

FRAMING THE COURT: A RHETORICAL FRAMING ANALYSIS OF CABLE NEWS'S
COVERAGE OF THE DOBBS DECISION

by

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(Under the Direction of Jonathan Peters)

ABSTRACT

This study examines cable news's framing of the U.S. Supreme Court by analyzing coverage of the landmark 2022 case *Dobbs v. Jackson Women's Health Organization*, which overturned *Roe v. Wade* and eliminated the constitutional right to abortion. By conducting a verbal and visual rhetorical framing analysis of three days of news coverage from CNN, Fox News, and MSNBC immediately after the release of *Dobbs*, this study found that each outlet framed the Court and its decision positively or negatively based on its partisan orientation. The Court's legal reasoning received little coverage, whereas the conservative justices in the majority and the overall outcome received voluminous coverage. Given the wide reach of these outlets and the modern partisan political climate in America, this presents a challenge for the continued legitimacy of the Supreme Court and the public's understanding of the institution.

INDEX WORDS: news framing, cable news, Supreme Court, rhetorical analysis

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DEDICATION

I dedicate this dissertation to my father, Allen P. James. Without his sacrifices, his work, his guidance, and his steadfast love throughout my entire life, I would neither be where I am today nor have been able to achieve what I have. I truly thank you for everything, and I love you.

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understanding; if thou seekest her as silver, and searchest for her as *for* hid treasures; then shalt
though understand the fear of the LORD, and find the knowledge of God” (Prov. 2:1-5).

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CHAPTER 1

INTRODUCTION

On June 24, 2022, the Supreme Court of the United States (the Court) published its final decision in *Dobbs v. Jackson Women's Health Organization* (2022), which overturned nearly 50 years of precedent establishing a constitutional right to pre-viability abortion. *Dobbs* was a major flashpoint. For some, overturning *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992) was a day long feared, and for others it was a joyous occasion. At the time of the *Dobbs* decision, Americans were split roughly 60-40 percent on whether abortion should be legal in all or most cases (Pew Research Center, 2024), and those numbers roughly hold today (Gallup, 2024). As for the Court, few institutions in American history have enjoyed such high approval ratings. But the Court now has a 40 percent approval rating compared to its nearly 60 percent rating in 2020 (Franklin, 2024; Jones, 2023). Of note is the steep drop of nearly 20 percent between the time *Dobbs* was argued before the Court in December 2021 and the time the Court's decision was announced in June 2022.

It would be difficult to point definitively to any one cause for that steep drop in public approval. However, when considering the timing of events in *Dobbs* and larger public divisions around the issue of abortion, it is reasonable to consider the possibility that *Dobbs* and its news coverage played a role. The Court does not have a traditional press secretary, and its members do not routinely present themselves to the public to give speeches or share their thoughts on current issues. The Court and its Justices generally speak through their published opinions, which are highly technical legal instruments with a primary audience of other legal professionals. Thus, the

vast majority of members of the public learn about the Court through news coverage of it rather than through direct engagement with Court work product (Bodderly et al., 2022; Hitt & Searles, 2018; Slotnick & Segal, 1998; Vining & Marcin, 2014).

Cable news is one of the most popular and impactful news sources for Americans—in particular CNN, Fox News, and MSNBC, which attract millions of viewers each day to their programming through 66 million households with paid access, and billions of views online each quarter for their videos and articles (Battaglio, 2024; Flood, 2024a; Flood, 2024b). And given that news coverage of the Court is the leading source of information about the Court for most Americans, it is critical to understand *how* cable news covers the Court both in general and in relation to high-profile cases like *Dobbs*, which was momentous and had extraordinary real-world and legal consequences. That is the general purpose of this study, to examine how cable news covered the *Dobbs* decision.

American broadcast news often uses framing that emphasizes conflict and competition in its coverage of politics, including the Court (Dimitrova & Strömbäck, 2011; Hitt & Searles, 2018; Johnston & Bartels, 2010; Slotnick & Segal, 1998). However, aside from the presence of certain combative language (e.g., certain terms used in war and in sports), research has not thoroughly examined how this news framing is constructed in the context of the Court. What are the “key words, metaphors, concepts, symbols, visual images, and names given to persons, ideas, and actions” (Kuypers, 2010, p. 301) used in news coverage of the Court? What are the narrative themes that are “the subject of discussion” or “the subject of the thought expressed” in that coverage? (Kuypers, 2010, p. 302). These questions are especially salient when applied to cable news because of its effects on audiences and its dramatic and partisan tendencies (Bodderly et al., 2022; Cassino, 2016; Choi, 2022; Gonçalves, 2024; Levendusky, 2013).

