Do Courts have different decision and press release agendas? Evidence from the German case

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Research Question & Motivations

> ### Question:
> Does a Court's decision agenda and its press release agenda differ?

1. Policy agenda research focuses on policy issue attention within and across agendas of systems, institutions & organizations
   → *Gap*: Judicial policy agendas are barley considered & nearly unknown

   Baumgartner & Jones 1993, 2002; Jones & Baumgartner 2005; Baumgartner et al. 2019

2. Besides their decisions, courts around the world additionally use press releases to promote selected decisions
   → *Unknown*: Which policy issues are promoted by press releases?
   → *Unknown*: Press releases used to highlight specific decisions or to mirror the universe of cases?

   Staton 2010; Davis & Taras 2017; Johnston 2019

Agenda diversity

- Policy agendas are a set of policy issues to which a given political actor pays attention in a given

- Political actors have limited material and cognitive capacities to process information, hence, policy agenda space is finite

$\rightarrow$ Policy attention is mostly focused on few issues

$\rightarrow$ Agenda diversity - distribution of issues in a agenda - influences policy making

Judicial agendas

- A Court's agenda is composed of the proceedings on its docket
→ Court agendas depend on external actors (e.g. legislators)
- A Court's docket-control ability influences its agenda-setting ability
→ Mandatory vs. discretionary docket

- How to gain agenda-control (in the case of a mandatory docket control)?
- Courts strategically use press releases to invite public's attention to decisions (policy issues) while leaving others unmentioned
→ Press releases are used to enhance transparency and openness

We argue:
Courts which issue press releases possess two agendas:

1. decision agenda: all decided cases
2. press release agenda: decisions selected for promotion

Expectation

- Studies show that government agendas are predominantly occupied by three core issues: economy, defense and international affairs (Jennings et al. 2011)

- Core task of constitutional review courts is to control whether or not actions/bill/statutes comply with the constitution

$\rightarrow$ Court's core issues: civil rights, government/political actions, rule of law

We expect...

- ... that the decision agenda space is occupied by the three core issues of, while the press release agenda is used by the Court to highlight a plethora of policy issues in order to enhance openness

Data and research aims

- **Case**: German Federal Constitutional Court

- **Time frame**: January 1998 - December 2010

- **Data:**
  - ▸ Online available *decisions*
    $\rightarrow N = 4489$
  - ▸ Online available *decision-related press releases*
    $\rightarrow N = 1029$

- $\rightarrow$ **First Aim:** extracting policy issues from both, court decisions and press releases

- **Method for extraction:** Supervised learning

- $\rightarrow$ **Second Aim:** analyzing and comparing agenda diversity of both agendas

- **Method for analysis:** Shannon H's entropy index

Policy issue classification

- Coding scheme of the Comparative Agenda Project (CAP) for policy topic coding
  → ensures generalizability and comparability

- Text classification with *supervised learning* and *ensemble coding*

→ *Supervised learning* requires known categories and manually coded documents (**train set**)
  → focus on the area of interest

→ *Ensemble coding* subsumes predictions of different algorithms & uses the code with the highest agreement
  → enhancement of accuracy

- Our **train set**: 1070 randomly selected and manually CAP coded court documents

Policy issue classification

Table 1: Assessment of algorithm prediction performance

	Precision	Recall	F1
Maximum Entropy	56 %	51 %	51 %
SVM	49 %	37 %	40 %
Boosting	37 %	22 %	25 %
Random Forest	22 %	17 %	17 %
Classification Tree	13 %	14 %	13 %
Bagging	25 %	18 %	18 %

Table 2: Evaluation of the ensemble coding performance

	Precision	Recall	F1
Ensemble coding	80 %	69 %	74 %

Results

Table 3: Attention to policy issues, 1951-2018

A: Decision agenda

Policy field	Frequency	Percentage
Law and Crime	2074	46.20
Civil Rights, Minority Issues and Civil Liberties	851	18.96
Government Operations	343	7.64
Labor	186	4.14
Healthcare	172	3.83
Social Welfare	158	3.52
Public Lands and Water Management	132	2.94
Macroeconomy	124	2.76
Environment	110	2.45
Remaining 12 policy fields (less than 2% each)	343	7.55
All	4489	100

