership in the aftermath of the Great Recession, my second hypothesis is as follows.

H2 The penalty on Black homeownership over time will be greater in states controlled by the Republican party than in states controlled by the Democratic party.

State Controlled by Republican Party → Greater Penalty on black Homeownership

If the above hypothesis is correct and there is an impact of political parties on Black homeownership, the extent of that impact will be more or less constrained by varying institutional settings (Jeong et al., 2014). Banking legislation across the U.S.A. does not have a significant degree of variation. However, in the U.S.A., foreclosure laws do vary significantly by state (Ghent, 2012). A state's foreclosure laws directly determine the difficulty faced by a lender that wants to foreclose on a person's home. For example, some states require that the foreclosing party must file a lawsuit and go through the courts, while other states have out-of-court processes in place for foreclosures. Furthermore, some states allow for lenders to sue borrowers for the full value of a loan if the market value of the home is not enough to cover it (Ghent & Kudlyak, 2011). Because of this varying difficulty, Black Americans in states with relatively lax laws that protect families from foreclosures might be at greater risk of losing their home. Furthermore, depending on how foreclosure laws are set-up, Black Americans in states with relatively lax foreclosure protections might be worse off after a foreclosure, thus limiting their chances of owning a home in future. Thus, I test a hypothesis that provides an analysis of the varying impact of foreclosure laws.

H2a Foreclosure protection laws in Republican states are less beneficial to Black homeowners than similar foreclosure laws in Democratic states.

Data

The national analysis of this research relies on survey data to measure Black, white, Hispanic, and Asian homeownership across individual states. The data originate from the American Community Survey, which is provided by the

United States Census Bureau and collects responses from individuals throughout every year. To increase fidelity in their data, the United States Census Bureau randomly samples street addresses in every state, the District of Columbia, and Puerto Rico to provide up-to-date information outside of the decennial census. Furthermore, the data are collected for the time period between 2010 and 2017. Using data over these 8 years, this research shows a modern impact of party on Black homeownership. In particular, this time period begins the year after the Great Recession ends and is far removed from the dubious housing policies that plagued the Black community over the decades prior. Furthermore, during this time period, there is stability in the associations of liberal and conservative with Democrat and Republican, respectively (Fiorina, 2017). This stability allows for an apples-to-apples comparison, as opposed to a comparison of the Democrats of 2010 with the Democrats of 1990, which would result in an apples-to-oranges comparison. Thus, the data I analyze in this research allow for useful inferences to be found.

As it pertains to this research, a political party is deemed to have control over an American state if the party has been in control of either the gubernatorial seat or any state legislative chamber for a decade or longer. I define party control in this way because veto power is a crucial obstacle for institutional change (Pierson, 2004). As such, when a party has control over a state's legislative branch for a decade or more, any legislation or policy to address homeownership must be aggregable with the agenda of the reigning party. A decade is indirectly defined by state legislatures as 2.5 times the typical gubernatorial term, 5 times the term of a typical state assembly person, and between 2.5 and 5 times the term of a state senator (depending on the state). The use of a decade to determine party control drastically increases the probability that the changes in a state population's economic standing are the result of the policies implemented by the reigning party over the state. Data on state party government are pulled from Ballotpedia, a nonpartisan website funded by the Lucy Burns Institute. To match party control with the American Community Survey data mentioned above, a party will be deemed in control if it holds dominance between the years of 2008 and 2017. By analyzing Party control, racial identification, and homeownership levels, this research will be able to provide exploratory evidence that supports the existence of a causal relationship between party and Black homeownership.

The final element to the national dataset used for the national analysis is found in "Recourse and Residential Mortgage Default: Evidence from U.S. States" (Ghent & Kudlyak, 2011). Ghent and Kudlyak worked with lawyers and assessed state law to classify each American state as either a judicial or nonjudicial state and either a recourse or non-recourse state. I use their classifications to gain leverage on how a state's judicial proceedings impact the penalty on Black homeownership.

The New York analysis employs a lower-level dataset, where I assess homeownership across judicial districts in the state of New York. Utilizing the American Community Survey outlined above, for each of New York's 13 judicial districts there are data on the changes in homeownership of all races and ethnicities between 2010 and 2017. Further, I analyze 221 trial court judges across New York's judicial districts that were elected in partisan elections and served between 2010 and 2017. This allows for an analysis on how Black homeownership changes across judicial districts where there are Republican Judges and Democratic judges.