This study will examine cable news's framing of the Court by analyzing coverage of the *Dobbs* decision through a verbal and visual rhetorical framing analysis. By using rhetorical framing analysis, this study will dig deeper than other news framing studies of the Court. Typically, the method of choice for news framing research is a form of content analysis (Gonçalves, 2023; Hickerson et al., 2011; Hitt & Searles, 2018; Xu, 2013), but this method does not go far enough. Content analysis often cannot identify the subtleties of news narratives and their themes across broadcasts, e.g., how they are interwoven or invoked simultaneously with various framing devices—the nuanced context surrounding language and visuals that cannot be predetermined (Kuypers, 2010). Unless coders watch every second of a news broadcast they have selected to analyze, they are unable to detect frames and themes for which they did not account. Content analysis is useful for detecting pre-selected framing devices (e.g., keywords, terminology, types of images, phrases, etc.), but it is less effective at thoroughly and colorfully depicting *how* framing devices are used to shape themes within news narratives (Kuypers, 2010).

In contrast, through deep immersion in a set of television news programs, rhetorical framing analysis can be used to analyze how news outlets, programs, and their sources utilize frames and framing devices in furtherance of a particular news narrative via emphasis and omission (Kuypers, 2006; Kuypers, 2010). In the context of news coverage of the Court, which produces its own carefully crafted narratives and framing through its decisions and orders and oral arguments, rhetorical framing analysis can be especially useful for shedding much-needed light on what the Court says officially in comparison with what the news media said the Court said. For a case like *Dobbs*, in which an issue of enormous national concern was impacted *and* related to a precipitous drop in public approval of the Court, a rhetorical framing analysis will provide new understandings of the relationship between the Court and the press, particularly a

subset of popular press actors: the cable news outlets CNN, Fox News, and MSNBC. For these reasons, the study will analyze the verbal and visual rhetoric of cable news coverage of *Dobbs* through framing analysis, and to those ends the study will be guided by the following research questions:

RQ1) What narrative themes were presented by cable news in their coverage of *Dobbs*, and how were those themes framed?

RQ2) Where did the cable news outlets' narratives and framing converge and contrast?

RQ3) Where did the cable news narratives and framing converge and contrast with the official opinions in the *Dobbs* decision?

CHAPTER 2

THE COURT AND NEWS MEDIA

The judiciary is the third co-equal branch of the federal government established by the Constitution, and at its head is the Supreme Court. As the most powerful judicial body in the land, the decisions it makes directly impact issues of national prominence, at the kitchen table, and everything in between. This chapter discusses what is known about how the American public learns of the Court through news media, with an emphasis on broadcast news and cable news.

The People, Legitimacy, and Power

President Andrew Jackson once said, in response to the Supreme Court's ruling in *Worcester v. Georgia* (1832), "John Marshall has made his decision. Now let him enforce it." Jackson understood in 1832, as scholars do now in 2024, that the Court's authority may come from the Constitution, but its power comes from the perception of its legitimacy in the general public and among societal elites (Christenson & Glick, 2019; Gibson et al., 2003; Gibson & Nelson, 2015; Vining & Marcin, 2014). The Court has no army and no funding power, and thus it is rendered reliant on the other branches of government to abide by and enforce its decisions. Therefore, the public's view of the Court as legitimate is essential to its discharge of its duties.

Throughout much of American history, and certainly in the last century, the public has approved of the Supreme Court (Caldeira & Gibson, 1992; Gibson & Caldeira, 2011; Hitt & Searles, 2018). Much of this support has come from the public's understanding that the Court is

not like the legislature or the executive, insofar as it is supposed to make decisions without regard to politics. Rather, the Court, when functioning properly, interprets the language of the Constitution and other laws and prior decisions, and the Court's broad public support is called "diffuse support" (Gibson et al., 2003; Gibson & Nelson, 2014). Essentially, it is institutional loyalty even in the face of decisions that run counter to one's policy preferences or personal ideologies. This "reservoir of goodwill" is a significant factor that has carried the Court through major and controversial decisions in the past without long-term public upheaval or radical public responses.

On the other hand, there is "specific support" (Gibson & Nelson, 2014; Hitt & Searles, 2018). It is the public's approval of individual opinions and decisions, and it might be neutral or irrelevant when the Court is deciding a niche case regarding, say, administrative regulations of imported fish products from Mexico, but specific support is crucial when there is a major ruling on controversial topics, such as abortion, affirmative action, free speech, and drafts for military service. Historically, diffuse support has kept public approval of the Court afloat in times of low specific support, but this has not been the case in recent years (Christenson & Glick, 2019; Franklin, 2024; Hitt & Searles, 2018).

