

Can the Supreme Court Convince the American People?
— A Survey Experiment on Public Response to the Court’s Opinion Reasoning¹

Yiwei Nikol Tang, Columbia University

[Abstract]

The nine justices of the Supreme Court are traditionally expected to vote out a binding ruling because its compelling legal reasoning convinces a majority of the justices to support it, but can such reasoning convince regular Americans? Existing literature on the Court as a legitimizer of policies focuses on the causality between the Court’s mere endorsement of a policy and greater public support for that policy. I investigate whether the Court’s reasoning, either on its own or along with the Court’s endorsement, could impact public opinion. Using an online survey experiment on a nationally representative sample of 1399 respondents, I find that the Court’s reasoning, regardless of whether the Court’s endorsement is presented, increases public support for its position overall. Specifically, this is because Democrats respond to the Court’s reasoning from conservative decisions and increase their support for those positions accordingly, but Republicans don’t respond to such conservative reasoning. Neither Democrats nor Republicans respond to liberal reasoning.

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Chapter 1. Introduction and Literature Review

The Supreme Court justices are traditionally expected to interpret the Constitution faithfully regardless of the partisanship of the president who appointed them. According to this expectation, when the nine justices vote behind closed doors, the policy position of one side overcomes the other because the compelling legal reasoning behind the former position convinces a majority of the justices to support it. After a vote is reached, an appointed justice representing that majority then writes up a detailed opinion containing an elaborate argument for why the adopted policy stance is correct, drawing from precedents, reasoning in the oral arguments, evidence from amici briefs, and more.

But can such reasoning actually convince regular Americans? How does information about the reasoning provided by these rulings change Americans' stance on the policy issue in question? How does voters' partisanship interact with such an intervention? Previous research on the legitimacy-conferring function of the Court focuses on the causality between the Court's mere endorsement of a policy stance and greater public support for that stance. Building on this literature, I investigate whether the Court's reasoning, either on its own or along with the Court's endorsement, could impact public opinion. Using a pre-registered online survey experiment on a nationally representative sample of 1399 respondents, I find that consistent with existing experimental evidence, the Court's endorsement alone does little, if any, to increase support for its position. However, the Court's exact reasoning, regardless of whether its endorsement is presented, does increase public support for its position overall. Moreover, this is mostly driven by Democrats, rather than Republicans, responding to the Court's reasoning. Specifically, this is because Democrats respond to the Court's reasoning from conservative decisions and increase

their support for those positions accordingly, but Republicans don't respond to such conservative reasoning. Neither Democrats nor Republicans respond to liberal reasoning.

The question of whether and how the Supreme Court could exert opinion leadership over the American public by ruling for or against a particular policy has lingered in the minds of social scientists for a while. Dahl's (1957) classical thesis on the Supreme Court as a legitimizer of national policy laid the cornerstone for many scholars to hypothesize that public support inherently increases for the position that the Court adopts (for a complete review of this literature, see Hoekstra and Segal 1996). Franklin and Kosaki (1989) title this theory the positive response hypothesis: the Court's decisions are seen as right and give rise to popular support of the relevant policy because of the Court's image of institutional credibility and legitimacy among the American public. They empirically show that the explanatory power of this theory is limited when it comes to examining the structure of public opinion change toward abortion in the wake of Roe v. Wade (1973). Instead, they argue for a structural response hypothesis in which the Court increases the intensity of within-group opinions about the pertinent policy. The Court's role is more akin to an agenda setter, spotlighting certain policy issues for public debate. Johnson and Martin (1998) theorize that the High Court could "affect public opinion when it initially rules on a salient issue, but that subsequent decisions on the same issue will have little influence on opinion" in their conditional response hypothesis. They examined public opinion on an abortion case and three capital punishment rulings and found that although the first major landmark decision on a salient issue increases cleavages between groups on that issue, subsequent cases within the same issue area have little effect.

Regardless of the exact motivating theory, this line of observational research suffers a clear methodological flaw. "The *modus operandi* of these studies is to examine national public

opinion about questions decided by the Court before and after the Court's decision." (Hoekstra and Segal 1996) This approach conflates the effect that the Court could have on public opinion by simply endorsing a policy decision and any number of effects that are brought about in the real world by the Court taking such an action. Before a Court ruling is made, there are often highly visible political campaigns mounted by enthusiastic activists on both sides of the issue attempting to influence public opinion in their way; after a decision is released, there also comes heightened media attention, with commentators rushing to explain the meaning and foreseeable policy impact of the decision. Numerous observable and unobservable factors might change simultaneously with the Court's release of a decision that could impact public opinion that it is nearly impossible to cleanly identify what role the Court played exactly in this way. Because of this observational approach, these studies also limit themselves to only cases that are already well-known among the populace or respondents who have prior knowledge about the given decision. (Franklin and Kosaki 1989, Johnson and Martin 1998)

A number of studies have also tried to tackle this question experimentally, randomly manipulating knowledge of a given policy stance being supported by the Court to delineate the effect of the Court's endorsement itself on public opinion. These studies come with their own insufficiencies, particularly concerning external validity, and many studies produce inconclusive, vague, and conflicting results. Clawson, Kegler, and Waltenburg (2001), for example, used a non-representative small sample of 206 predominantly white, male political science students from Purdue University. This sample was not even representative of American college students as it was much more conservative than even the general public. This casts doubt on their finding that having the Supreme Court as the source cue instead of the bureaucracy could increase support for affirmative action and phone regulation policy. Hoekstra (1995) and Baas and

