

Trial and Error: Hate Speech Prosecution and Its (Unintended) Effects on Democratic Support

Abstract

Due to its controversial nature, hate speech prosecution of anti-immigration politicians is likely to affect citizens' democratic support. Using a web experiment in which participants are exposed to a manipulated television news story about hate speech, we test these potential effects in the Dutch context. We demonstrate that effects on democratic support are driven by (dis)agreement with ideas expressed by the prosecuted politician in his alleged hate speech rather than by identification with his party. While a decision to *not* prosecute a politician does not seem to affect democratic support, a decision to prosecute a politician for hate speech decreases democratic support among citizens with anti-immigration attitudes, and increases democratic support among citizens with pro-immigration attitudes. Decisions to prosecute politicians for hate speech thus have important effects not just on supporters of the politician's party, but also on other groups in society.

Keywords: anti-immigration parties, hate speech prosecution, democratic support, party identification, immigration attitudes, web experiment

Many established European democracies are home to anti-immigration parties.¹ While some have been more successful at the ballot box than others, their rise has been accompanied by controversy; several anti-immigration politicians have faced prosecution for inciting hatred. For instance, more than fifty Dutch and Belgian politicians have been prosecuted for hate speech² in recent decades (Van Donselaar, 1995; Vrieling, 2010). This study provides an opportunity to examine citizens' responses to prosecution of hate speech in a democratic setting using a full experimental design.

A key component of Western democratic principles is respect for all people – the *intended* outcome of hate speech prosecution therefore includes protecting the rights of (ethnic, racial and religious) minorities and immigrants. The idea of prosecution is to send a message to actors seeking to violate this democratic principle, and to prevent worrisome political ideas as racism to spread. However, another component of liberal democracies is the notion of free speech, i.e. the possibility to express opinions even though this might be hurtful for groups of people. Free speech is protected in domestic and international legislation as a core democratic right (Weber, 2009). By prosecuting politicians for hate speech, government disseminates a signal that free speech is not without limits. Moreover, prosecution may lead to the removal of the politician from the political game, thereby narrowing the range of political candidates that

¹ Fennema (1997) defines anti-immigrant parties as a subtype of political party that has adopted the immigration issue as its core political concern, or are considered by elites of other parties to do so. We use the term anti-immigration parties, as they generally oppose immigration in an abstract sense rather than target particular immigrants (cf. Van Spanje, 2011).

² Hate speech is defined as “all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility toward minorities, migrants and people of immigrant origin” (European Court of Human Rights, 2017).

citizens can elect. It is therefore hardly surprising that prior research demonstrated that many (Dutch) citizens strongly disagree with the prosecution of politicians for hate speech (Van Spanje and De Vreese, 2014).

The thin line between hate speech and free speech has acted as a catalyst for many discussions. When the two values – protecting free speech and protecting minorities from discrimination – come into conflict, this presents a core challenge for governments of multicultural societies (Bleich, 2011; Vrieling, 2010). Should government protect free speech at all costs, or should they prosecute politicians who express disapproving views of members of a societal subgroup? This is a difficult consideration to make. Either way the government decides, they are compromising a fundamental principle of their way of governing. In that light it is relevant to assess how citizens react to each action that government can take – who will be satisfied with a decision to prosecute a politician, and who will not?

One way to study citizens' responses to hate speech prosecution is by studying the responses in their levels of democratic support, i.e., support for the norms and procedures of the democratic regime in their country (Dalton, 2004; Easton, 1975). Given that prosecution limits free speech and potentially citizens' possibility to vote for the candidate representing their political attitudes, this may lower citizens' levels of democratic support. At the same time, some citizens may perceive prosecution as a vital instrument to preserve democracy, which may increase their democratic support.

Extant literature to the relationship between hate speech prosecution and democratic support is limited. Via using a quasi-experimental design, Van Spanje and De Vreese (2014) demonstrated that prosecuting an anti-immigration politician for hate speech lowered satisfaction with democracy among citizens who oppose multiculturalism. The current study corroborates this study's findings by examining the effects of the decision to (not) prosecute a politician for hate speech using a full experimental design. In this way, confounding influences

(e.g., media attention for the trial) can be held constant, which allows to substantiate causal claims. We examine not only *whether* but also *how* a decision to (not) prosecute politicians for hate speech influences citizens' democratic support via identifying two moderating factors. In line with prior research, we investigate if and to what extent agreement with the ideas expressed by the politicians in their alleged hate speech affects democratic support (i.e., advocating for assimilationism). The present study extends prior work by additionally testing whether or not identification with the politician's party does.

Studying how hate speech prosecution affects democratic support is relevant, as hate speech prosecution may not only affect those who (dis)agree with the content of the court case, but potentially also a broader group of citizens. Democratic support is key for a democracy's preservation; for a democracy to survive, the democratic regime should be perceived by citizens as legitimate and appropriate for society, better than any other realistic alternative (Diamond, 1999). Low democratic support is related to several undesirable social and political outcomes, such as decreased political participation, civil obedience, and increased political violence (e.g., Aberbach and Walker, 1970; Dalton, 2004; Muller and Jukam, 1977). Particularly in times where many western European countries are divided over immigration and integration (ESS, 2016) and where anti-immigration parties are growing in popularity (Dennison and Geddes, 2019), more knowledge on the consequences of hate speech prosecution is needed. While the intended consequences are straightforward, there is both scientific and practical merit in increasing understanding of the side effects of decisions regarding the prosecution of anti-immigration politicians for hate speech.

Theoretical Framework

Democratic Support

A stable democratic society requires that citizens believe in and respect the political system. Democratic support reflects citizens' orientations toward the democratic nation-state,

its agencies, and actors, and involves both affective as evaluative aspects. In our conceptualization of democratic support, we rely on Easton (1965; 1975) and Norris (1999; 2011). Easton distinguishes two types of political support: ‘specific support’ and ‘diffuse support’. Specific support refers to support for political authorities and authorities in public sector agencies, related to (an evaluation of) their decisions, policies, actions and utterances. Levels of specific support are assumed to be responsive to short-term contextual factors and may therefore fluctuate over time (Norris, 2011). Because it is impossible for governments to meet public expectations and demands at all time, a democratic system needs a “reservoir of support” that is unaffected by single actions and immediate policy outputs (Dalton, 1998, pp.3). This is referred to by Easton as ‘diffuse support’, which is a more stable sense of attachment that is less closely tied to government performance or to specific output, and more closely related to the legitimacy of the political community and system (Dalton, 2004).

However, it can be difficult to link the two concepts to actual measures, and the distinction might be primarily conceptual rather than empirical (e.g., Anderson and Guillory, 1997; Muller and Jukam, 1977). Research on democratic support often fails to acknowledge important distinctions of democratic support. The frequently used ‘satisfaction with democracy’-item seems to reflect both a general support for democracy as an abstract principle (diffuse support) as well as an evaluation of the functioning of democratic societies in practice (Canache et al, 2001).