Scholars of political science, law, and mass communication have come to no consensus regarding why the public's approval of the Court has been dropping so dramatically, but one factor not in dispute is that modern news coverage of the Court is a contributor (Boddery et al., 2022; Christenson & Glick, 2019; Hitt & Searles, 2018). Most Americans do not know directly about how the Court works or why it does what it does—or the procedures that it follows (Bailey & Maltzman, 2008; Black & Boyd, 2012; Caldeira & Wright, 1988). To the extent they know at all, most Americans develop their understanding from the news media.

News Media and America's Understanding of the Court

The press's status as a primary vector of information about the Supreme Court gives it a large amount of influence over public opinion of the Court (Boddery et al., 2022; Hitt & Searles, 2018; Linos & Twist, 2016; Slotnick & Segal, 1998; Vining & Marcin, 2014). This is amplified by the recluse nature of the Court, which does not allow cameras and where courtroom access is limited by seating capacity and internal policies (Jones et al., 2012; Kimball, 2021; New York Times, 1996). Access to the justices is highly restricted, and generally they do not speak to the press about ongoing matters or those that could be before them in the future. The few exceptions have tended to be autobiographical books or speeches that focus on broad reflections on the law or cases far in the past (Bailey & Maltzman, 2008). The Court does have a public information officer, but the position is largely an administrative one that does not function in any way like a press secretary, and they absolutely do not speak substantively on Court decisions or opinions (James, 2025; Peters, 2014).

This leaves the news media with wide latitude in interpreting what the Court says and does when informing the public of Court decisions. However, before getting into how exactly the news media do that, it would be helpful first to discuss how the news media select which cases to cover. Some scholars posit that journalists follow certain legal cues, like the number of amicus filings in a given case (Collins & Cooper, 2012; Sill et al., 2013). Others posit that the presence of higher levels of conflict are what drives journalists to select one case over another (Epstein & Segal, 2000, Slotnick & Segal, 1998), and still other scholars posit that journalists simply choose to cover cases they find to be of "real-world impact" (Strother, 2017). None of these ideas is, of course, mutually exclusive from the others, and a case like *Dobbs* cuts across all three of them. That brings us to the question of *how* the news media cover Court cases. There are practical

medium-based differences (e.g., the amount of space afforded to a story in a print newspaper, the amount of airtime allowed for a news broadcast, etc.), and there are institutional differences (e.g., a trade publication's focus, the ideology of a partisan outlet, etc.). This study, however, concerns itself with cable news, so the focus here will remain on that medium as well as broadcast news in general.

To begin, broadcast and cable news tend to utilize either a *game frame* or a *principled frame* in their news coverage of the Court (Hitt & Searles, 2018). The game frame focuses on which side wins, which side loses, and the strategy and tactics employed. The principled frame, meanwhile, focuses on the basis of the Court's decision and reasoning, portraying the justices as principled and sincere and not motivated by politics (Hitt & Searles, 2018). Principled framing, unlike game framing, is mostly devoid of combative terminology (e.g., fight and battle) (Hitt & Searles, 2018). The game frame is the predominant one used for Court news coverage among broadcast outlets (Hitt & Searles, 2018; Kuypers, 2002; Kuypers, 2014).

Coverage that game frames the Court has important impacts for audiences. Hitt and Searles (2018) found that it negatively impacts perceptions of the Court's legitimacy. They also found that principled coverage of the Court did not increase perceptions of legitimacy, and they found that as game frame coverage has been increasing in recent decades, public approval of the Court has been decreasing (Hitt & Searles, 2018). Moreover, these issues are compounded by infotainment. Since the early 1980s, national broadcast news outlets have adopted infotainment models to a greater and greater extent, becoming vehicles for corporate profit by airing what brings in the highest ratings (Boddery et al., 2022; Cassino, 2016; Kuypers, 2021; Slotnick & Segal, 1998). This changed the equation for broadcast Court reporters, as broadcast news companies shifted their priorities from informing the public to attracting the most attention

possible and sustaining that attention (Slotnick & Segal, 1998). This has not boded well for the Court, an institution that is not exactly live action. Whereas the Court already was granted few spots for airtime, once infotainment became the standard, the cases given airtime were ones that could be effectively dramatized (Slotnick & Segal, 1998). Moreover, that dramatization often passed the point of sensationalism and crossed into the realm of misrepresentation. As noted by Slotnick and Segal (1998), Carl Stern, a television news Court correspondent at NBC for 26 years, said of the early years of infotainment:

There's many a time ... that I took ... if not a verbatim quote, at least the essence of what a Justice had said, and was told by a producer to change this or that. And I would say, "But that's not what he said," and they would say, "Well, that's what he really meant." And I would say, "No, that's not what he meant, and that's not correct." And then it came down to, "Do you want to get on the air tonight, or don't you want to get on the air"? (p. 73)

The nature of Court proceedings also lends itself to the game framing of Court coverage. There are two sides to every case, both of which will have its own interpretation of the facts, the law, and the equities. The sides make their own arguments, and parties on the outside (advocacy groups, think tanks, and academics) argue their views through amicus briefs. The justices ask the counsel questions during oral argument, and all of this is observed by reporters. This can be said for any case before the Court, but it is particularly true in a case like *Dobbs*, for which there was, before coming to the Court, significant controversy and outside interest. And for cable news, specifically, there is even more incentive to game frame a case like *Dobbs*. Broadcast outlets are concerned with ratings, and the business model of modern cable news often rewards outlets that cultivate and maintain a partisan audience (Boddery et al., Cassino, 2016; Choi, 2022; Gil de

Zúñiga, 2012; Hoewe et al., 2023; Kuypers, 2014; Levendusky, 2013). One way cable news does this is by featuring and promoting overtly partisan journalists and other sources in primetime spots, such as Fox News's Sean Hannity and MSNBC's Rachel Maddow (Bodderly et al., 2022). By doing so, the game frame is enhanced. The result is significant disagreement with Court outcomes (Bodderly et al., 2022) and a significant impact on specific support for the Court (Hitt & Searles, 2018), further eroding diffuse Court support (Gibson et al., 2003; Gibson & Nelson, 2014; Hitt & Searles, 2018).

News Sourcing, Visuals, and Framing

Among the most consequential elements of journalism are the sources journalists and news outlets privilege for their audiences (Broersma et al. 2013; Carlson, 2009; Dimitrova & Strömbäck, 2009; Gans, 1980; Thomson et al., 2023). As Broersma et al. (2013) put it, while news outlets ultimately decide what they publish, sources determine the range of possibilities for what *can* be published. Which sources should be used is a meaningful news decision (Dimitrova & Strömbäck, 2009; Dimitrova & Strömbäck, 2011; Reich, 2011). The rationale behind such decisions varies from practical considerations, such as access and availability (Broersma et al., 2013; Dimitrova & Strömbäck, 2009), to biased concerns for what narrative an outlet would like to present (Slotnick & Segal, 1998; Gonçalves, 2024; Kuypers, 2002; Levendusky, 2013). This study falls mostly within the latter rationale, so that is where this discussion will focus.

Selection of news sources has a major effect on the framing of news (Dimitrova & Strömbäck, 2011; Gonçalves, 2024; Hickerson et al., 2011). The term framing is used in multiple fields and in different ways (Cacciatore et al., 2016), so it would be beneficial here to clarify conceptually what is meant by framing in this study. Framing is understood by reference to Entman's (1993) definition: "To frame is to select some aspects of a perceived reality and make

them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation for the item described” (p. 52).

In light of that understanding of framing, source selection is important. Sources function, in part, as evidence of propositions made by journalists (Coddington & Molyneux, 2023). The evidence that is (or is not) made salient by journalists and outlets in their stories will impact the framing of news content. Moreover, the news media is persuasive, to some extent. A local news outlet might propose that a city council banned non-domesticated animals in city limits, and to persuade an audience that this is true, the outlet might cite the minutes of a city council meeting or an interview with a council member. Or a local news outlet might propose that a political party is immoral in its policy positions, and to persuade an audience that this is true, the outlet might quote experts who work in the area of concern.

There are three primary components of effective persuasion: logic and reason (logos), the messenger’s credibility (ethos), and emotional appeal (pathos) (Aristotle, trans. 1954; Deavours & Roberts, 2024; Grabe & Zhou, 2003). While journalistic sources can touch on all three, they most directly touch on ethos (Hohenberg & Guess, 2023; Hovland et al., 1953; Landreville & Niles, 2019; Miller & Kurpius, 2010). Aristotle (trans. 1954) once said that “[p]ersuasion is achieved by the speaker’s personal character when the speech is so spoken as to make us think him credible” (p. 25). It should also be noted that sources range in form—people, documents, visuals, data, and so on. Nonetheless, even in the inanimate form, the credibility of sources is where potency lies. Even if a source speaks clearly, articulately, and with conviction, it is all for nothing if the audience does not find the source credible. Thus, news outlets and journalists do not take their source selections lightly (Dimitrova & Strömbäck, 2009).