Quantitative Analysis

I use a statistical research design (a series of OLS regressions) to evince the penalty on homeownership for Black people in America, relative to white, Asian, and Hispanic people. Furthermore, I use this research design to analyze how the magnitude of the penalty on homeownership for Black Americans differs across states controlled by the Republican and Democratic parties. I limit this analysis to states that have more than 10,000 Black households (there are 39 States that have more than 10,000 Black households and those 39 states harbor 99.61% of the Black households in America). This restriction helps avoid data skew by excluding outlier states, such as Alaska, where the Black population is so small that the Black homeownership level fluctuates severely over time. Further, within the 39 states that have more than 10,000 Black households, I also remove state-level observations where the Hispanic or Asian population was not above 10,000 households. The data are from 2011 and 2017, and results in a total of 1064 observations. The 1064 observations include a changing homeownership rate of Black, white, Hispanic, and Asian populations in each of the 39 states over each of 7 years between 2011 and 2017 (less the 28 observations where Hispanic or Asian populations in the 39 states were less than 10,000 households). Here is the OLS specification.

$$Y_{it} = Black\,Setting_{it}\beta + covariates + TimeFE$$

Dependent Variable

Y_{it} represents the percentage change in (Black/Asian/Hispanic/white) homeownership in state i between year t and t−1. I analyze the *change* in homeownership levels over time, rather than yearly homeownership levels. This is as opposed to homeownership levels. This is the only dependent variable in this analysis. For example, if the Black homeownership level in Texas changed by −9.0% between 2010 and 2017, −9.0%

would be the Y. As a further example, if the Asian homeownership level in California changed by + 1.0% between 2010 and 2017, + 1.0% would be the Y. To reiterate, this research uses Black, white, Hispanic, and Asian homeownership levels across the U.S.A. to determine four dependent variables per state. As such, each state in this analysis has up to four observations per year (one observation for each of the analyzed races).

Independent Variable of Interest

The primary independent variable is the state setting for Black families (BlackSetting_{it}). This variable is, at its core, a location variable. The analyses presented in this article attempt to provide insight on the significance of judicial-political setting on racially differential changes in homeownership. That is, if there is a penalty of party on Black homeownership, there should be different homeownership trends in locations controlled by different political parties. Further, if that penalty is moderated by varying levels of judicial oversight and then changes in homeownership across racial groups should differ in locations with different judicial structures. To that end, the BlackSetting variable provides two observed traits of a given observation: whether the observed group is comprised of Black people and which type of judicial-political environment the group is located. BlackSetting represents a vector of binaries, of which only one is triggered per observation (see below). The vector includes the following: Black in Democrat-Judicial State, Black in Democrat-non-Judicial State, Black in Republican Judicial State, Black in Republican non-Judicial State, Black in Mixed Judicial State, and Black in Mixed non-Judicial State. For example, if the observation is the change in homeownership of Black families in California, then "Black in Democrat Non-Judicial State" would be operationalized (as 1) and the others would not (as 0 s). Similarly, if the observation were the change in homeownership of Asian families in California, then none of these IV's would be operationalized because the observed group is not Black. This allows for an assessment how the Black penalty changes across these different settings, relative to all other races. All of the following independent variables I use are binary.

$$Black\ Setting = \begin{cases} Black\ in\ Democratic\ Judicial\ State \\ Black\ in\ Democratic\ Non-Judicial\ State \\ Black\ inRepublican\ Judicial\ State \\ Black\ in\ Republican\ Non-Judicial\ State \\ Black\ in\ Mixed\ Judicial\ State \\ Black\ in\ Mixed\ Non-Judicial\ State \end{cases}$$

Control Variables

There are several control variables used in this analysis, including state recourse laws, median home values, change in median home values, median rent price, change in median rent price, and year. State recourse laws are important because some states allow for lenders to seek more assets than just the home if a foreclosure is granted. There is a possibility that residents of the states that have adopted this legal framework experience a greater deterrence from foreclosure, since they stand to lose more than just their house. Median home values are also important controls for this analysis because states with lower cost to homeownership may present more opportunities for families to come together to avert the loss of their homes. Further, median home values that are high may prevent recovery of homeownership levels post the Great Recession. Median rent values are similarly important because, if a state has relatively low rents, residents may be encouraged to sell their homes and seek rental agreements instead. In the model above, "Time FE" represents Time fixed effects. Time as a fixed effect helps support the notion that institutional judicial setting is a predictor of changes in homeownership. Further, time as a fixed effect allows the model to capture the systemic changes in homeownership that are attributable to the time-varying, nationwide policies to address the impacts of the Great Recession. Further still, because nationwide and international policy varied to address the struggling world economy, controlling for time-specific effects stabilizes the variance of the errors in order to meet one of the heteroscedasticity assumptions of OLS regression.