A key strength and contribution of the study is that we examine different dimensions of democratic support. Democratic support is a complex, multidimensional concept (Norris, 1999; 2011) and should be treated as such. Rather than using the frequently used ‘satisfaction with democracy’-item, or by understanding democratic support as a two-dimensional concept, this study employs multiple-item indicators of democratic support. Based on Norris’ (1999; 2011) renewed framework of political support, we conceptualize democratic support as a

concept consisting of four dimensions. These range from system affect to trust in politicians (see Methods). This allows for the idea that hate speech prosecution may have effects on *some* dimensions of democratic support, but not on others. Prosecution may for instance affect trust in politicians, without necessarily influencing one's support for core democratic principles. Using these four dimensions provides a more thorough operationalization of democratic support, and thereby offers a possibility to validate prior research indicating the negative ramifications of hate speech prosecution for satisfaction with democracy (Van Spanje and De Vreese, 2014).

The Moderating Role of Immigration Attitudes

Rather than hypothesizing about a straightforward and unidirectional relationship between the decision to (not) prosecute a politician and democratic support, we argue that two factors may moderate this relationship: agreement with the political ideas spread by the prosecuted politician, and identification with the party of the prosecution politician.

Easton (1965) argues that one powerful reason for the erosion of democratic support is authorities' (e.g., judges, politicians, civil servants) incapacity or unwillingness to meet citizens' demands, hence neglecting to act in line with citizens' preferences, expectations and grievances. Easton (1965) claims that political systems consistently fail to address the demands of *certain* groups of citizens, the type of groups varying with historical moment and culture. Often the same groups in society feel structurally deprived of having their demands addressed, and subsequently the same types of citizens are more likely to lose faith in the democratic system. A decision to prosecute a politician for hate speech or not could signal for some citizens that the democratic system is not responsive, but the exact nature is likely to depend on whether citizens agree with the politician's ideas.

The effect of hate speech prosecution on democratic support is likely influenced by agreement with the ideas expressed by a politician in the statements for which he or she will

be prosecuted. Hate speech cases often deal with arguably discriminatory claims about immigrants and ethnic, racial or religious minorities (Van Spanje and De Vreese, 2014). In these messages, anti-immigration politicians often challenge that ethnic, racial and religious minorities – of which Muslims are a frequent target – are allowed to preserve “their” culture and are entitled to an egalitarian treatment (Levine and Hogg, 2010). In Europe, substantial segments of citizens hold negative attitudes toward immigration and immigrants (e.g., Semyonov et al, 2006), in particular toward immigrants from Muslim and poor countries (Heath and Richards, 2016). Despite being well represented in numbers, citizens with anti-immigration attitudes arguably belong to a societal group who feel they are being structurally deprived of their political demands – i.e., demands regarding immigration and integration (Freeman et al, 2013). Most governments in European democracies systematically refuse to govern with anti-immigration parties (Akkerman and De Lange, 2012) and are (or are perceived to be) unwilling or unable to act according to these attitudes and to adopt very strict anti-immigration policies, while prior studies have shown that almost one out of two European citizens prefers less immigration (e.g., Pew Research Center, 2018). Extending this argument, citizens with anti-immigration attitudes may not only feel that their political demands are not met, but may even feel actively repressed or obstructed.

Accordingly, citizens who are more negative toward immigration may feel that when anti-immigration politicians are prosecuted for hate speech, their own ideas are under attack as well, and that expressing criticism regarding immigration is no longer allowed. To phrase it in Easton’s formulation, authorities may *not* address these citizens’ demands, which may decrease their levels of democratic support. In line with Van Spanje and De Vreese (2014), who demonstrated that changes in citizens’ satisfaction with democracy following the decision to prosecute a politician for hate speech are conditional on citizens’ attitudes toward multiculturalism, we hypothesize that:

H₁: The decision to prosecute a politician for hate speech decreases democratic support among citizens with more negative attitudes toward immigration.

In contrast, citizens who are more positive toward immigration may feel that hate speech by an anti-immigration politician harms the ‘principle of equality’, that is the notion that all people, regardless of race, ethnicity and other criteria, are entitled to equal treatment and that minority rights should be protected (UN General Assembly, 1948). They may be more likely to agree that hate speech should be eradicated, even if this implies restricting politicians’ freedom of speech (Brems, 2002). By deciding to *not* prosecute a politician for hate speech, authorities may be perceived to disregard these citizens’ demands (i.e., protecting minorities’ rights). Consequently, this may decrease their levels of democratic support. We corroborate prior research by not only testing the effects of the decision to prosecute on democratic support, but by examining the effects of the decision to *not* prosecute as well. We expect that:

H₂: The decision to *not* prosecute a politician for hate speech decreases democratic support among citizens with more positive attitudes toward immigration.

The Moderating Role of Ideological Affinity

Whereas agreement with the ideas of the prosecuted politician may influence democratic support, identification with the prosecuted politician’s party arguably may act as another moderator of the relationship between hate speech prosecution and democratic support. Identifying with the politician expressing the ideas might over-ride value-driven principles. Rather than exclusively testing the moderating role of agreement with the political idea (e.g., Van Spanje & De Vreese, 2014), we also examine the moderating role of identification with the party of the prosecuted politician.

Party identification has been described as a “long term affective orientation” toward political objects (Campbell et al, 1960, pp.121): Political parties are perceived as one of the social groups with whom one may identify, resulting in a “partisan self-image” (Butler and

Stokes, 1974: pp.39; Miller and Shanks, 1996). As such, one's identification with a party shapes the development of one's attitudes. Any attack on the party or politicians (e.g., via prosecuting its party leader) then arguably feels like an attack on one's norms, values and beliefs deeply rooted in this group membership: it could be seen as a 'social identity threat' (Grant and Brown, 1995; Voci, 2006).

This traditional understanding of party identification, however, stems primarily from the US context, where two well-defined partisan and stable in- and out-groups exist (Democrats versus Republicans) which are each other's direct adversaries. In multi-party systems, such as most Western-European democracies, party identification goes beyond a dichotomy between two opposites. In multi-party contexts, the partisan in-group encompasses not only the party one commonly votes for, but also parties that are ideologically close and hold comparable policy positions regarding core issues (Azrout and Wojcieszak, forthcoming; Johnston, 2006; Mayer and Schultze, 2018). Despite an international trend of partisan dealignment (Dalton, 2000), the majority of Dutch citizens adheres to or has an affinity with a political party (Bankert et al, 2017) Prosecution may not only affect citizens who identify with the prosecuted politician's party, but also those who have affinity with ideologically close parties:³

H3: The decision to prosecute a politician for hate speech decreases democratic support among citizens who identify with the politician's party or ideologically close parties.

³ We did not formulate a hypothesis about the effects of people who identify with opposing parties, because we did not have a strong theoretical argument for doing this. Identification with a different party is likely an imperfect combination of agreement with the political idea and identification with the party, but this is not straightforward and these respondents may still differ in many other aspects. Moreover, in a multiparty and highly fragmented and volatile context as the Netherlands it is difficult to determine which party or politician should be included as 'opposing' party, as either all parties could be included, or only a few that are ideologically at the left end of the political spectrum.

Figure 1 presents our conceptual model and the three hypotheses derived from it.