Similarly, the selection of visuals in news coverage affects persuasion and framing (Bock, 2020; Bock & Araiza, 2015; Deavours & Roberts, 2024; Parry, 2010; Rodriguez & Dimitrova, 2011). News visuals have direct appeal to logos, ethos, and pathos (Deavours & Roberts, 2024). As for logos, news visuals can present stories as balanced, consistent, and rooted in reality. This goes hand-in-hand with ethos, in the sense that news visuals can demonstrate the credibility of coverage (Coleman, 2010; Deavours & Roberts, 2024). The visuals allow for the reinforcement of news narratives. A viewer doesn't have to take a journalist's or a source's word for anything; a viewer can see it. As for pathos, news visuals are powerful. They can evoke and convey the full range of human emotions (Deavours & Roberts, 2024), and this is especially true for television news, as audiences get to see the facial expressions and body language of the speakers, where up to 40 percent of knowledge is obtained in human conversation (Coleman, 2010).

In the context of news framing, visuals are critical to the promotion of a “causal interpretation, moral evaluation, and/or treatment recommendation for the item described” (Entman, 1993). Visuals serve to enhance the written and spoken word, and there is an inherent intertextuality at play. Katy Parry (2010) provides an example of this in her visual framing analysis of the 2006 Israel-Lebanon conflict. She found that *The Guardian* demonstrated a significant level of sympathy for the Lebanese people by complementing their linguistic framing with images. One of the most compelling pieces of evidence was a story which linguistically framed the conflict in terms of the human cost and suffering incurred by the Lebanese. This linguistic framing was reinforced by a rather graphic photograph of a young boy wearing blood-splattered clothing and wailing while clutching his injured mother. In turn, the caption on the image read: “Tears of a son: Ali Sha'ita, 12, is distraught as he tries to comfort his mother, who was wounded when an Israeli missile hit their vehicle, killing three and injuring 16” (Parry,

2010). This visual framing of the conflict enhanced the linguistic framing on all three levels of persuasion. The photograph provided consistency and a direct connection to reality (logos), a credible physical depiction of the events discussed (ethos), and powerful human emotion by emphasizing the loss and suffering experienced in war (pathos).

Sources are part of journalistic output, journalism is an exercise in persuasion, and the news media frame topics and issues with words and visuals by selecting “some aspects of a perceived reality” and making them “more salient” (Entman, 1993)—so the utility of news framing needs to be addressed. There are practical reasons for news framing, among them organization. Information flows are constant and voluminous, so the news media must narrow the field and organize massive amounts of information into stories that are clear, concise, and digestible (Kuypers, 2010). That means, in telling a story with selected facts and information, framing establishes a narrative by shaping how themes are interpreted (Kuypers, 2010). Themes in news narratives are defined as “the subject of discussion” or “the subject of the thought expressed” (Kuypers, 2010). There are any number of themes for any given topic or issue. Their framing in news narratives can be quite broad, such as pro-capitalism, or quite narrow, such as pro-execution via nitrogen gas (Entman, 2007).

For the news media to persuade with any narrative, they must rely on credible sources, and all sources, of course, are not made equal. When covering U.S. national issues, the news media tend to rely on elite sources (e.g., government officials, political party leadership, and corporate leadership) over non-elite sources (Dimitrova & Strömbäck, 2009; Gonçalves, 2024; Hickerson et al., 2011; Miller & kurpius, 2010). However, while the news media most often cite elite sources, they do not always choose the same ones or treat their words the same way. In this regard, the news media choose those sources which are not only viewed as credible but that also

support their framing choices (Kuypers, 2002; Kuypers, 2014; Slotnick & Segal, 1998; Thomson et al., 2023). More specifically, the news media select the most favorable sources for their framing, and they use few of their actual spoken or written words—and instead they rely upon their journalists and commentators for interpretation (Broersma et al., 2013). For presidential candidates, for example, the average television soundbite has been less than 10 seconds since the late 1980s (Kuypers, 2002). This practice essentially affords news outlets flexibility to expand their selected narrative and reinforce their framing via a source's credibility. Cable news outlets, in particular, privilege sources that bolster their partisan framing and narratives, which in turn has notable effects on audiences (Choi, 2022; Gil de Zúñiga et al., 2012; Hitt & Searles, 2018; Kim, 2016; Landreville & Niles, 2019; Levendusky, 2013; Nassar, 2020).