New York Analysis

I provide a lower-level analysis of changing homeownership by placing a magnifying glass on the state of New York. The New York specification is very similar to the nationwide specification. The primary difference is the variable, "BlackSetting." For the New York analysis, the BlackSetting variable again represents a vector of binaries, of which only one is triggered per observation. However, the vector for the New York analysis includes the following: Black in Democrat-Judicial District, Black in a Republican-Judicial District, and Black in a Mixed Judicial District. With a total of 364 observations, this OLS specification allows for an assessment how the Black penalty changes across these different party settings within the same state, relative to whites, Asians, and Hispanics.

Results

Table 1 and Table 2 show national models that attempt to reveal how state foreclosure laws interact with party control to create a penalty on Black homeownership. Table 1 looks

Table 1 Yearly penalty of political-institutional setting on black homeownership in the U.S.A

	%Δ in Homeownership level		
	(1)	(2)	
Black in Democratic Judicial State	−0.293	−0.302	
	(0.444)	(0.426)	
Black in Democratic Non-Judicial State	−1.122*	−1.284*	
	(0.553)	(0.525)	
Black in Republican Judicial State	−1.187*	−1.129*	
	(0.461)	(0.454)	
Black in Republican Non-Judicial State	−1.395***	−1.405***	
	(0.410)	(0.401)	
Black in Mixed Judicial State	−1.680*	−1.624*	
	(0.704)	(0.682)	
Black in Mixed Non-Judicial State	−1.028*	−0.951*	
	(0.461)	(0.454)	
Constant	−1.514		−0.856***
	(0.904)		(0.259)
Observations	1064		,064
R^2	0.070		0.066
Control Variables	Yes		No
Time Fixed Effects	Yes		Yes

Models indicate how changes in homeownership are impacted by political judicial setting across states. Year fixed effects are included in this model for both regressions

*p < 0.05; **p < 0.01; ***p < 0.001

at changes in state homeownership rates *each year*, and Table 2 looks at changes in state homeownership rates over the entire period (2010–2017). Each of the models in these tables are using OLS regression to determine if there is a penalty on Black homeownership across the U.S.A. in these various political and institutional settings. Of the 18 states in this sample that require lenders to go through the courts to foreclose on a home, 8 are Democratic, 7 are Republican, and 3 are Mixed Party. Of the 21 states in this sample that do not require lenders to go through the courts to foreclose on a home, 5 are Democratic, 9 are Republican, and 7 are Mixed Party.

The big takeaway from these models is the *insignificance* of the coefficient for Democratic states that require lenders to go through courts to foreclose on a home. Not only are the coefficients almost a third of any other coefficients of interest, but they are also not statistically significant, with a *p*-values much greater than 0.05. This result suggests that, between 2010 and 2017, Black households experienced little to no penalty on homeownership in Democratic states that require lenders to go through courts to foreclose on a home. The models also reveal that Black households received a harsh penalty in any other type of state, including Democratic states that do not require lenders to go through the courts to foreclose on a home.

Table 3 shows the results of models that attempt to reveal how the party control of judicial districts in the state of New

Table 2 8-year penalty of institutional setting on black homeownership in the U.S.A

	%Δ in Homeownership level	
	(1)	(2)
Black in Democratic Judicial State	−2.399	−2.108
	(1.798)	(1.730)
Black in Democratic Non-Judicial State	−8.596***	−8.585***
	(2.269)	(2.162)
Black in Republican Judicial State	−7.600***	−7.517***
	(1.854)	(1.842)
Black in Republican Non-Judicial State	−9.476***	−9.634***
	(1.661)	(1.638)
Black in Mixed Judicial State	−10.252***	−10.912***
	(2.836)	(2.768)
Black in Mixed Non-Judicial State	−6.666**	−6.445***
	(2.009)	(1.842)
Constant	−6.619	−2.755***
	(3.643)	(0.438)
Observations	156	156
R^2	0.386	0.349
Control Variables	Yes	No
Time Fixed Effects	Yes	Yes