[Figure 1]

Method

The Case: Forum for Democracy (FvD)

We conducted a web experiment in the Netherlands, where participants were exposed to a manipulated news story about the decision to (not) prosecute an anti-immigration politician for hate speech. We used a remake of an episode of ‘NOS in 60 seconds’ (‘NOS in 60 seconden’). This Dutch news show features four stories about the most important daily news in one minute. The show is aired three times a day on television, but is also disseminated via the NOS website, social media (Twitter, Facebook) and via local television broadcasting channels. The episode originates from a popular, familiar and reliable television concept (NOS Journaal, the daily news program), one of the primary sources of information about social and political events (Eveland et al, 2005), produced by the Dutch public broadcaster NPO. The NPO is one of the largest and most popular Dutch news providers, and is considered as politically independent (Bos et al, 2014; Newman et al, 2018).

To maximize ecological validity (Schmuckler, 2001), we used a television news story reporting about a politician of an existing Dutch anti-immigration party, namely Theo Hiddema of the ‘Forum for Democracy’ (FvD). While the party presents itself mainly as an anti-establishment, anti-European Union (EU) party, it perceives immigration as highly problematic and believes that “foreigners” and ethnic minorities should assimilate with the dominant Dutch culture (Partijprogramma Forum voor Democratie, 2016).

FvD lends itself to our manipulation for several other reasons too. First, FvD has two MPs and is therefore a relevant Dutch party. During the most recent provincial elections in the Netherlands, FvD received the most votes of all parties. This increases the likelihood that citizens pay attention to the news story and message about it. Second, the party is relatively

new; citizens may not have developed a fixed image or opinion about the party yet. Moreover, unlike the Freedom Party (PVV), the party has not been legally targeted before, implying that the party image is not yet affected by previous prosecution trials. Still, it is not unimaginable that the party or its politicians will be prosecuted for hate speech, which increases the credibility of the manipulation. Although Hiddema, the politician under study, is a relevant MP in Dutch politics, he is still less known than FvD party leader (Thierry Baudet), meaning that news stories about Hiddema can be more easily manipulated without participants noticing that the information provided is not true. Furthermore, the extensive news coverage of the party's leader preceding the experiment – related to a rapidly increasing popularity of the party – could have influenced participants' democratic support independent of the decision to (not) prosecute this politician for hate speech. Our analysis revealed no significant differences between the conditions in the extent to which FvD was perceived as a visible party in the public debate.⁴ In this way, priming effects are kept to a minimum.

Design

Our experimental design allows to substantiate causal claims, as confounding influences – such as the media attention resulting from a real-world event (Van Spanje and De Vreese, 2014) – can be held constant. The experiment relied on a between-subjects design, where participants were randomly assigned to one of three conditions: two experimental conditions in which the independent variable ('Decision to (not) prosecute') was manipulated and a control condition. To fully understand the ramifications of hate speech prosecution, it is necessary to compare with a situation without any treatment or manipulation of the independent

⁴ The perceived visibility of FvD did not significantly differ across conditions, $F(2,209) = 0.819$, $p = 0.442$, $\eta_p^2 = 0.008$.

variable. A pilot study among Dutch university students ($n = 157$) demonstrated that the design was successful and that participants could not guess the study's exact goal.

Participants

In total 304 subjects participated in the study (162 women, 142 men; $M_{\text{age}} = 51$, $SD_{\text{age}} = 18$).⁵ Participants were recruited via the TNS NIPO online panel, where participants are rewarded in the form of money, gift cards, or charity donation for participating. Participants were randomly selected from subsamples, resulting in a sample largely representative of the Dutch electorate in terms of age, gender, education, area of residence, social class and voting behavior. Participants were randomly allocated to three conditions (Decision to prosecute: $n = 102$; Decision to not prosecute: $n = 105$; Control condition $n = 97$). On average, participants completed the survey in 15 minutes.

Stimuli material

Subjects participated via an online link which was accompanied by a cover story mentioning that the goal of the study was to assess citizens' reactions to news about societal issues. After several buffer items and moderators, participants were presented with a remake

⁵ This study is part of a larger experiment ($N = 984$) with 11 conditions, but with only three relevant to our study ($N = 308$). From this sample, 4 participants were excluded from the dataset due to speeding (finishing the survey in less than 33 per cent of the median time) or straightlining (not differentiating between answer categories on 75 per cent of the question blocks). According to power analyses, our experimental conditions need 48 participants per condition to conduct the multivariate tests (See online supplementary file 5). The sample size per condition should therefore be sufficient for the multivariate test. For the between-subjects tests, we need 64 participants per condition. Although the initial sample size is sufficient, the missing values on the dependent variables and moderator variables make the final sample used for the between-subjects tests for immigration attitudes and perceived closeness to FvD just below the required sample size ($N = 119 - 123$).

of an episode of 'NOS in 60 seconds'. Similar to the real newscast, the newscast used for this experiment featured four news stories of 15 seconds each. In the pilot study, the position of the manipulation news story in the newscast was randomized. However, since no order effects were found, we used one fixed order of items, in which the manipulated item was shown as the first item in the newscast.

All audio-visual content was kept identical over all conditions, except for one news story about Hiddema, which contained the manipulation. For the three non-manipulation news stories, we opted for existing news items from three older 'NOS in 60 seconds'-episodes. These items were unrelated to the topic of our study and were not too emotionally arousing. Furthermore, they did not contain references to temporal cues and specific events, as this would make the material less suitable to use for both the pilot study and the experiment. Furthermore, we opted for a broad range of themes (health, education and sports). The audio was recorded in a professional, soundproof studio by a professional voice-actor.

All conditions featured a news story about Hiddema. This news story was custom-made for this experiment, but was kept as similar to the non-manipulation news stories as possible via using a similar number of frames and the same layout. For editing the news story about Hiddema, we made use of actually disseminated and real footage of Hiddema to increase the realism of the news story. This included footage of Hiddema delivering a speech to a Forum for Democracy party congress, Hiddema getting out of a car, and three frames of Hiddema walking around in the Dutch parliamentary building.

All conditions featured the news story accompanied by a voice-over and subtitles mentioning that Hiddema came into disrepute for making public statements about Muslims (see Figure 2). As many first, second or third generation immigrants have an Islamic background (Maliepaard and Gijssberts, 2012), and considering previous hate speech messages by Dutch anti-immigration politicians, it seems more common (and therefore potentially more

credible and effective) for hate speech to refer to Muslims rather than to immigrants or immigration in general. No details about *what* was said in the alleged message were given to avoid contamination of the effects by idiosyncratic particularities of the case. Whereas condition 1 mentioned that the Public Prosecutor decided that Hiddema will be prosecuted for his statements about Muslims, condition 2 mentioned that the Public Prosecutor decided that Hiddema will *not* be prosecuted. The control condition also referred to statements about Muslims by Hiddema, but did not provide any information about a decision to prosecute him. A transcript of the manipulated news stories can be found in online supplementary file 1.

After the newscast, participants in each condition answered questions regarding the dependent variable and several buffer items on a news story about education. This was followed by a manipulation check and a question about the study's purpose. The concluding page of the survey included a thorough debriefing where participants were informed that the information provided about Hiddema was fictitious and was manipulated for research purposes. The experiment was authorized by the university's institutional review board (IRB), and participants could withdraw their participation at any time.