Effects of Cable News

The effects of cable news on their audiences include reinforcement of political ideology and partisanship (Baum & Groeling, 2008; Hoewe et al., 2023), suspicion and negative views toward opposing political parties (Levendusky, 2013), in/decreased political participation (Choi, 2022), and changes in sentiment toward the Court (Hitt & Searles, 2018; Linos & Twist, 2016). Embedded in these effects is the political and ideological make-up of cable news audiences. Republicans and conservatives gravitate to Fox News, while Democrats and liberals gravitate to CNN and MSNBC (Choi, 2022; Gil de Zúñiga, 2012; Hoewe et al., 2023; Levendusky, 2013).

The most important throughline to consider here is the association between political parties and ideologies and cable news consumption. Through several experiments exposing politically self-identified participants to programming from Fox News and MSNBC, Hoewe et al. (2023) found that participants selected politically corresponding cable news outlets and that the coverage from those outlets increased their agreement with the politically corresponding

message and their disagreement with the politically opposed message. Moreover, they found that this reinforcement was not simply a result of the programming belonging to their preferred cable news outlet. It was, they said, the result of the ideological slant within the content (Hoewe et al., 2023). This tracked previous research that explored the real-world political effects of cable news consumption (Levendusky, 2023; Hitt & Searles, 2018).

In a similar study of cable news consumers' views of the opposing political party, Levendusky (2013) found that like-minded cable news consumption not only decreased consumers' confidence and trust in the leadership of the opposing political party but also decreased their trust in the opposing party's general membership. In fact, it was found that 87 percent of the participants who consumed like-minded cable news programming claimed they rarely or never trusted the opposing party "to do what is right" (Levendusky, 2013). Combined with cable news's reinforcement of its audiences' agreement with ideologically slanted content (Hoewe et al., 2023), these findings provide a grim outlook on what effects cable news may have on their audiences' views of the Court.

On that note, Hitt and Searles (2018) provide some insight, but they also left significant gaps to be filled regarding cable news coverage of the Court. They found, as discussed above, that broadcast and cable news politicized their Court coverage by game framing and suggesting that the justices picked sides or were strategic as opposed to the apolitical and dispassionate (Hitt & Searles, 2018). But they also found that cable news was no different than other broadcast news in how it implements game framing in Court coverage, and they observed that cable news "is not partisan" (p. 15) in its Court coverage, likening that finding to another study concluding that cable news coverage of the Court is best described as "deferential" (Linos & Twist, 2016).

It is notable, though, that Hitt and Searles (2018) used a coding instrument that defined the game frame as coverage that “discuss[es] who is winning or losing in regards to the decision, describe[s] justices vying for individual power or attention, and the battle for public opinion or institutional legitimacy” (Appendix A). The researchers applied those concepts to a sample of broadcast and cable news coverage of two Court cases: *Citizens United v. FEC* (2010) and *National Federation of Independent Business v. Sebelius* (2012), which addressed issues related to campaign finance and the Affordable Care Act, respectively. Then the researchers coded for the presence of terminology of war and sport used in discussions of the Court to create a “game frame dictionary” for an automated text analysis of broadcast transcripts. Examples include “attack”, “battle”, “victory”, “overthrew”, “curveball”, “jab”, and “unforced error” (Appendix B). But this type of coding would not pick up on some partisan framing. Consider *Sebelius*, in which the Court upheld the Affordable Care Act. Imagine if Sean Hannity of Fox News said something like this: “The liberals on the Court gave the Democrats and their cronies *carte blanche* to enact whatever communist, socialist healthcare policies they can dream up, and it’s patently despicable and runs counter to the Constitution.” The coding instrument would not detect any of the words used. So, while game framing is important to examine in understanding cable news coverage of the Court, it is not synonymous with examining partisanship.

In addition, Hitt and Searles (2018) said their findings were consistent with those of a mixed-methods study employing content analysis and surveys by Linos and Twist (2016), which found that broadcast and cable news defer to the Court’s rulings in their coverage by presenting either one-sided positive coverage or two-sided coverage but never one-sided negative coverage. They also found that such coverage positively increased viewers’ opinions of the laws the Court ruled on. In their content analysis, Linos and Twist (2016) used transcripts from all three cable