Thomas (1984) also worked with even smaller samples of college political science students. They produce somewhat conflicting evidence, as Hoekstra found the Court was able to legitimize a policy stance under some circumstances, especially for those who viewed the Court positively, but Baas and Thomas found no effect. Mondak (1990) used hypothetical rather than real cases, which presents a different kind of external validity issue; he also used a sample with only about two dozen college students per treatment condition. Nicholson and Hansford (2014) provide a more conclusive account of this question. By embedding experiments within the 2011 Cooperative Congressional Election Study (CCES), an online national stratified sample survey of 15,000 respondents, they found a statistically significant impact on two of the four cases, but the effect was substantively small: “The largest estimate for this variable is for the campaign finance decision, but attributing this decision to the Court, as compared to no institutional source, increases the probability of a respondent strongly accepting the decision by only .026.”

Crucially, the existing literature has not addressed the issue of whether the Court’s reasoning, as opposed to or in conjunction with the Court’s endorsement, helps influence public opinion. Clawson, Kegler, and Waltenburg (2001) did not distinguish between the Court’s reasoning and pure endorsement, since their survey instrument involved fictitious news articles on the Court’s ruling, which “contained detailed information about the policy decision and the impact of that decision.” It also didn’t base its intervention on actual reasoning from the Court. The same could be said about other experimental studies in this area. Moreover, Nicholson and Hansford (2014) tested the respondents’ “acceptance” of the decision as “the final word on the matter,” rather than opinion on the policy itself. A respondent doesn’t necessarily have to change her mind about an issue to agree that the Court should have the final word on the matter. Therefore, the present study sets out to address these two issues together, namely, the lack of

testing of the persuasive capability of the Court's actual reasoning on the opinion change rather than decision acceptance of the public.

Chapter 2. Theory and Hypotheses

Building on a line of research on the Court's role as the legitimizer of public policy since Dahl (1957), I explore whether the reasoning that the Court provided in its rulings can influence public opinion in an attempt to explain the mechanism through which the Supreme Court may persuade regular Americans to agree with its policy positions. I first discuss how the reasoning matters for the justices and legal professionals; I then address why such reasoning could, or even should, matter for the public as well.

Justices provide detailed arguments for their rulings. One likely reason for this is that a justice wants not only to convince future justices, legal professionals, or the laity to agree with her ruling; she also wants them to agree for the same reasons as she does. Surely, cynicism signature to our divisive time could easily drive us to dismiss an upright image of the Court's functioning as nine justices critically engaging with complex arguments and voting out the most legally compelling one; we are very tempted to simply think of the justices as ideologues on the bench who rule in however way that pleases their own policy preferences. However, the common occurrence of the filing of concurring opinions speaks to the reality that justices care about *why* a certain ruling is the way it is. The concurring opinion is a separate opinion of a justice who agrees with the ruling reached by the majority but explains reasons why the justice decides to do so that are different from or additional to the binding opinion. In fact, justices may even concur

in part and dissent in part with the ruling, which showcases just how much they care about the precise reasoning behind a certain ruling, regardless of whether they nonetheless vote for that ruling. Concurring opinions are so common that 40% of the decisions of the Burger, Rehnquist, and Roberts Courts, the three most recent Courts, have at least one concurring opinion. (Sunstein 2015) “In the 2009 Term, over three-quarters of the opinions published by the Supreme Court of the United States included a concurring opinion written by an individual Justice.” (Moore 2012) Some legal scholars are even starting to complain about there being too many concurring opinions. (Penrose 2020)

Reasoning also matters for other legal professionals, as future lawyers for generations might rely on the most minor detail in the reasoning to build their case a century later. Contrary to relative scholarly inattentiveness from the political science literature, legal scholars zealously debate the meaning of the reasoning of the Supreme Court. These legal professionals are the most direct intended audience whom the justices attempt to influence and persuade.

This gives rise to the question: would such reasoning also matter for the American public? It is worth noting that although perhaps few among the American public can elaborate on the intricacies of the reasoning of any particular Supreme Court decision, should they be challenged to do so on the street, this does not mean that such reasoning is completely absent from media awareness, and consequently, public perception.

On the contrary, as landmark Supreme Court decisions routinely receive heightened media exposure, journalistic accounts also routinely feature some version of explanations on the reasoning of the Supreme Court. To give just one example of how the media may do so, I turn to a *New York Times* article reporting on the decision of Bostock v. Clayton County (2020), which is included in my survey design. (Liptak 2020) In this case, the Supreme Court rules that

LGBTQ+ employees cannot be discriminated against by their employers on the basis of their gender identity or sexual orientation. When reporting on this case, the *New York Times* article carefully quotes the majority opinion penned by Justice Gorsuch, contrasted by the reasoning provided by several dissenting justices. The article clearly points out that the main reasoning in this decision is that “an employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. It is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex.” Since discrimination based on sex is explicitly banned under the Civil Rights Act, so does discrimination based on sexual orientation or gender identity.