[Figure 2]

Measures

Democratic support. To account for the multidimensionality of democratic support, we operationalize democratic support using four dimensions. These dimensions are largely based on four of the dimensions outlined by Norris (2011).⁶

The most diffuse form in this study is "system affect", which involves a citizen's belief that the democratic system defends the basic democratic norms and values a person believes in

⁶ With minor adaptations, this conceptualization has been empirically tested by several scholars (e.g., Booth and Seligson, 2009; Norris, 2011; Zmerli and Newton, 2008).

(Muller and Williams, 1980). This is largely in line with Norris' "approval of core regime principles and values" (7-point scale, $\alpha = 0.895$; $M = 4.79$, $SD = 1.43$). This was measured by the Political Support-Alienation Scale (Muller et al, 1982). This scale consisted of the following three (originally eight) items (7-point Likert scale from 1 ('completely disagree') to 7 ('completely agree')): "To what extent do you feel that the basic rights of citizens are well protected by our democratic constitutional state?"; "To what extent are you proud to live under our democratic constitutional state?"; "To what extent do you feel that you and your friends are well-represented in our democratic constitutional state?".

The second dimension is "evaluations of democratic performance"⁷, and represents the meso level of democratic support – the dimension that seems most difficult to measure (Norris, 2011). Evaluations of democratic performance were measured via three items (7-point scale from 'fully disagree' to 'fully agree', $\alpha = 0.828$, $M = 4.68$, $SD = 1.36$) (7-point Likert scale from 1 ('completely disagree') to 7 ('completely agree')): "In a democracy, the economic system runs badly"; "Democracies are indecisive and have too much quibbling"; "Democracies are not good at maintaining order". The answers were recoded afterwards to a higher value indicating more democratic support. These items replace the more common 'satisfaction with democracy'-item, measuring how citizens evaluate the functioning of democratic states without necessarily having to disregard general democratic principles (Linde and Ekman, 2003; Norris, 2011). These items are frequently used to measure citizens' evaluations of the output

⁷ As this study solely focuses on democratic support, we use the term "evaluations of democratic performance" instead of Norris' "evaluations of the overall performance of the regime" (2011). Furthermore, "trust in politicians" is referred to as "trust in elected and appointed officeholders" in Norris' conceptualisation (2011). We do not include the dimension "belonging to the national community" (e.g., national pride), as we do not expect substantial variation on this dimension in the Dutch context.

of a democratic system and the extent to which a democratic process is conducive to yield effective outcomes and form a reliable scale.

The final two dimensions are “confidence in state institutions” (11-point scale, $\alpha = 0.939$; $M = 4.97$, $SD = 2.37$) and “trust in politicians” (similar to Norris’ “approval of incumbent office-holders” measure) (7-point scale, $\alpha = 0.902$, $M = 3.19$, $SD = 1.44$). These two dimensions represent the most specific forms of democratic support. Confidence in state institutions was measured by the following question: “Please describe on a scale from 0 (‘no trust at all’) to 10 (‘very strong trust’) how much you personally trust each of the institutions”, followed by the following political institutions: parliament, the Public Prosecutor and the government (the first two originating from the European Social Survey (ESS)). Trust in politicians was measured by the following three items (7-point Likert scale from 1 (‘completely disagree’) to 7 (‘completely agree’)): “Most politicians leave their ideals or break their promises to gain more power”; “Most politicians talk a lot but do little to solve the true problems in our country”; “Most politicians are in politics for personal benefit”. This scale is a shortened version of the original Political Cynicism Scale (Citrin and Elkins, 1975). The answers were recoded afterwards to higher values indicating more trust in politicians.

A principal component analysis with principal axis factoring (using Oblimin rotation) shows that the nine items form three scales as hypothesized; there were three components with an eigenvalue above 1 and the scree plot shows a point of inflexion after component 3 (See online supplementary file 2 for factor loadings). Together, these factors explain 80.5% of the variance in the original nine items. All factor loadings exceed 0.80, except for one item with a factor loading of 0.55. A principal component analysis (using Oblimin rotation) was conducted to analyze if this item should be removed from the scale. Because the eigenvalue decreases from 2.23 to 0.55 after removing an item, we have decided to include the item. Because confidence in state institutions was measured on a different scale and is a widely accepted and

validated measurement with high Cronbach's Alpha, these items were not included in the principal axis factoring.

Pro-immigration attitudes. To measure attitudes toward immigration, we used a shortened version of the Modern Racism scale (McConahay et al, 1981). We asked participants to evaluate four statements about immigrants and immigration (7-point Likert scale from 1 ('completely disagree') to 7 ('completely agree'), $\alpha = 0.902$, $M = 3.48$, $SD = 1.57$; a higher score representing more positive attitudes). "Immigrants should not push themselves where they are not wanted"; "Immigrants have more influence on political policies than they ought to have"; "Immigrants are getting too demanding in their push for better treatment"; "Over the years, immigrants have economically received more than they deserve". The items were recoded afterwards to a higher score indicating more positive attitudes toward immigration.

Ideological affinity. Ideological affinity was measured by two measures separately: affective and cognitive components of identification and perceived closeness to FvD in terms of left-right self-placement. The affective and cognitive party identification scale specifically referred to FvD ($\alpha = 0.934$; $M = 1.43$, $SD = 0.90$). To hide the goal of the study, the same questions were repeated for two other Dutch political parties (SP (Socialist Party, left-wing) and CDA (Christian-Democratic Appeal, center/right-wing)) (order of parties randomized). The scale is an adapted version of Mael and Tetrick's (1992) 'Identification with a Psychological Group' (IDPG) scale, established in social psychology and proven to be applicable to political parties (Brewer and Silver, 2000; Ohr and Quandt, 2012). The scale included four items on a 7-point Likert scale (from 1 ('completely disagree') to 7 ('completely agree')): "If someone criticises the Forum for Democracy, this feels as a personal assault"; "If I talk about the Forum for Democracy, I say "we" instead of "I""; "The successes of the Forum for Democracy are my successes"; "If someone praises the Forum for Democracy, this feels as a personal compliment". Higher scores thus correspond to higher party identification.

Additionally, we measured perceived closeness to FvD. Because FvD is a relatively new party and party identification may not be very strong yet, we deemed it relevant to take into account political orientation as well. Considering the difficulties in establishing which party/parties to include, we used perceived closeness to FvD in terms of left-right self-placement rather than a measure of identification with other parties. Perceived closeness to FvD was measured by subtracting perceived placement of FvD ($M = 8.20$, $SD = 2.76$, on a scale from 0 ('left') to 10 ('right')) from left-right self-placement. Left-right self-placement was measured on an 11-point scale by the question "In politics people sometimes talk about left and right. Where would you place yourself on a scale from 0 to 10, where 0 means the left and 10 means the right?" ($M = 5.06$, $SD = 2.31$). Final scores on perceived closeness ranged from -10 to 10 with negative scores pointing to participants placing themselves more left than FvD and positive scores pointing to participants placing themselves more right-wing than FvD ($M = -2.03$, $SD = 3.90$). These two measurements of party ID were preferred over vote choice for the reasons mentioned above: because the party's popularity increased substantially between the last national election and the experiment, party vote might have presented an incorrect reflection of reality.