news outlets, along with ABC, CBS, and NBC, regarding two major Court cases on healthcare and immigration. The goal was to determine whether the coverage was one-sided (positively or negatively) or two-sided. The coders identified 12 frames (6 per case) within the news coverage of each case. They counted the number of words belonging to each frame, as well as whether they were used in a positive, negative, or mixed manner. Frames with more than 75 percent positive words were considered positive while frames with less than 25 percent positive words were considered negative. Anywhere in between was considered mixed. Of the 12 frames, four were negative, six were positive, and two were mixed. Based on this coding, if a broadcast's transcript consisted of 65 percent or greater non-negative framing, then it was labeled as one-sided positive. Presumably the inverse is true for one-sided negative, but the appendix does not say (likely because the findings indicate that no broadcasts were one-sided negative). This coding was based on one transcript per news outlet for each case, and the coders combined the words used by all of the news outlets together to determine whether frames were positive or negative. For example, the frame "healthcare as a right" was classified as positive. Fox News could have used negative words when using that frame, but it would be considered positive because the other news outlets used positive words. A similar problem arose from the frames labeled as mixed-use. Therefore, it is reasonable to be skeptical of Linos and Twist's (2016) findings that cable news does not present one-sided negative coverage of Court cases that run counter to their partisan slant.

Notably, neither Linos and Twist (2016) nor Hitt and Searles (2018) consider the visual framing of the Court. The importance of visual framing is well understood (Bock, 2020; Bock & Araiza, 2015; Deavours & Roberts, 2024; Parry, 2010; Rodriguez & Dimitrova, 2011), and it is made all the more important in the context of news coverage of the Court, which does not allow

cameras in the courtroom (Kimball, 2021). Because there are scant visuals of the Court and its work, the news media have a large degree of discretion in what visuals they associate with the coverage. Hitt and Searles (2018) and Linos and Twist (2016) used the transcripts of broadcasts rather than video footage, and thus they did not consider the framing created by photographs, videos, on-screen captions, and the expressions and body language of the speakers.

CHAPTER 3

DOBBS V. JACKSON WOMEN'S HEALTH ORGANIZATION

Background and Timeline of *Dobbs*

In 2018, *Dobbs* began its journey through the federal judiciary in the U.S. District Court of the Southern District of Mississippi. The case was brought by Jackson Women's Health Organization and one of its doctors, the only abortion providers in the state, against the state health officer for the Mississippi Department of Health. The reason for the litigation was to prevent the state health department from enforcing a new law known as the Gestational Age Act (2018). It stated that abortion providers in Mississippi could not perform abortions on women who were past 15 weeks in their pregnancy, unless the procedure was done in an emergency or when there was a "severe fetal abnormality."

Carlton W. Reeves, the district court judge, wrote in his opinion that *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992) were controlling law that had been affirmed time and again by the Supreme Court and by the U.S. Court of Appeals for the Fifth Circuit (*Currier*, 2018). Largely based on the Fourteenth Amendment, *Roe* established the right for a woman to choose to have an abortion, and *Casey* established that a state could not prevent a woman from choosing abortion pre-viability. To that end, Judge Reeves observed that the only legal question was whether Mississippi's 15-week ban on abortion prevented a pregnant woman from choosing to have an abortion pre-viability, to which the answer was yes (*Currier*, 2018). Having found as

much, Judge Reeves ruled that the Gestational Age Act violated the Fourteenth Amendment and permanently enjoined its enforcement.

The state health officer, Dr. Thomas Dobbs, appealed to the Fifth Circuit, where the state's main argument was that one of the Court's more recent rulings on abortion, *Gonzales v. Carhart* (2007), established state interests beyond protecting "fetal life," which was the state interest recognized in *Roe* and *Casey*. Mississippi contended that *Gonzales* afforded states the ability to ban abortion at 15 weeks to prevent fetal pain and to prevent certain types of abortions the legislature found to be "brutal and inhumane" (Dobbs, 2019). Essentially, *Gonzales* ruled that states could ban partial-birth abortions because of significant state interests in "the dignity of human life" and "the integrity and ethics of the medical profession." In short, both the district and circuit courts ruled that *Gonzales* did not eliminate the right to a pre-viability abortion and that the Gestational Age Act (2018) violated that right, regardless of the state interests at hand. Mississippi then appealed to the Supreme Court in May 2021.