Moreover, a Supreme Court justice’s opinion may have an impact on public opinion, regardless of whether it was written with that purpose in mind. Famously, Ruth Bader Ginsburg has long been immortalized by the popular media as the pioneering legal giant of gender equality advocacy in the public memory. Ginsburg’s poignant dissenting opinions in many landmark decisions received much media attention and became influential way beyond the Court’s canon or the legal academia.

Of course, the media have always understandably been more focused on the story behind the case, empirical evidence in support of and against the debated policy position, projected future influence of the ruling, and various other aspects of the judgment, as opposed to the often arcane legal reasoning. However, the public being generally unengaged with the Court’s exact reasoning right now is all the more reason why the media should pay more attention to such reasoning. As the gatekeeper of public discourse, the media should be concerned about why the Court is reaching a certain ruling, according to itself, and disentangle the legal jargons for the

public to better put on a check on the enormous power of judicial review. The present study, in part, can show what could be the impact on public opinion if the media committed more efforts to this end.

By neglecting the reasoning that the Court gave for its rulings, previous experimental evidence on the legitimacy-conferring function of the Court has not adequately studied a mechanism through which the Court could influence public opinion. When one encounters a Supreme Court decision in real life, often through media reports, one could also be exposed to other information relevant to this decision, which may include some account of the reasoning that the Court gave for its decision. This exposure, coupled with the Court's endorsement, may be more impactful in persuading the American public than the endorsement alone, as endorsement alone has been empirically shown as having little effect. Since existing survey experiments have focused on examining whether the Court's endorsement alone could change public opinion on a certain policy stance and find little effect, I examine the influence that the Court could exert by providing reasoning alongside its endorsement. Therefore, my main hypothesis is:

H₁: Exposure to the Supreme Court's reasoning behind a ruling makes the public more likely to support the Court's policy stance.

Moreover, such reasoning could also increase public favorability toward the Court, since the Court could be perceived as more reasonable and trustworthy if its reasoning is actually persuasive.

H_2 : *Exposure to the Supreme Court's reasoning behind a ruling makes the public favorable toward the Court.*

I also pay special attention to possible heterogeneous effects. Most crucially, Democrats and Republicans may respond differently to being told about the reasoning behind liberal or conservative decisions. Considering this, when choosing the Supreme Court decisions to present to the respondents, I choose two liberal decisions and two conservative decisions. Operating under a no-deception constraint, I can only present truthful information about what the ruling actually is and its authentic reasoning. This means that I cannot directly compare whether Democrats are more susceptible to be influenced by a liberal decision's reasoning than Republicans are by a conservative decision's reasoning, since these liberal decisions are fundamentally different from conservative decisions; however, I can still observe how Democrats and Republicans may respond differently to the same decision, though I cannot show such relationship to be a causal one.

For example, Democrats might be more influenced by the Court's reasoning when it comes to a liberal decision because they find it compelling, whereas Republicans might be uninfluenced. On the other hand, Democrats might be not influenced at all by the Court's reasoning in a liberal decision, since they have long made up their mind about their support for such a position, whereas Republicans who are skeptical of the position at first end up being convinced by the Court. The same could be said about conservative decisions. Republicans might not respond to the Court's reasoning in a conservative decision, but Democrats, who have a lower level of support for the Court's position to begin with, are eventually persuaded to conform to the position of the Court.

Chapter 3. Experimental Design

I recruited 1487 respondents online via Lucid Fulcrum Exchange, which provides reliable nationally representative samples similar to the demographic makeup of the United States. (Coppock and McClellan 2019) Respondents were presented with a survey on the Qualtrics survey software. Prior to the 1487-subject full study, a pilot study on 101 respondents was conducted in the same way with the same survey instrument. Upon completion of the pilot study, I pre-registered a full study with a targeted sample size of 1400 subjects on the American Economic Association's Randomized Controlled Trials Registry. Data analyses henceforth only concern the 1487-subject full study and not the pilot study.

The first part of the survey was non-experimental and elicited the demographic background of the respondents, including their age, gender, sexual orientation, LGBTQ+ affiliation, ethnicity, race, education, income, religion, religiosity, citizenship, partisanship, ideology, political interest, and voter registration status.

The second, experimental part of the survey involved fact patterns on four Supreme Court rulings. The existing political science literature on the legitimacy-conferring function of the Supreme Court has provided little insight on which cases to select, as few studies precisely justify their choice of case selection. In selecting these four cases, I sought to include four distinct and important fields of debates in law that also involve issues common and controversial in daily political life, so that the respondents can meaningfully engage with these judicial decisions. I also looked toward Nicolson and Hansford (2014) and adopted all four issue areas they used: LGBT rights, gun control, criminal justice, and campaign finance. I adopted their choice of the three cases spanning the latter three areas and only changed the LGBT rights case

from Christian Legal Society v. Martinez (2010) to the more recent and perhaps more salient Bostock v. Clayton County (2020). I rephrased the exact wording Nicolson and Hansford (2014) used to describe the decision itself, as I thought of them as legally imprecise.²

1. Bostock v. Clayton County (2020): Employers cannot discriminate against employees because of their sexual orientation or gender identity.
2. D.C. v. Heller (2008): The government cannot ban handguns or require trigger locks for other types of guns.
3. Graham v. Florida (2010): Children below 18 years old cannot be sentenced to life in prison without parole for any crime other than murder.
4. Citizens United v. FEC (2010): A for-profit corporation can spend as much money as it wants to help political candidates win elections, as long as it is not directly donating to their campaigns.