Models indicate how changes in homeownership are impacted by political judicial setting across states between 2010 and 2017

**p* < 0.05; ***p* < 0.01; ****p* < 0.001

York can create a penalty on Black homeownership. Table 3 looks at changes in homeownership rates *each year*, over the entire period between 2010 and 2017. Each of the models in this table use OLS regression to determine if there is a penalty on Black homeownership across the state of New York in the various political settings. New York is a state that requires judicial foreclosures in all thirteen of its judicial districts. Of its thirteen judicial districts, eight of them are Democratic, 4 are republican, and one is mixed.

The big takeaway from the results shown in Table 3 is the significance of the variable titled "Black in Republican Judicial District." This result suggests that, between 2010 and 2017, Black households experienced a ***yearly*** homeownership penalty on homeownership between 1.3% and 1.8%. This result equates to Black groups having experienced declines in Republican judicial districts between 70% and 140% greater than whites, Hispanics, and Asians over the same time period.

Discussion

The results above make clear that Black households have experienced a penalty on Black homeownership between 2010 and 2017. If the level of homeownership on white households went down by 3%, an equitable America would also see Black homeownership decline by 3%. However, and aligned with the above results, a supporting preliminary analysis reveals that *America has an extremely significant penalty on Black homeownership such that if the combination of white, Hispanic, and Asian homeownership decreased by 3%, Black homeownership would decrease by 10%*. This is a deeply problematic preamble, as it showcases a clear path to the burgeoning wealth inequality between Black families and the rest of America. Of further concern in this paper is how the penalty on Black homeownership changes across states based on the political party in power and the laws on foreclosures.

Table 3 Penalty of political-institutional setting on black homeownership in New York State

	Penalty by environment	
	%Δ in Homeownership level per year	
	(1)	(2)
Black in Republican Judicial District	−1.340*	−1.716**
	(0.595)	(0.578)
Black in Democratic Judicial District	−0.387	−0.149
	(0.436)	(0.427)
Black in Mixed Judicial District	-0.485	−0.883
	(1.120)	(1.115)
Constant	−1.857***	−1.240**
	(0.483)	(0.414)
Observations	364	364
R^2	0.127	0.113
Control Variables	Yes	No
Time Fixed Effects	Yes	Yes

Models indicate how yearly changes in homeownership are impacted by political judicial setting across New York Judicial Districts

*$p<0.05$; **$p<0.01$; ***$p<0.001$

The results of a supporting series of subgroup analyses on just Black people echo the results shown above as well and suggest that Black families fare significantly worse in states under Republican control than in states under Democratic control. Mixing this result with the variation of foreclosure laws across states, this research reveals that a penalty on Black homeownership is least likely to occur in Democratic states that require lenders to go through the courts to foreclose on a home. The implication is that Black families will fare better in such states over time. Thus, all of the aforementioned hypotheses are supported by these results.

Many of America's anti-discrimination laws are designed to combat intentional discrimination. The theoretical argument of insidious racism contends that many institutions have adjusted to these laws and now employ racially discriminatory practices under the radar. Why is it that Black families fared so much better in Democratic states that have judicial foreclosure laws? As I stated earlier in the theory section of this paper, the mass majority of state judges are elected or appointed with respect to their party affiliation. As such, if lenders are foreclosing on homes in a given state that requires an in-court process, the political ideology of the judge matters. Scholars have confirmed that "when the law is very clear on how judges should decide, judges do in fact follow the law and not their political ideologies." However, when the law provides room for judicial discretion (such as in state foreclosure laws), judges vote in accordance with their political ideology (Oliver, 2009; Sunstein et al., 2006). As such, where there is room for discretion, liberal judges decide on their cases with a sharper eye out for insidious racism than conservative judges.

The use of political ideology in judicial decision-making explains, to some degree, why both California and New York are very Liberal states, yet experienced significantly different penalties on Black Homeownership between 2010 and 2017. While they have similar Black populations, similar levels of diversity, and similar Democratic control of their states, they differ on judicial foreclosure laws. In California, the lenders have an out-of-court process for foreclosing on homes, while New York requires lenders to go through the courts. Black households in California thus saw a penalty on Black homeownership of 8% (Asian, white, and Hispanic homeownership levels declined by 5%, while Black homeownership levels declined by 13%).