To account for multicollinearity of anti-immigration attitudes and ideological affinity, we tested the correlation between them. Anti-immigration attitudes and ideological affinity are only moderately correlated: a correlation of $r = 0.269$ was found for anti-immigration attitudes and identification with the prosecuted politician's party, and a correlation of $r = 0.342$ was found for anti-immigration attitudes and perceived closeness to the prosecuted politician's party.

Manipulation Check

It was tested whether participants perceived the stimulus material correctly (Table 1). The vast majority noticed that the politician in the newscast was Hiddema. A large majority

perceived the stimuli correctly in the experimental conditions ‘decision to prosecute’ (69%) and ‘decision to not prosecute’ (72%).⁸

[Table 1]

Randomization check

No significant differences between the conditions were found in terms of the main sociodemographic variables and key predispositions, suggesting that randomization was successful (gender ($F(1,302) = 0.550, p = 0.459$); age ($F(67,236) = 0.985, p = 0.517$); education ($F(6,297) = 0.480, p = 0.823$); country of origin ($F(12,291) = 0.515, p = 0.905$) and political interest ($F(6,297) = 0.565, p = 0.758$). Hence, since randomization is successful, we do not include covariates in our models. As expected, including the demographics and predispositions as covariates did not significantly change the findings. We therefore did not include covariates. Correlations between the moderating and dependent variables per condition can be found in online supplementary file 3.

Analysis

A multivariate analysis of variance (MANOVA) was conducted to examine mean differences between the conditions for the four dimensions of democratic support. There were no significant differences between the different conditions: $F(8,410) = 0.521, p = 0.841$, Wilk's $\Lambda = 0.980, \eta_p^2 = 0.010$. MANCOVA (multivariate analysis of covariance) was used for the moderation analyses, with the decision to (not) prosecute as the categorical independent variable, immigration attitudes or ideological affinity as the continuous covariate and the different dimensions of democratic support as continuous dependent variables. A multivariate analysis (MANOVA) enables to avoid the problem of multiple tests (and the increased chance

⁸ Removing participants with incorrect answers did not significantly change the findings. Because the results did not significantly differ, and removing participants may risk losing the benefits of randomization (Montgomery et al, 2018), we have decided to include all participants in the sample.

of Type I errors) that would arise if the dependent variables are tested separately. Because it uses correlations between dependent variables to provide a single p-value it is not necessary to apply a correction for a multivariate test, as there is no “multiple testing”. To understand which dimension(s) yield significant differences, we conducted univariate (between-subjects) tests for each dependent variable.⁹ Participants with missing values were excluded from the corresponding analyses (listwise deletion).

Results

Descriptives

Democratic support is measured via four dimensions. Figure 3 shows that on average, participants show moderate to high democratic support. In all three conditions, means are the highest for the two most diffuse forms of support (system affect and evaluations of democratic performance). Means for the two more specific types of support, confidence in state institutions and trust in politicians, are lower. Table 2 shows the means and standard deviations for the moderating factors and dependent variables per condition.

[Figure 3]

[Table 2]

⁹ At this point, issues of multiple testing may arise. We did not apply a Bonferroni correction to the between-subjects tests, as this would imply that each p-value needs to be smaller than 0.003 to be statistically significant. Because the sample is relatively small and the power of the between-subjects tests is rather low, there is arguably a higher risk for Type II errors – the non-rejection of a false null hypothesis – than for Type I errors. Rather than exclusively focusing on p-values, we also include effect sizes (reported as partial eta squares). Effect sizes are more robust than p-values as they are independent of sample size and are more resistant to multiple testing. We also include visual explorations of the means for significant findings.

The Moderating Role of Immigration Attitudes

The multivariate analysis showed a significant moderation effect of immigration attitudes for the decision to prosecute on democratic support (H_1); $F(4,112) = 2.920, p = 0.024$, Wilk's $\Lambda = 0.906, \eta_p^2 = 0.094$ (Table 3: full results in online supplementary file 4). This applies to system affect, $F(1,115) = 5.973, p = 0.016, \eta_p^2 = 0.049$. The results also revealed a significant moderation effect on evaluations of democratic performance, $F(1,115) = 4.418, p = 0.038, \eta_p^2 = 0.037$. The effect sizes suggest small effects. This implies that the effect of immigration attitudes on support for democratic principles and evaluations of democratic performance is stronger for participants exposed to the 'prosecution' treatment than the control treatment. As Figure 4 and Figure 5 show, participants holding anti-immigration attitudes generally showed less system affect and evaluated democratic performance worse than participants with pro-immigration attitudes. However, exposure to the 'prosecution' treatment (compared to exposure to the control treatment) lowered system affect and evaluations of democratic performance even more for citizens holding anti-immigration attitudes, while it increased system affect and evaluations of democratic performance for those with pro-immigration attitudes (Figure 4 and Figure 5). No significant moderation effects of immigration attitudes were found on confidence in state institutions, $F(1,115) = 2.176, p = 0.143, \eta_p^2 = 0.019$, and trust in politicians, $F(1,115) = 3.756, p = 0.055, \eta_p^2 = 0.032$. H_1 was thus partly supported, for system affect and evaluations of democratic performance, i.e., the most abstract dimensions of democratic support.

[Table 3]

[Figure 4]

[Figure 5]

There is no statistically significant difference between participants in the 'no prosecution' group and participants in the control group in how immigration attitudes relate to

democratic support (H_2): $F(4,113) = 1.188, p = 0.320$, Wilk's $\Lambda = 0.960, \eta_p^2 = 0.040$. Tests of between-subjects effects showed the following results: system affect, $F(1,116) = 0.181, p = 0.672, \eta_p^2 = 0.002$; evaluations of democratic performance $F(1,116) = 1.271, p = 0.262, \eta_p^2 = 0.011$; confidence in state institutions, $F(1,116) = 0.092, p = 0.762, \eta_p^2 = 0.001$; and trust in politicians, $F(1,116) = 2.690, p = 0.104, \eta_p^2 = 0.023$. H_2 is rejected.

The Moderating Role of Ideological Affinity

H_3 stated that the decision to prosecute a politician for hate speech would decrease democratic support among citizens who identify with the politician's party. Ideological affinity was measured by perceived closeness to FvD in terms of left-right self-placement and identification with FvD. There is no statistically significant difference between participants in the 'prosecution' group and participants in the control group in how ideological affinity relates to democratic support. Results did not show a significant difference in democratic support based on the decision to prosecute and perceived closeness, $F(4,116) = 1.070, p = 0.375$, Wilk's $\Lambda = 0.964, \eta_p^2 = 0.036$. Tests of between-subjects effects demonstrated that this applied to all four dimensions: system affect, $F(1,119) = 0.341, p = 0.560, \eta_p^2 = 0.003$; evaluations of democratic performance, $F(1,119) = 3.049, p = 0.083, \eta_p^2 = 0.025$; confidence in state institutions, $F(1,119) = 0.000, p = 0.996, \eta_p^2 = 0.000$; trust in politicians, $F(1,119) = 0.072, p = 0.790, \eta_p^2 = 0.001$. Identification with FvD did not show a moderating effect either, $F(4,128) = 0.945, p = 0.440$, Wilk's $\Lambda = 0.971, \eta_p^2 = 0.029$. Again, this was true for all dimensions of democratic support: system affect, $F(1,131) = 0.846, p = 0.359, \eta_p^2 = 0.006$; evaluations of democratic performance, $F(1,131) = 0.805, p = 0.371, \eta_p^2 = 0.006$; confidence in state

institutions, $F(1,131) = 0.008$, $p = 0.928$, $\eta_p^2 = 0.000$; trust in politicians, $F(1,131) = 0.454$, $p = 0.502$, $\eta_p^2 = 0.003$. H_3 is thus not confirmed.