The respondents were randomly assigned to one of four treatment conditions. I used stratified randomization based on partisanship to better examine potential heterogeneous treatment effects. After respondents finished the non-experimental questions, they were categorized based on whether they are Democrats, Republicans, or Independents. Randomization then occurred within each partisan group, so as to make sure partisanship is completely unrelated to treatment status. Any respondents who are leaning Democrats or Republicans are categorized as the respective partisans, and only those who indicate they don't feel closer to either party are

² For example, their account of the Citizens United decision is: “Corporations and unions can spend as much money as they want to help political candidates win elections.” That is not exactly precise given the important caveat that there remain strong limitations on the amount of direct contribution to a political campaign that is allowed. The Court was only ruling on independent expenditure.

categorized as Independents (that is, they are categorized as point 4 on a 7-point partisanship score). Simple randomization was adopted since the respondents were not randomized until they finished non-experimental questions on their demographics first.

In the control group, the respondent read a simple policy statement summarizing the position that the Court took in the particular case, with no mentioning of the Court whatsoever; for the first treatment group, there was a policy statement and the Court's endorsement of it, simply adding "the Supreme Court recently ruled that" before the policy statement; for the second treatment group, there was a policy statement and the Court's reasoning in support of the policy. The reasoning appeared in the form of a one-paragraph brief in lay language. It did not include any mention of the Court itself, but rather solely focused on summarizing the reasoning that the Court provided in its majority opinion; Finally, the third treatment group was presented with the policy statement with both the Court's endorsement and reasoning.

Each respondent would be assigned to the same treatment condition across the four cases to avoid interference and speculation of the project's intent. Case order was fixed according to the above itemized list, with one liberal decision followed by a conservative decision, then another liberal decision followed by another conservative decision. There was no randomization of case order since the important outcome variable is the average effect of four cases. After each condition was presented, the respondent would indicate her level of support for the particular policy statement on a 5-point scale from strongly agree to strongly disagree. This factorial design allows me to compare the legitimacy-conferring function of the Court through three different channels — mere endorsement, mere reasoning, or the combination of both — and discern which of them is the most influential in swaying public opinion.

Table 1, Factorial Design

Control Group: Policy	Treatment Group 1: Policy + Endorsement
Treatment Group 2: Policy + Reasoning	Control Group: Policy

Since the Court’s reasoning is so crucial to the substantive contribution of this project, it warranted extra caution to draft and assign. The four one-paragraph reasoning briefs were written on the basis of the Court’s majority opinions as well as case briefs available online that highlight the key points in those opinions. They were also reviewed and approved by a New York-based junior associate attorney at Covington and Burling LLP and recent Harvard Law School graduate as being truthful and accurate in reflecting the meaning of the Court’s opinions.

To adjust for the rather big difference in length between the prompts that the Control group and Treatment 1 group respondents were reading and the prompts that the Treatment 2 and 3 group respondents were reading due to the reasoning briefs, I filled in four different paragraphs of instructions explaining what a policy stance is for the Control group and Treatment 1 group. As the following sample instruction from the LGBT question shows, these instructions are lengthy but almost completely devoid of substantive content or meaning.

“The following prompt is a policy stance about employment discrimination that you will be asked to evaluate based on your opinion. A policy stance is a statement about a certain issue that may involve policymaking or policy implementation in the United States, concerning issues that may be dealt with by the executive, legislative, or judicial branches across different levels of government. The policy stance may involve social, economic, and/or political questions that you might or might not be familiar with. Please respond to each of the given statements according to

how you personally view the policy stance.”

Next, I present all four case questions as seen by the Treatment 3 group and explain what other groups saw instead, given the importance of legibility of the reasoning briefs and therefore their accessibility for regular Americans. The Control group saw the lengthy instruction and the underlined policy statement; the Treatment 1 group saw the lengthy instruction, the bolded sentence of “the Supreme Court recently ruled,” followed by the underlined policy statement; the Treatment 2 group saw the reasoning, followed by “based on this reasoning,” and the underlined policy statement, without mentioning the Court.

Graph 1, Treatment Group 3 LGBT Prompt

Discrimination based on sexual orientation or gender identity is a form of sex discrimination. For example, a boss who discriminates against lesbian workers might fire a female worker for being attracted to women, but he won't fire any male workers for being attracted to women. This means the same behavior is allowed among workers of one sex, but not the other sex. Even though this boss might claim that he is only discriminating against a certain sexual orientation, he is actually discriminating against workers because of their sex. Sex discrimination was forbidden in the 1964 Civil Rights Act. Based on this reasoning, **the Supreme Court recently ruled that employers cannot discriminate against employees because of their sexual orientation or gender identity.**

Do you agree with the underlined statement?