B: Press release agenda

Policy field	Frequency	Percentage
Law and Crime	300	29,15
Civil Rights, Minority Issues and Civil Liberties	197	19.14
Government Operations	102	9.91
Healthcare	67	6.51
Labor	49	4.76
Reunification	46	4.47
Banking, Finance, and Domestic Commerce	45	4.37
Education	38	3.69
Macroeconomy	33	3.21
Environment	30	2.92
Social Welfare	28	2.72
Remaining 10 policy fields (less than 2% each)	94	9.13
All	1029	100

Results

Figure 1: Entropy of the Decision and Press release agenda, 1998-2010

Conclusion & Outlook
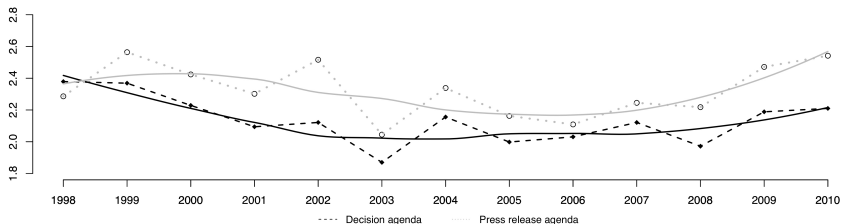
> **The FCC possess two agendas and they, the decision agenda and the press release agenda, differ**
>
> 1. Decision agenda is - in relation to all issues on the agenda - predominantly occupied by the three core issues of constitutional courts
>
> 2. The press release agenda distributes its attention more evenly across the issues, hence, it is more divers

$\rightarrow$ Next Step(s):

- Expand the manually coded data in order to further enhance the supervised classification

- (Expand the analysis beyond the explanatory level?)

Thank you for your attention!

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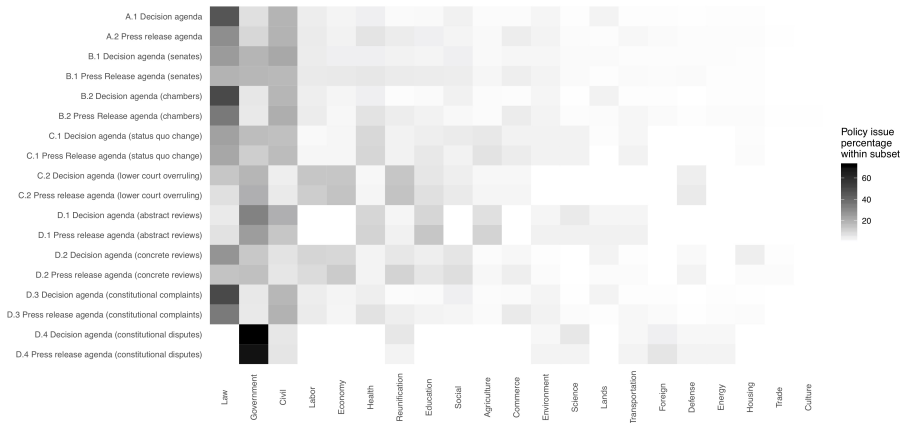Figure 2: Policy issue attention percentage by subsets, 1998-2010

Figure 3: Mean entropy per subset within different periods

	Mean Agenda Diversity			
	1998-2005	2006-2010	1998-2010	N
Decision agenda	2.15	2.10	2.13	4489
Press release agenda	2.33	2.32	2.32	1029
Subsets A: Institutional				
1. Senates				
Decision agenda	2.12	2.10	2.11	680
Press release agenda	2.20	2.12	2.17	375
2. Chambers				
Decision agenda	2.06	2.03	2.05	3809
Press release agenda	2.10	2.19	2.13	654
Subsets B: Outcomes				
1. Status quo change				
Decision agenda	1.64	1.54	1.60	127
Press release agenda	1.50	1.42	1.45	90
2. Lower court overruling				
Decision agenda	1.05	1.14	1.10	49
Press release agenda	0.86	0.97	0.90	40
Subsets C: Proceeding types				
1. Abstract reviews				
Decision agenda	0.71	0.57	0.66	40
Press release agenda	0.62	0.57	0.60	28
2. Concrete reviews				
Decision agenda	1.85	1.93	1.88	204
Press release agenda	1.60	1.65	1.62	101
3. Constitutional complaints				
Decision agenda	2.10	2.06	2.07	3915
Press release agenda	2.20	2.23	2.16	807
4. Constitutional disputes				
Decision agenda	0.54	0.27	0.43	53
Press release agenda	0.38	0.13	0.28	32

Figure 4: Entropy of the status quo change subsets for the decision and press release agenda, 1998-2010