Chapter 5 Appendix

We created a new measure of ideology for the BIA by generating ideology scores for each permanent member of the BIA using a factor score approach identical to the approach we used in Chapter 2 to create ideology scores for IJs. As we note in Chapter 5, we cannot connect judges or panels of judges with specific decisions in our data due to limitations in the way in which EOIR collects data at the BIA level. Below is a table that presents the various factors included in the factor score analysis as well as the factor loadings for the various elements in Table A5.1 below.

Table A5.1: Factor Scores and Loadings for BIA Ideology Scores

Factor Loadings	**Factor 1**
INS Experience	-0.15
DHS Experience	-0.08
EOIR Experience	-0.20
Former Prosecutor	0.23
NGO Experience	0.66
Immigration NGO Experience	0.65
Military Experience	-0.27
Academic Experience	0.62
Private Practice Experience	0.04
Prior Judicial Experience	-0.22
Regression Scoring Coefficients	**Factor 1**
INS Experience	-0.04
DHS Experience	-0.01
EOIR Experience	-0.06
Former Prosecutor	0.10
NGO Experience	0.33
Immigration NGO Experience	0.32
Military Experience	-0.08
Academic Experience	0.32
Private Practice Experience	0.02
Prior Judicial Experience	-0.07

From this analysis we retained only the first factor generated by the factor analysis, which had an eigenvalue of 1.49 and explained 59% of the variance. No other factor had an eigenvalue above 1. In general, the results are highly similar to those for IJs. One major difference between our factor scores for members of the BIA and for IJs is that none of our BIA members had previous corporate experience, and so that factor was omitted in the creation of scores for BIA members. There are a few other differences that are notable. First, focusing on the regression scoring coefficients, former prosecutors who are IJs are slightly less liberal toward asylum seekers, whereas BIA members with prosecutorial experience are slightly more liberal. Another small difference concerns the relative contributions of academic and private practice experience. For both IJs and members of the BIA, these experiences contribute to increased liberalism, but for members of the BIA previous academic experience is much more important as a contributing factor than is private practice experience, whereas for IJs those factors contribute

roughly equally to liberalism. This is probably a reflection of the different contexts in which judging occurs as for IJs, whose work is analogous to that of a trial judge, previous academic experience may be less relevant than it is for members of the BIA, who are essentially appellate judges dealing with more theoretical legal issues. Lastly, prior judicial experience makes a small positive contribution to IJ liberalism, but for BIA members prior judicial experience is a negative, though small, influence on liberalism.

In Table A5.2 below we provide the individual scores for each non-temporary member of the BIA on whom we were able to gather biographical data from EOIR. We do this for two reasons: (1) because it will allow the reader to assess the appropriateness of the measure and (2) because we hope that those who study the BIA in the future can make use of our spadework on measuring ideology at that level. We believe the measure to be valid, and the easiest way to demonstrate that validity is to look at the scores for particular members of the BIA, something we do in Chapter 5, but revisit here quickly. Two of the members removed/demoted by Ashcroft in his reform of the BIA were Noel Brennan and Cecelia Espenoza, both with liberalism scores of 3.334, the highest in the data. The one member of the BIA identified by Monica Goodling and ultimately hired was Garry Malphrus, who has a liberalism score of 0.199 which is among the lowest in the sample. Scores range from 0 to 3.334, with 31 scores reported and two missing.

Table A5.2: Individual Liberalism Scores for Members of the BIA, 1991-2010

BIA Member Name	BIA Liberalism
Adkins Banch, Charles	0.378
Brennan, Noël A.	3.334
Cole, Patricia	0.365
Creppy, Michael	0.365
Dunne, Mary Maguire	0.550
Espenoza, Cecelia M.	3.334
Filppu, Lauri S.	0.247
Grant, Edward	0.000
Greer, Anne	1.026
Guendelsberger, John	2.035
Heilman, Michael J.	0.132
Hess, Frederick D.	0.668
Holmes, David	0.095
Hurwitz, Gerald S.	0.469
Jones, Philemina M.	0.188
Maguire Dunne, Mary	No Score
Malphrus, Garry	0.199
Mann, Ana	0.328
Mathon, Lauren R.	1.113
Miller, Neil	0.378
Morris, James	No Score
Moscato, Anthony C.	0.550
Mullane, Michael	0.389
Neal, David	1.337
Ohlson, Kevin A.	0.435
Osuna, Juan	1.144
Pauley, Roger	0.446
Rosenberg, Lory D.	2.153
Schmidt, Paul W.	1.113
Scialabba, Lori	0.587
Vacca, Fred W.	0.145
Villageliu, Gustavo D.	1.596
Wendtland, Linda	0.496