Strongly agree

Somewhat agree

Neither agree nor disagree

Somewhat disagree

Strongly disagree

Graph 2, Treatment Group 3 Gun Prompt

The Second Amendment protects an individual's right to own a firearm and use it for self-defense at home. Many Americans choose handguns to protect their family and property, so banning all handguns means they lose this important means of self-defense. Requiring trigger locks for other types of guns also makes it impossible for law-abiding Americans to effectively use guns to protect their home. This doesn't mean that gun rights are unlimited, as background checks and licensing can still be enforced to help make sure that guns don't fall into the wrong hand. Based on this reasoning, **the Supreme Court recently ruled that the government cannot ban handguns or require trigger locks for other types of guns.**

Graph 3, Treatment Group 3 Prison Prompt

The Eighth Amendment prohibits cruel and unusual punishment, and sentencing a child to die in prison for any crime except murder is cruel and unusual. No other country in the world does this. Children are not as mature as adults, so they cannot be punished to the same extent as adults. Children are also more likely to be educated to become better people and stop future criminal behavior. They are not a threat to society for life and they lose the chance to change if they have to die in prison. Based on this reasoning, **the Supreme Court recently ruled that children below 18 years old cannot be sentenced to life in prison without parole for any crime other than murder.**

Graph 4, Treatment Group 3 Campaign Finance Prompt

Spending money to help a political candidate win an election is a form of political speech expressing support for this candidate, especially since money can help spread political opinions. The First Amendment protects an individual's freedom of speech. Corporations are simply groups of individuals, and therefore also enjoy this freedom. Corporations also include media companies. If corporations do not have freedom of speech, then newspapers and TV companies could all face political censorship. Corporations are not acting corruptly when they spend money on their own to help a candidate win elections. Based on this reasoning, **the Supreme Court recently ruled that a for-profit corporation can spend as much money as it wants to help political candidates win elections, as long as it's not directly donating to their campaigns.**

As shown here, the legal reasoning of different cases inherently has a greater level of heterogeneity than simple policy statements. While policy statements already vary in terms of how polarizing, salient, or relevant they are, legal reasoning could also be more or less technical in nature, emotional and expressive in style or not, etc. Legal reasoning could have any number of characteristics that are hard to precisely quantify and therefore experimentally manipulated, but they all could matter for persuasive purposes. This should be especially noted for future research.

The key dependent variables on the four case questions were coded on a scale of 1 to 5, with 1 being “strongly agree,” and 5 being “strongly disagree.” Therefore, a negative coefficient on the questions related to the four cases shows a greater level of support for the Court’s position. After the experimental questions, the respondent was then asked to indicate her feeling toward the Supreme Court on a scale of 0 to 100, with 100 being the most warm or favorable. She would also indicate whether she agrees that “the Supreme Court should have the final word to say on American laws,” in order to measure her support for judicial review.

At the end of the survey, I used an attention check question, asking the respondent to choose “somewhat disagree” in the prototypical 5-point scale. This was left for last to avoid respondents who didn’t pay attention until now to start consistently clicking “somewhat disagree” from now on just out of a force of habit. However, since this attention check question was done post-treatment, I do not exclude those who failed the attention check in my subsequent data analysis. Analyses conducted on the samples excluding and including those who failed the attention check produce very similar results and all the statistically significant results shown below are robust regardless of the exact sample. Finally, I also asked the respondent if she had guessed the intent of the study and gave her a chance to elaborate on her own if answered “yes.”

Although most of the respondents attempted to do so, none of them correctly guessed the intent of the study as being the impact of the Court’s reasoning on public opinion.

Chapter 4. Results³

From the full sample of 1487 respondents, I eliminate those who answered “no” to being a citizen or permanent resident, or who didn’t answer this question, and those who didn’t enter randomization to answer any key dependent variable questions. This would leave a sample of 1399 respondents, with which all data analyses are conducted here.

I first show the average of the effects from the four cases on this sample, including the baseline model, a model controlling for partisanship, a model controlling for demographics, and a fourth model controlling for all pre-treatment covariates. Given the aforementioned heightened level of heterogeneity inherent to legal reasoning, pooling together the four cases to produce such a mean score would provide a better measure of the effect of the Court’s endorsement or reasoning. All four cases are scored and coded in the same way on a scale of 1 to 5, with a lower score meaning a higher level of support for the Court’s position. Negative coefficients suggest increasing support for the Court’s position.

³ Unless otherwise noted, all data analyses that are conducted (including eliminating outliers) were pre-registered.