Table 4 shows an overview of the results per dimension of democratic support.

[Table 4]

Discussion

Hate speech places governments in democratic societies in a difficult situation, as they are expected to protect free speech as well as minority rights. Particularly in times of polarization regarding diversity, integration and immigration (e.g., Berntzen et al, 2017), many citizens may find prosecution for hate speech inappropriate. Our main contribution is that our experimental approach allows to closely examine for which type of citizens exposure to hate speech prosecution yields ramifications for citizens' levels of democratic support. We build upon prior research (Van Spanje and De Vreese, 2014), by examining both the effects of the decision to prosecute and the decision to *not* prosecute, and by focusing on citizens' immigration attitudes as well as ideological affinity as moderating factors.

As hypothesized, the effect of hate speech prosecution on democratic support is primarily influenced by agreement with ideas spread by the politician prosecuted for hate speech, rather than by identification with the party. Previous research by Van Spanje and De Vreese (2014) demonstrated that prosecuting an anti-immigration politician for hate speech lowers democratic support among citizens who are negative toward multiculturalism. Although attitudes toward multiculturalism and immigration attitudes are conceptually distinct, they are positively correlated.¹⁰ Hence, both studies suggest that it is the political *idea* spread in the alleged hate speech that is relevant, not the party or the politician. Around 35 percent of our sample – largely representative for the Dutch electorate – holds very negative attitudes toward

¹⁰ $r = 0.554^{**}$

immigration, whereas only 5 percent expresses very positive attitudes. These numbers are in line with prior research on immigration attitudes (e.g., Ceobanu and Escandell, 2010; Semyonov et al, 2006). The negative effects that hate speech prosecution seems to have for those with negative attitudes toward immigration may thus be consequential for a relatively large part of society. However, at the same time we found that the decision to prosecute the politician increased system affect and evaluations of democratic performance among those with pro-immigration attitudes. These citizens seem to perceive prosecution as an important instrument to defend democracy, and the democratic value to protect (ethnic, racial and religious) minorities from discrimination. Once more, this finding is in line with Van Spanje and De Vreese (2014), who found that citizens who became aware of the decision to prosecute a Dutch politician became more satisfied with democracy. This implies that hate speech prosecution also has beneficial effects on part of society.

In future studies, we aim to address the (conceptual) understanding of hate speech (prosecution) and the mechanisms underlying these findings. Replicating our study with other political parties, and in contexts with different norms and laws regarding free speech (e.g., the United States) will improve our understanding of why democratic support lowers in some situations and for some citizens, but not for others. While the role of ideological affinity was limited in this study, its moderating effect may be more profound in countries where citizens hold stronger partisan identities. Furthermore, we recommend future researchers to replicate the experiment with various types of hateful messages, targeting different (minority) groups. Another approach to disentangle the effects would be to manipulate the strength of the message; In the current study, a deliberate choice was made not to emphasize the content of the hate speech message – to avoid particularities of the case to confound the effects – but this might explain the relatively small effects. To evoke stronger responses from participants, a more explicit content might be necessary. The small effects may also be due to ceiling effects,

as some participants may have more negative attitudes toward immigration and even lower democratic support than they reported. However, because the number of participants that reported the lowest score on both immigration attitudes and democratic support is small (less than 3% per dependent variable), we do not expect ceiling effects to be profound.

This study also shows the importance of employing multiple-item indicators of democratic support, rather than the often used ‘satisfaction with democracy’-item – or a framework that forces a divide between diffuse and specific support. Hate speech prosecution affected the various dimensions of democratic support differently. The decision to prosecute for hate speech primarily seems to influence citizens’ system affect and evaluations of democratic performance, hence the diffuse and meso levels of democratic support, but has limited effects for confidence in state institutions – the most specific form of democratic support. While we did not *a priori* hypothesize about the effects of the decision to (not) prosecute on the various dimensions, this is a somewhat puzzling finding; Following the rationale behind diffuse and specific support (Easton, 1965; 1975), the decision to prosecute a politician for hate speech should maybe have more profound effects on the more specific forms of support. One potential explanation for these findings is that the stimulus material does not provide detailed information about who is responsible for the prosecution. Participants may be unsure if democratic institutions and politicians – the two most specific forms of democratic support – can be held directly responsible for the prosecution of Hiddema. The debate over hate speech prosecution touches directly on the legitimacy of the democratic system and democratic principles, and may therefore be more closely linked to system affect and evaluations of democratic performance. While some items may have a less intuitive connection to the decision to prosecute, such as the item that measures the evaluation of democracy – there might be spill-over effects via the other items. This warrants future in-depth examination. However, despite non-significant findings, both confidence in state institutions and trust in

politicians showed a similar trend (in the hypothesized direction) as system affect and evaluations of democratic performance. Replication studies among larger samples could reveal if these dimensions are simply not affected, or if the loss in power may partially explain the non-significant findings.

As elaborated earlier, we did not apply a Bonferroni correction as the power of the between-subjects test is slightly lower than what is conventionally accepted for experimental research. We realize that this increases the likelihood of chance findings. However, we believe that the significant finding of the multivariate test indicates that there is a real effect, further indicated by the small but not negligible effect sizes and the visual exploration of the means.

Concluding, we demonstrated that a decision to prosecute a politician for hate speech has negative consequences for citizens with more negative attitudes toward immigration. Hence, broader groups of citizens may be affected by the decision to (not) prosecute anti-immigration politicians for hate speech, not only those who (do not) identify with the prosecuted politician's party. Although the effects of a single exposure to a news item about hate speech prosecution may be short-term and mostly visible immediately after exposure to a news item, citizens will likely be repeatedly confronted with news about hate speech prosecution (as the Wilders trials have demonstrated). If effects partially disappear after a single news exposure, but are triggered by repeated confrontation, the effects on democratic support may cumulate. Repeated experiments, ideally with various politicians and measuring attitudes at multiple points in time, are necessary to confirm these expectations. In times when society is divided over immigration and integration, increasing awareness of the potentially negative consequences of hate speech prosecution is crucial.