In New York, there was no state-wide penalty on Black homeownership (Asian, white, and Hispanic homeownership levels declined by 1.9%, while Black homeownership levels declined by 1.7%). Furthermore, this also explains why there is still a stark penalty on Black homeownership in conservative states that require judicial laws. For example, Indiana, which is a Republican state, requires a court process for foreclosures. However, the penalty on Black homeownership persists in such an environment (Asian, white, and Hispanic homeownership levels declined by 3%, while Black homeownership levels declined by 12%). Based on these findings, this research supports arguments that the election or appointment of liberal-leaning judges acts as a barrier to the attacks of insidious racism on the Black political economy. Figure 1 below showcases this result by revealing that Black families fare 6.3 percentage points better off in Democratic states that require judicial foreclosures, versus how Black families fare in all other states (the accompanying regression table can be found in Table 2) . These results shine a spotlight on the ways discrimination can persist in the civil courts. Discrimination in the civil courts tend to be overshadowed by the well-known and abusive discrimination within the criminal courts (Alexander, 2012). However, it is the opportunity structure for institutional racism in civil courts that help sustain the penalty on Black homeownership. To that end, Fig. 1 shows that a politicized judiciary can offer preventative support to changes in Black homeownership, but the magnitude of that support is dependent on the orientations of judges.

Addressing Alternative Explanations

A significant degree of Black migration from Democratic states to Republican states could potentially explain changing levels of homeownership. However, over the time period between 2010 and 2017, the share of the Black population in Republican-controlled, Democrat-controlled states, and mixed-party states remained stagnant. Republican states continue to hold about 50% of the Black population, while Democratic states hold 30% and Mixed states hold 20%. Thus, Black migration cannot explain the changing black homeownership levels across partisan states.

Intuitively, one might expect an easier path to homeownership in states where the median housing values are the lowest in the country. States controlled by the Republican party have historically had lower median housing costs than states controlled by the Democratic party. With lower barriers to homeownership, one would expect declines in homeownership to be less severe in Republican states. However, a comparison between Republican-controlled states and Democrat-controlled states does not reveal a significant difference in changing homeownership levels.

Finally, as robustness checks, I run a series of subgroup analyses that are available upon request. In order to discover whether judicial foreclosures have been beneficial without regard to party control of the judiciary, I test the impact of being in a Republican judicial state for Black homeownership on only Black people. Here, I find no statistically significant or impactful effect. This is contrary to the very significant finding for the impact of being Black in a Democratic