Table 2

Mean agreement score
among respondents who are U.S. citizens or residents

	(1)	(2)	(3)	(4)
<i>(Intercept)</i>	2.40 *** (0.04)	2.42 *** (0.04)	2.46 *** (0.06)	2.11 *** (0.12)
<i>Treatment 1</i>	-0.02 (0.05)	-0.02 (0.05)	-0.02 (0.05)	-0.02 (0.05)
<i>Treatment 2</i>	-0.12 * (0.05)	-0.12 * (0.05)	-0.12 * (0.05)	-0.13 * (0.05)
<i>Treatment 3</i>	-0.14 ** (0.05)	-0.14 ** (0.05)	-0.14 ** (0.05)	-0.16 ** (0.05)
<i>Party ID = Independent</i>		0.07 (0.06)	0.06 (0.06)	0.04 (0.06)
<i>Party ID = Republican</i>		-0.09 * (0.04)	-0.08 (0.04)	-0.07 (0.05)
<i>Gender Non-male</i>			0.15 *** (0.04)	0.15 *** (0.04)
<i>Sexuality Non-straight</i>			-0.05 (0.07)	-0.08 (0.07)
<i>Racial minority</i>			-0.01 (0.05)	0.03 (0.05)
<i>College or above</i>			0.04 (0.04)	0.05 (0.04)
<i>Income level</i>			-0.04 ** (0.01)	-0.03 * (0.01)
<i>Ideology level</i>				0.01 (0.01)
<i>Registered to vote</i>				0.06 (0.06)
<i>Christian</i>				-0.01 (0.04)
<i>Religiosity level</i>				0.06 *** (0.01)

Note: Agreement scale 1 (strongly support) to 5 (strongly oppose); robust std. errors in parentheses; ***: $p < 0.001$, **: $p < 0.01$, *: $p < 0.05$.

As expected from Nicolson and Hansford (2014), Treatment 1 with simple Court endorsement has little effect. Treatment 2 and 3, however, both have statistically significant and robust positive effects on support for the policy position adopted by the Court, regardless of model specifications.

This leads me to analyze results as divided by partisanship to examine any heterogeneous treatment effects, as stratified randomization was conducted on this basis. The reason why there appear to be more Democrats than Republicans and few Independents is that Independents are categorized as so only if they are coded as 4 on a 7-point partisanship scale. Self-identified Independents who “feel closer” to either party are still categorized as partisans.

Table 3

Mean agreement score among respondents who are U.S. citizens or residents			
	(1) Democrats (<i>N</i> = 700)	(2) Republicans (<i>N</i> = 491)	(3) Independents (<i>N</i> = 208)
<i>(Intercept)</i>	2.463 *** (0.057)	2.265 *** (0.058)	2.505 *** (0.081)
<i>Treatment 1</i>	-0.011 (0.082)	-0.034 (0.085)	-0.142 (0.124)
<i>Treatment 2</i>	-0.200 * (0.078)	-0.029 (0.088)	-0.048 (0.147)
<i>Treatment 3</i>	-0.225 ** (0.076)	-0.025 (0.086)	-0.130 (0.130)

Note: Robust std. errors in parentheses; ***: $p < 0.001$, **: $p < 0.01$, *: $p < 0.05$.

Democrats, rather than Republicans or Independents, are responding to the Court’s reasoning and changing their public opinion according to the position that the Court adopted. Next, I break down the four cases into two liberal and two conservative decisions to examine

how partisans and Independents respond differently to them. The liberal decisions include the ones on LGBT rights and criminal justice, whereas the conservative decisions include the ones on gun control and campaign finance.

Table 4

Mean agreement score of conservative decisions
among respondents who are U.S. citizens or residents

	(1) Democrats (<i>N</i> = 700)	(2) Republicans (<i>N</i> = 491)	(3) Independents (<i>N</i> = 208)
<i>(Intercept)</i>	3.218 *** (0.095)	2.618 *** (0.082)	3.060 *** (0.113)
<i>Treatment 1</i>	-0.066 (0.138)	-0.155 (0.111)	-0.246 (0.169)
<i>Treatment 2</i>	-0.432 *** (0.129)	-0.151 (0.116)	-0.283 (0.169)
<i>Treatment 3</i>	-0.335 ** (0.126)	-0.181 (0.113)	-0.380 * (0.171)

Note: Robust std. errors in parentheses; ***: $p < 0.001$, **: $p < 0.01$, *: $p < 0.05$.

Table 5

Mean agreement score of liberal decisions
among respondents who are U.S. citizens or residents

	(1) Democrats (<i>N</i> = 700)	(2) Republicans (<i>N</i> = 491)	(3) Independents (<i>N</i> = 208)
<i>(Intercept)</i>	1.711 *** (0.057)	1.915 *** (0.078)	1.950 *** (0.099)
<i>Treatment 1</i>	-0.089 (0.079)	0.227 * (0.113)	-0.038 (0.159)
<i>Treatment 2</i>	-0.031 (0.083)	0.089 (0.112)	0.175 (0.180)
<i>Treatment 3</i>	-0.117 (0.076)	0.135 (0.111)	0.120 (0.153)

Note: Robust std. errors in parentheses; ***: $p < 0.001$, **: $p < 0.01$, *: $p < 0.05$.

Democrats are responding to the Court's conservative reasoning by conforming to the Court's positions (negative coefficients in Treatment 2 and 3, Table 4), but not Republicans or Independents. For the liberal cases, reasoning has no effect on any of the three groups.

However, Republicans seem to backlash against the Court's endorsement of liberal cases in Treatment 1 and decrease their support for the policy position (positive coefficient in Treatment 1, Table 5). Republicans seem repugnant against these liberal cases and reasoning. As the coefficients for the Court's effects on Democrats are always negative, meaning Democrats conform to the Court's position no matter if it is a liberal or conservative case, such coefficients for Republicans on liberal cases and reasoning are positive, meaning Republicans might backlash against liberal rulings and reasoning.