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List of Tables and Figures

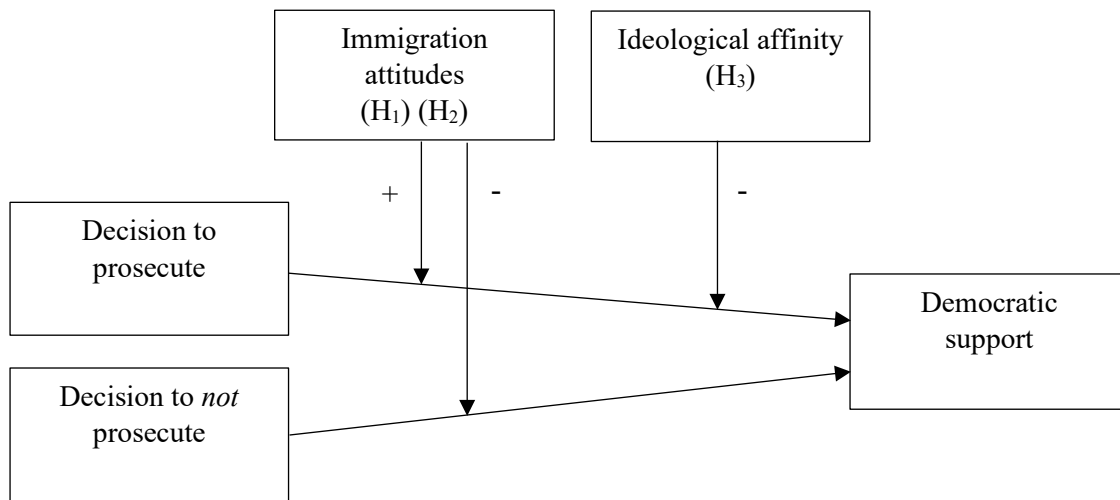


FIGURE 1. Conceptual model of relationship between hate speech prosecution and democratic support.



FIGURE 2. Still frame of manipulated newscast (English translation of subtitles: “Theo Hiddema (FvD) has come into disrepute”).

Table 1

Manipulation check experimental conditions

Manipulation	N in condition	N correct	% correct
Decision to prosecute (Condition 1)	102	70	68.6
Decision to not prosecute (Condition 2)	105	76	72.4
Hiddema	304	245	80.6

Table 2

Descriptives moderators and dependent variables

	Alleged hate speech, decision to prosecute for hate speech (Condition 1)	Alleged hate speech, decision to not prosecute for hate speech (Condition 2)	Alleged hate speech mentioned, no mentioning of prosecution (Control condition)
Immigration attitudes (0-7)	3.54 (<i>SD</i> = 1.72) N = 77	3.54 (<i>SD</i> = 1.50) N = 86	3.35 (<i>SD</i> = 1.51) N = 76
Party identification (1-7)	1.50 (<i>SD</i> = 1.05) N = 88	1.38 (<i>SD</i> = 0.81) N = 83	1.41 (<i>SD</i> = 0.83) N = 80
Left-right self- placement (0-10)	6.33 (<i>SD</i> = 2.41) N = 98	5.85 (<i>SD</i> = 2.15) N = 96	6.23 (<i>SD</i> = 2.14) N = 90
Perceived placement of FvD (0-10)	8.11 (<i>SD</i> = 2.73) N = 80	8.49 (<i>SD</i> = 2.53) N = 75	7.99 (<i>SD</i> = 3.03) N = 69
Perceived closeness to FvD (-10-+10)	1.81 (<i>SD</i> = 3.99) N = 80	2.53 (<i>SD</i> = 3.62) N = 73	1.75 (<i>SD</i> = 4.07) N = 67
System affect (1-7)	4.72 (<i>SD</i> = 1.35) N = 93	4.76 (<i>SD</i> = 1.57) N = 90	4.90 (<i>SD</i> = 1.38) N = 86

Evaluations of democratic performance (1-7)	4.71 (<i>SD</i> = 1.31) N = 79	4.62 (<i>SD</i> = 1.41) N = 77	4.72 (<i>SD</i> = 1.37) N = 72
Confidence in state institutions (0-10)	5.08 (<i>SD</i> = 2.33) N = 95	4.81 (<i>SD</i> = 2.39) N = 94	5.02 (<i>SD</i> = 2.40) N = 88
Trust in politicians (1-7)	3.14 (<i>SD</i> = 1.52) N = 93	3.07 (<i>SD</i> = 1.45) N = 91	3.14 (<i>SD</i> = 1.33) N = 88

Table 3

MANOVAs, multivariate analyses of variance; F, F-value; df, degrees of freedom; p, p-value; Eta, effect size estimates

Source of variation	Value	<i>F</i>	<i>Df</i>	Error <i>df</i>	<i>p</i>	Partial Eta Squared
Immigration attitudes (H ₁)						
Decision to prosecute	0.943	1.689	4	112	0.157	0.057
Attitudes toward immigration	0.962	1.105	4	112	0.358	0.038
Decision to prosecute * Attitudes toward immigration	0.906	2.920	4	112	0.024	0.094
Immigration attitudes (H ₂)						
Decision to <i>not</i> prosecute	0.976	0.690	4	113	0.600	0.024
Attitudes toward immigration	0.972	0.803	4	113	0.526	0.028
Decision to <i>not</i> prosecute * Attitudes toward immigration	0.960	1.188	4	113	0.320	0.040
Perceived closeness to FvD (H ₃)						
Decision to prosecute	0.938	1.933	4	116	0.110	0.062

Perceived closeness to FvD	0.945	1.701	4	116	0.154	0.055
Decision to prosecute * Perceived closeness to FvD	0.964	1.070	4	116	0.375	0.036
<hr/>						
Party ID (H ₃)						
Decision to prosecute	0.976	0.773	4	128	0.545	0.024
Ideological affinity	0.962	1.263	4	128	0.288	0.038
Decision to prosecute * Ideological affinity	0.971	0.945	4	128	0.440	0.029

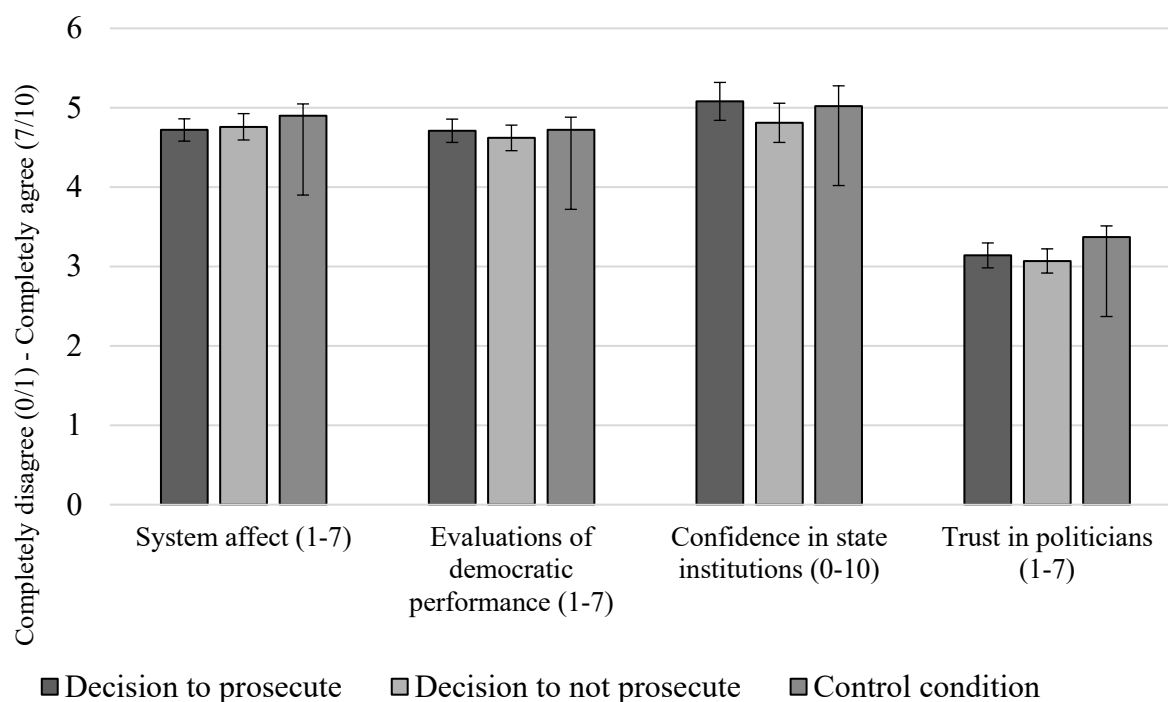


FIGURE 3. Democratic support by condition.