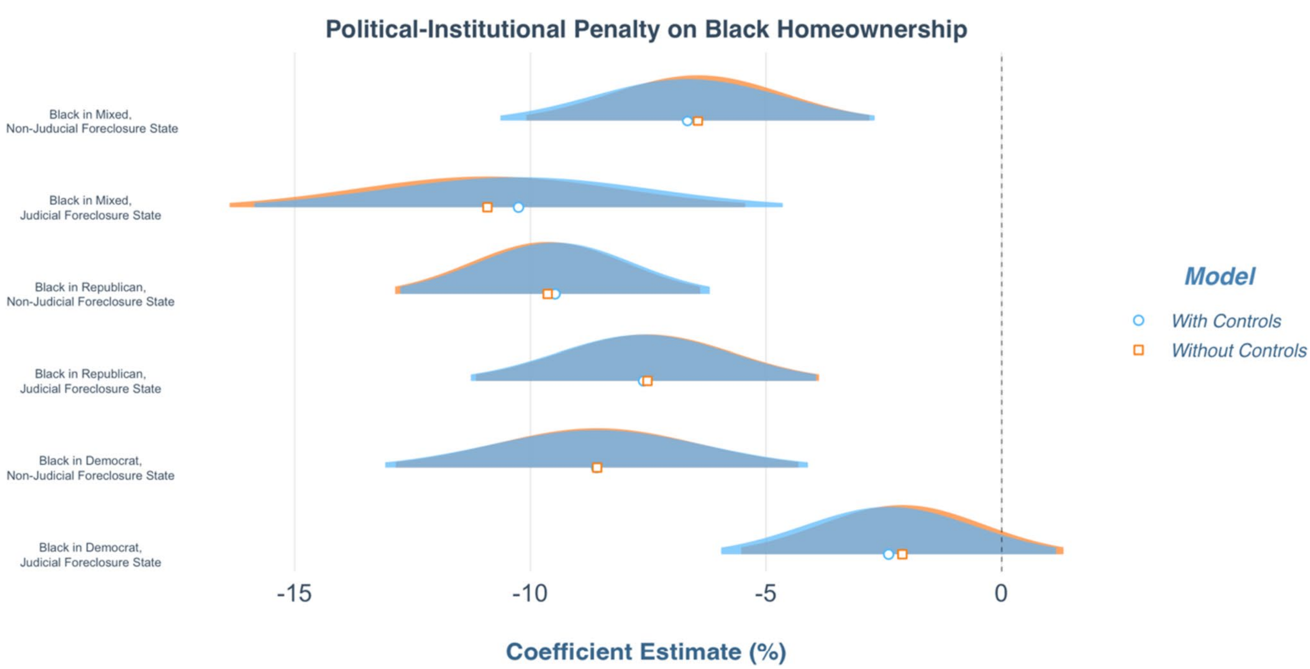

Fig. 1 All coefficients shown at the 95% level. This coefficient plot represents the results shown in Table 2

judicial state, where Black homeownership saw a 6% penalty reduction relative to other states during the period of the study. Further, in order to assess whether the impact of being in a Democratic judicial state is beneficial to everyone and not just Black people, I run the same analysis on a subgroup composed of only non-Black groups across the U.S.A. Here, I again found no significant relationship between protection of homeownership and living in a Democratic judicial state. This lends support to the notion that there is a specific and significant protection provided to Black people who live Democratically controlled judicial states.

Conclusion

Across the nation, Republicans are attempting to shift the perennial Black support away from the Democratic party, while the Democrats are vying for the status quo. The Republican message to the Black community is, “what do you have to lose?” implying that Democrats have not done enough to keep the support of the Black community. Furthermore, Republican politicians continue to push the narrative that Black families will become wealthier if the Black community gives its support over to the Republicans (Ellis & Subramanian, 2019). This research provides a political and institutional analysis to reveal potential economic implications of the Black community voting for one party over the other. Through an analysis of Black homeownership between 2010 and 2017, this research provides significant evidence of an economic relationship between political parties and Black homeownership across the U.S.A. Digging deeper, this research also has indications for the role of institutional constraints in the changing nature of Black homeownership such that the varying political judicial settings across states have the potential to disrupt negative impacts to Black homeownership. Finally, the New York state analysis of judicial districts adds credence to the notion that state judiciaries are institutions capable of blocking discriminatory practices, although their engagement of anti-equity agendas is dependent on the judges themselves.

Further research can be executed to gain leverage on the link between partisanship and changing levels of homeownership. An alternative research design could be that of a natural experiment that analyzes cities that happen to be situated on both sides of a state borders. However, history has not been kind to Black people, and the only way for an experiment like this to work is if the dispersion of Black people across the state border is actually randomly assigned.

Still, insidious racism continues to be a defining feature of institutions in the U.S.A. From Wells Fargo calling Black people “mud people,” to Hudson Savings Bank executing redlining strategies against minorities, intentional racism continues to be prevalent, although more and more difficult to perceive. Legislators and judges are elected or appointed to protect American citizens from such discrimination. However, this research suggests that partisan ideology is a factor in how well Black Americans are protected from institutional racism. While there is a penalty on Black homeownership across America, the penalty in Republican states is almost double the penalty in Democrat states.

To gain insight into the varying degree of the penalty on Bblack homeownership across partisan states, this paper leveraged the work of foreclosure scholars and analyzed state foreclosure laws. States vary on whether or not a lender must go through the courts to foreclose on a home. In states that do not require lenders to go through the courts to foreclose a on a home, there is an out-of-court process available. It is easier and more cost-efficient for lenders to go through an out-of-court process than a judicial process. This paper finds that changes in the level of Black homeownership are least likely to be penalized in Democratic states that require lenders to go through the courts to foreclose on a home. However, in Democrat states where lenders do not have to go through the courts to foreclose on a home, the penalty on Black homeownership is severe and in-line with Republican states. The observational evidence presented in this paper is consistent with my theoretical argument that Black homeownership levels are more resistant to insidious racism in Democratic states where the theater of foreclosure battles is the state judiciary.

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Declarations

Conflict of interests The author declares that he has no conflict of interest.

Ethical Approval Ethical approval and informed consent were not required for this research.

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