To contextualize the size of these substantive effects, I look toward the mean control group agreement score. To be sure, on conservative decisions, Democrats changed their opinion by 0.432 and 0.335 in Treatment 2 and 3 groups, respectively, in the direction of the Court's ruling, on a scale of 1 to 5 (8.64 percentage points and 6.7 percentage points). There was only a difference of 0.6 between Democrats and Republicans to begin with for the control group on that same scale (12 percentage points).

As for the Republican backlash against the Court's endorsement of liberal cases, that effect is 0.277 on a scale of 1 to 5 (5.54 percentage points). The initial difference between level of support among Democrats and Republicans on liberal cases is 0.204 (4.08 percentage points). That is to say, the Court's endorsement more than doubled the cleavage between Democrats and Republicans on liberal cases.

Concerning my second hypothesis that the Court's reasoning could have a positive impact on favorability toward the Court, I find no such evidence. In fact, I find some evidence

suggesting the contrary effect for Republicans. Table 6 shows that the Republicans in Treatment 3 group actually decreased their level of favorability toward the Court by 5.4 percentage points, an effect with a p-value smaller than 0.1.

Table 6

Favorability toward the Supreme Court among respondents who are U.S. citizens/residents			
	(1) Democrats (<i>N</i> = 628)	(2) Republicans (<i>N</i> = 429)	(3) Independents (<i>N</i> = 176)
<i>(Intercept)</i>	64.846 *** (1.802)	67.639 *** (2.057)	54.760 *** (2.804)
<i>Treatment 1</i>	-2.230 (2.748)	-3.065 (3.056)	-3.897 (4.110)
<i>Treatment 2</i>	-0.917 (2.499)	-4.160 (2.977)	-2.671 (5.022)
<i>Treatment 3</i>	-2.181 (2.400)	-5.370 † (3.115)	3.080 (4.902)

Note: Robust std. errors in parentheses; ***: $p < 0.001$, **: $p < 0.01$, *: $p < 0.05$; †: $p < 0.1$.

It is extremely curious why Republicans who learn of the Court’s reasoning and endorsement would like the Court less, since six of the nine justices sitting on the current Supreme Court were appointed by Republican presidents. I can only speculate that Republicans are so repugnant against the Court’s endorsement of and reasoning for liberal positions that exposure to this information makes them disfavor the Court in general. The answers elicited in the last question on the survey, which asked what the respondent thought the intent of the study was, might provide some anecdotal evidence for this conjecture. Most respondents provided short answers to the likes of “constitutional rights,” “the Supreme Court,” or “public opinion,” though no respondents correctly guessed the study intent was the causal effect of the Court’s reasoning. However, several respondents complained that the study was about, and I quote,

“woke liberal stupidity,” “liberal bias from an ultra liberal college,” and “the commies are doing what they always have; which is, trying to take away freedoms.” Noticeably, there were no equivalent grievances expressed by liberal respondents against such sentiments as “same-old same-old conservative idiocy.”

Lastly, I show that there is little, if any, interactive effect between the Court’s endorsement and reasoning. The Court’s reasoning is doing the heavy lifting, overall speaking.

Table 7

Mean agreement score among respondents who are U.S. citizens or residents				
	(1)	(2)	(3)	(4)
<i>(Intercept)</i>	2.40 *** (0.04)	2.42 *** (0.04)	2.46 *** (0.06)	2.11 *** (0.12)
<i>endorsement</i>	-0.02 (0.05)	-0.02 (0.05)	-0.02 (0.05)	-0.02 (0.05)
<i>reasoning</i>	-0.12 * (0.05)	-0.12 * (0.05)	-0.12 * (0.05)	-0.13 * (0.05)
<i>endorsement × reasoning</i>	-0.01 (0.08)	-0.01 (0.08)	0.00 (0.08)	-0.01 (0.08)
<i>Party ID = Independent</i>		0.07 (0.06)	0.06 (0.06)	0.04 (0.06)
<i>Party ID = Republican</i>		-0.09 * (0.04)	-0.08 (0.04)	-0.07 (0.05)
<i>Gender Non-male</i>			0.15 *** (0.04)	0.15 *** (0.04)
<i>Sexuality Non-straight</i>			-0.05 (0.07)	-0.08 (0.07)
<i>Racial minority</i>			-0.01 (0.05)	0.03 (0.05)
<i>College or above</i>			0.04 (0.04)	0.05 (0.04)
<i>Income level</i>			-0.04 ** (0.01)	-0.03 * (0.01)
<i>Ideology level</i>				0.01 (0.01)
<i>Registered to vote</i>				0.06 (0.06)
<i>Christian</i>				-0.01 (0.04)
<i>Religiosity level</i>				0.06 *** (0.01)

Note: Agreement scale 1 (strongly support) to 5 (strongly oppose); robust std. errors in parentheses; ***: $p < 0.001$, **: $p < 0.01$, *: $p < 0.05$.