Descriptive statistics for the variables included in the models in Chapter 5 are provided below in Table A5.3. The first set of columns provides data for the model of the decision to appeal, while the second set of columns provide data on the model of the decision to affirm an appeal.

Table A5.3: Descriptive Statistics for Included Variables

Variable	Appeal Model				Outcome Model			
	Mean	Std. Dev.	Min.	Max.	Mean	Std. Dev.	Min.	Max.
Case Appealed	0.77	0.42	0	1	---	---	---	---
Decision Affirmed	---	---	---	---	0.76	0.43	0	1
Asylum Liberalism	1.16	0.80	0.11	4.08	1.17	0.81	0.11	4.08
BIA Mean Liberalism	0.69	0.26	0.28	1.12	0.69	0.27	0.28	1.12
Democratic Administration	0.47	0.50	0	1	0.43	0.49	0	1
Affirmative Application	0.59	0.49	0	1	0.58	0.49	0	1
Detention Status	0.36	0.67	0	2	0.33	0.62	0	2
Democracy (Polity)	1.28	0.82	0	2	1.24	0.83	0	2
Human Rights Abuse (PTS-St. Dept.)	3.42	0.83	1	5	3.46	0.83	1	5
Ashcroft Streamlining	0.41	0.49	0	1	0.44	0.50	0	1
Gonzalez Performance Review	0.15	0.35	0	1	0.16	0.37	0	1
Legal Representation	0.76	0.43	0	1	0.84	0.37	0	1
BIA Size	11	4	3	19	11	4	3	19
Judge Woman	0.27	0.44	0	1	0.29	0.45	0	1
English Speaker	0.11	0.31	0	1	0.10	0.30	0	1
IIRIRA Expedited Removal	0.74	0.44	0	1	0.76	0.42	0	1
IIRIRA One Year Bar	0.67	0.47	0	1	0.72	0.45	0	1
Real ID	0.22	0.41	0	1	0.24	0.43	0	1
Nine Eleven	0.00	0.06	0	1	0.00	0.06	0	1
Elapsed Time	132	60	1	252	136	61	1	252
Appellate Workload (1 Month Lag)	---	---	---	---	1493	555	323	2661
Ashcroft Streamlining * BIA Mean Liberalism	---	---	---	---	0.26	0.31	0	1.04

Finally, Tables A5.4 and A5.5 provide the results of the models complete with coefficient estimates, standard errors and other parameters of interest. Standard errors are clustered by IJ and bolded entries are significant at $p < 0.05$ (two-tailed).

Table A5.4: Decision to Appeal, Coefficients and Standard Errors

Variables	Coeff. (Clusterd S.E.)
Rational Actor Factors	
Asylum Liberalism (-)	0.020 (.039)
BIA Mean Liberalism (+)	**-0.609 (.108)**
Democratic Administration (+)	**-0.335 (.043)**
Affirmative Application (~)	**-0.187 (.027)**
Detention Status (-)	**-0.257 (.019)**
Democracy (Polity) (-)	**-0.163 (.019)**
Human Rights Abuse (PTS-St. Dept.) (+)	**0.064 (.009)**
Reforms	
Ashcroft Streamlining (-)	-0.031 (.033)
Gonzalez Performance Review (-)	-0.033 (.040)
Controls	
Legal Representation	**0.864 (.029)**
BIA Size	**0.043 (.008)**
Judge Woman	0.086 (.059)
English Speaker	0.028 (.025)
IIRIRA Expedited Removal	**-0.089 (.046)**
IIRIRA One Year Bar	**0.315 (.065)**
Real ID	**-0.068 (.029)**
Nine Eleven	-0.081 (.067)
Elapsed Time	-0.001 (.001)
Constant	**0.380 (.081)**
N	323078
IJ Clusters	339
Wald Chi	2528.10 (p = 0.000)