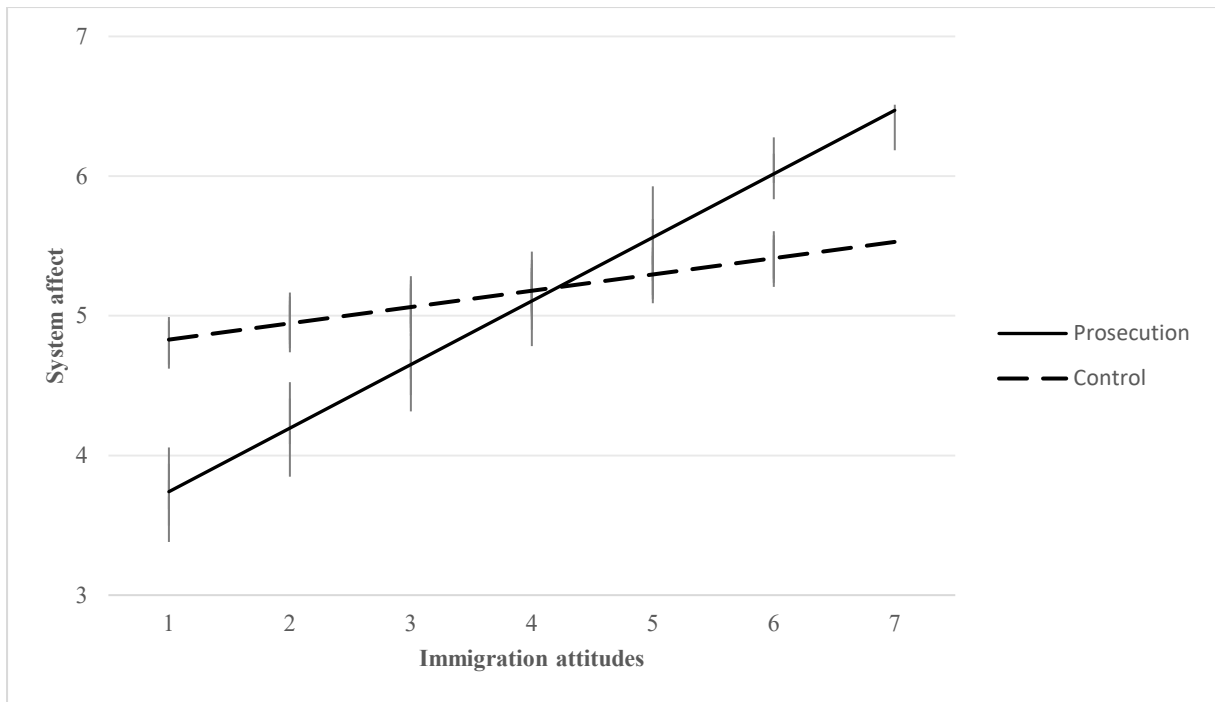


FIGURE 4. System affect (predicted values) by decision to prosecute and immigration attitudes.

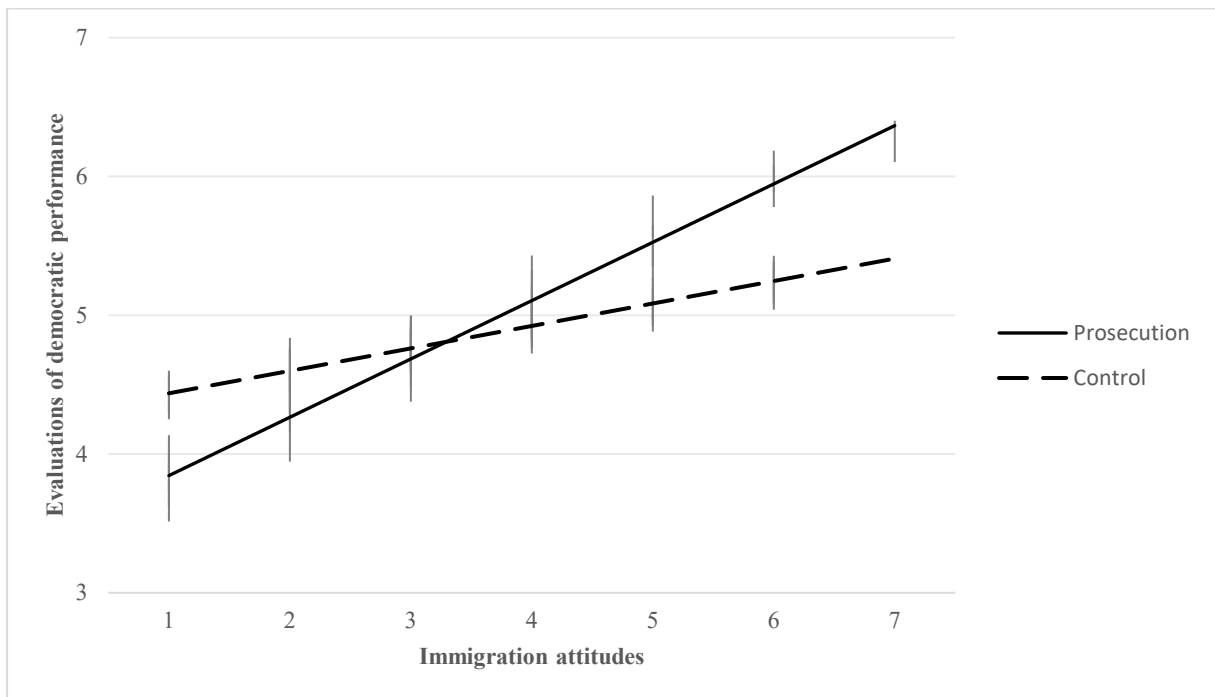


FIGURE 5. Evaluations of democratic performance (predicted values) by decision to prosecute and immigration attitudes.

Table 4.

Results per dimension

	All dimensions	System affect	Evaluations of democratic performance	Confidence in state institutions	Trust in politicians
H1	Confirmed	Confirmed	Confirmed	Not confirmed	Not confirmed
H2	Not confirmed	Not confirmed	Not confirmed	Not confirmed	Not confirmed
H3	Not confirmed	Not confirmed	Not confirmed	Not confirmed	Not confirmed