All of the above findings on partisanship-based heterogeneous treatment effects must be interpreted with the important distinction between confirmatory and exploratory research. That is

to say, I had an ex ante hypothesis on how the Court's reasoning would influence public opinion to conform to the Court's position and found evidence to support this in general, but I had no such hypothesis when it comes to how partisanship interacts with this effect. This especially cautions against drawing any conclusions regarding the potential backlash effect that the Court's liberal endorsement could have on Republicans' level of support for those liberal positions. This effect is also not nearly as robust as the effect of the Court's conservative reasoning on the Democrats. The former effect is no longer statistically significant if I use the sample that excludes those who failed the attention check question, but the latter effect is statistically significant regardless how I exclude potential outliers. That being said, the fact that the Court's liberal endorsement, reasoning, and both combined all had a positive coefficient and therefore potential backlash effect on Republicans' support for those liberal positions is worth noting. These exploratory results, combined with the potential backlash effect that the Court's endorsement and reasoning might have on Republicans' favorability of the Court, are still highly suggestive. They should be used to guide future confirmatory research, rather than serve as prima facie evidence.

Given these considerations, my next chapter will focus on discussing results for the main pre-registered hypothesis for which I found supportive evidence, namely, that exposure to the Court's authentic legal reasoning could increase popular support for the Court's position overall. My analysis also suggests that this is mostly driven by Democrats responding to the Court's reasoning in conservative cases.

Chapter 5. Discussion

Using an online survey experiment, I find that exposure to the legal reasoning of the Supreme Court generally increases popular support for the Court's adopted policy positions. This effect is mostly driven by Democrats conforming to the Court's conservative positions upon learning about the specific reasoning.

By using a factorial design with the Court's endorsement and reasoning as treatment arms, this study suggests one way to explain why earlier observational research uncovered evidence suggesting various effects that the Court's ruling could have on public opinion, positively, structurally, or conditionally, yet later experimental studies sometimes found no effects whatsoever. These findings are not inherently contradictory. As far as using the Supreme Court as just the source cue is concerned, following Nicholson and Hansford (2014), the present study reaffirms with another nationally representative sample that this likely does little to increase popular support for the given policy.

Ultimately, whether a survey experiment on this topic obtains results of statistical significance highly depends on the exact prompt that was given to the respondents. In Baas and Thomas (1984), respondents read just policy statements with varying source cues, and they found no effects in terms of the Court's legitimacy-conferring function; in Clawson et al. (2001), however, they used a survey instrument that mimicked a newspaper story. They varied not only the source cue of the policy stance — the Supreme Court or the bureaucracy, but also who was quoted in the story — Justice O'Connor or the head of the Department of Education, for example. Even if the quote was exactly the same in content, this makes the two news articles no longer exactly comparable, since the well-respected reputation of Justice O'Connor could have a much bigger influence on public opinion than having the little-known Education Secretary as the source cue. These details in the experimental design can make all the difference in results.

Comparing Baas and Thomas (1984) to Clawson et al. (2001) and considering the present study, I suggest that what could truly make an impact on public opinion is not the Court's simple endorsement of a policy, but rather contextual information relevant to the Court's decision-making. In the case of Clawson et al. (2001), this meant quoting Justice O'Connor in a fictitious news article advocating for the Court's decision; in the present study, this means the Court's legal reasoning. Such information makes the survey experimental setting just a little more akin to the real world, in which the Court brings about heightened media exposure and public discourse of the issues it rules upon and sets in motion all the other unforeseen effects. This is why observational research finds the Court to be impactful on public opinion, while whether experimental research can recover such effects depends on whether the exact survey prompts include contextual information about the legal decisions as opposed to simply using the Court as the source cue of a given policy position.

The theoretical contribution of this study is also fundamentally characterized by putting the persuasive strength of the Court's authentic legal reasoning to test among regular Americans. Existing literature has ignored this persuasive instrument that the Court explicitly uses for making itself heard and understood. Experimental research in this area commonly employs poorly justified fact patterns or even hypothetical prompts. As the Court hopes to convince anyone who would listen via its opinion reasoning, it is worth answering whether the Court's legal reasoning actually works. On average, it does.

Chapter 6. Conclusion

Following the discussion about the methodological and substantive context in which this study was conducted, I turn to propose some directions for future research.

For starters, there needs to be a more principled way of studying the Court's legitimacy-conferring function with particular attention to the way different issue areas may well interact differently with respondents' demographics. Due to limits of funding, the present study, unfortunately, follows many of its observational and experimental predecessors in drawing rather broad inferences from just a few judicial decisions. A better way of studying this would be to, for example, pool together all Supreme Court decisions from the past five or so years, eliminate the decisions rooted in legal technicalities that take too much prior knowledge to comprehend, and randomize for the respondents to each see four or so cases.

Secondly, the dissenting opinion reasoning could also be researched in the same way as this study. A powerful dissenting opinion might put an effective check on the majority opinion reasoning and attenuate the effect that the majority opinion could have on public opinion. Salamone (2014) focuses on whether the majority size in the decision influences public support for the ruling. Compared to unanimous ruling, dissent can foster acceptance of rulings among the Court's opponents by suggesting evidence of procedural justice. The reasoning provided by the dissenting opinion should be studied along with this framework.

Finally, a more careful examination of the interaction between the Court's legitimacy-conferring function through the endorsement of or reasoning for particular decisions and partisanship should be conducted. As the present study found that Democrats conform to conservative reasoning whereas Republicans might backlash against liberal decisions, replication studies to confirm exploratory results would be especially beneficial.

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