Table A5.5: Appeal Outcomes, Coefficients and Standard Errors

Variables	Coeff. (Clusterd S.E.)
Error Correction	
Asylum Liberalism (+)	-0.016 (.015)
Size of BIA (-)	0.007 (.008)
Appellate Workload (1 Month Lag) (+)	**0.00008 (.00002)**
Democracy (Polity) (+)	-0.012 (.019)
Human Rights Abuse (PTS-St. Dept.) (+)	0.024 (.013)
Judicial Policy Preference/Policymaking	
BIA Mean Liberalism (-)	**0.208 (.101)**
Democratic Administration (-)	**-0.166 (.039)**
Log of Trade with US (+)	**0.014 (.003)**
US Military Aid (+)	**0.166 (.033)**
World Bank Development Class (-)	0.003 (.013)
Top Ten Illegal Immigration (+)	**0.303 (.026)**
Reforms	
Ashcroft Streamlining (+)	**0.358 (.114)**
Gonzalez Performance Review (+)	-0.007 (.042)
Interaction	
Ashcroft Streamlining * BIA Mean Liberalism	**-0.339 (.101)**
Controls	
Legal Representation	**-0.200 (.063)**
Judge Woman	0.033 (.036)
English Speaker	**-0.109 (.017)**
IIRIRA Expedited Removal	**-0.174 (.043)**
IIRIRA One Year Bar	0.080 (.043)
Real ID	-0.006 (.033)
Nine Eleven	0.111 (.072)
Affirmative Application	**-0.041 (.019)**
Detention Status	**0.089 (.018)**
Elapsed Time	-0.000 (.001)
IMR	0.580 (.450)
Constant	0.108 (.219)
N	214838
IJ Clusters	314
Wald χ^2	952.87 (p= 0.000)

Table A5.6: Revisiting IJ Decision Making, Coefficients and Standard Errors

Variables	*Coefficient*	*Robust S.E.*
IJ Policy Preference		
IJ Asylum Liberalism (+)	0.31	0.11
US Material & Security Interests		
Log of Trade with US (-)	-0.09	0.01
US Military Aid (-)	-0.05	0.03
Top Ten Illegal Immigration (-)	-1.31	0.08
World Bank Development Class (+)	0.07	0.03
Human Rights Conditions		
Democracy (Polity) (-)	-0.38	0.03
Human Rights Abuse (PTS-St. Dept.) (+)	0.21	0.03
Attorney General Variables		
Ashcroft Streamlining (-)	0.46	0.25
Gonzalez Performance Review (+)	0.15	0.06
Democratic Administration (+)	0.15	0.05
BIA Variables		
Appellate Workload (1 Month Lag) (-)	-0.0001	0.0000
Mean BIA Liberalism (+)	0.68	0.23
Interaction Terms		
Ashcroft Streamlining * Mean BIA Liberalism	-0.47	0.22
IJ Asylum Liberalism * Mean BIA Liberalism	-0.11	0.10
Controls		
Judge Woman (+)	0.45	0.15
English Speaker (+)	0.11	0.05
Arabic Speaker (+/-)	0.12	0.07
Legal Representation (+)	0.31	0.04
National Unemployment (1 Month Lag) (-)	-6.54	1.81
Real ID	0.12	0.04
Nine Eleven (-)	0.06	0.08
Affirmative Application (+)	0.27	0.04
Detention Status (-)	-0.41	0.05
Elapsed Time (+)	0.009	0.002
Phi_1	1	
Phi_2	0.74 [.58, .91]	
Phi_3	0.18 [.06, .30]	
Phi_4	0	
N	363515	
Clusters	321	
Wald χ^2	1564.58 (p=0.000)	