Before we analyze the decision, it is helpful to review a few key events that significantly shaped how the decision came to be. First, in February 2016, Justice Antonin Scalia died in office, and President Obama nominated Merrick Garland, then the Chief Judge of the U.S. Court of Appeals for the D.C. Circuit, for the position. But the Senate, led by Majority Leader Mitch McConnell, a Republican, did not act on the nomination. It was a strategic move meant to push the Court, politically, to the right (Bradner, 2020; Elving, 2018; Villa, 2020). After President Trump won the 2016 election, McConnell shepherded three new conservative justices through their confirmation hearings and onto the Court, creating a 6-3 conservative majority. Second, Justice Ruth Bader Ginsburg died in September 2020. A member of the liberal wing of the Court, she was well known for her views of women's rights and, in particular, reproductive freedom

(Carlson, 2020). President Trump nominated as her replacement Amy Coney Barrett, a judge on the U.S. Court of Appeals for the Seventh Circuit. *Roe* and abortion are “always a flashpoint in Supreme Court confirmation hearings” (Walsh, 2020), but they were especially salient issues at Barrett’s confirmation hearing, where she was pressed on her views of stare decisis, the judicial principle that what has been decided should stay decided for the sake of consistency and stability. Regarding how stare decisis would apply to *Roe*, Barrett said: “*Roe* is not a super-precedent because calls for its overruling have never ceased, but that doesn't mean that *Roe* should be overruled” (Walsh, 2020). This led many to speculate that *Roe* was in jeopardy.

Fast forward to May 2022, roughly six months after *Dobbs* was argued at the Court, and a draft opinion overturning *Roe* was leaked to the press (Gerstein, 2022). Almost immediately, protests were held outside the Court building and reached the homes of the justices (NBC News, 2022; Sneed, 2022), and a man was even arrested for attempting to assassinate Justice Brett Kavanaugh outside his home (Mallin et al., 2022). The Court conducted an investigation to determine who leaked the draft opinion, a leak that Chief Justice Roberts called an “egregious breach of trust” (Miller & Gresko, 2022). The leaker was never found, but the leaked opinion, and the conflict surrounding it, would stay in the news cycle through the announcement of the *Dobbs* decision itself.

Dobbs v. Jackson Women’s Health Organization: Review

This section will review the Court’s decision in *Dobbs*. To be clear, this is not a legal argument against the decision or reasoning. It is, rather, an accounting of what the Court and its members said and did. At issue, again, was Mississippi's Gestational Age Act, which provided that “[e]xcept in a medical emergency or in the case of a severe fetal abnormality, a person shall not intentionally or knowingly perform ... or induce an abortion of an unborn human being if the

probable gestational age of the unborn human being has been determined to be greater than” 15 weeks. The Court took up the issue of whether *Roe* and *Casey* were wrongly decided and whether the Act is constitutional.

Majority Opinion

The Court’s majority in *Dobbs* was made up of Justices Alito, Thomas, Gorsuch, Kavanaugh, and Barrett. Justices Thomas and Kavanaugh filed concurring opinions, and Chief Justice Roberts concurred only in the judgement. The majority found that the Constitution does not explicitly confer a right to abortion, nor can a right to abortion be derived from the Due Process Clause of the Fourteenth Amendment, an essential component of *Roe*’s reasoning and the core of the reasoning for its progeny case *Casey*. Guided by this finding, the majority noted that the authority to restrict abortion access, or to ban abortion entirely, rests with the people and their representatives through the democratic process. Thus, *Roe* and *Casey* were overruled, and, upon a rational-basis review, the Court upheld the Mississippi Gestational Age Act. The majority’s reasoning can be categorized into three primary areas: (1) constitutional law and practice; (2) national history and tradition; and (3) stare decisis in principle and practice.

1) Constitutional Law and Practice

The majority began by noting that the Constitution is silent on the issue of abortion, as it “makes no express reference to a right to obtain an abortion” (p. 14), so any constitutional right to abortion must be “somehow implicit in the constitutional text” (p. 14). In *Roe*, the Court held that a constitutional right to abortion “is part of a right to privacy, which is also not mentioned,” derived from the First, Fourth, Fifth, Ninth, and Fourteenth Amendments (p. 14-15). However, the majority said that in *Roe* and *Casey* the most crucial Amendment to the Court’s reasoning

was the Fourteenth, specifically its Due Process Clause. The majority also noted that several amicus briefs filed on behalf of Jackson Women’s Health Organization asserted that the right to an abortion could also be derived from the Equal Protection Clause. This, however, was quickly dismissed by the majority, which observed, “The regulation of a medical procedure that only one sex can undergo does not trigger heightened constitutional scrutiny unless the regulation is a ‘mere pretext designed to effect an invidious discrimination against members of one sex or the other’” (p. 15). The majority went on to state that regulating or preventing abortions has previously been deemed by the Court not to involve “invidiously discriminatory animus” toward women, and “laws regulating or prohibiting abortion are not subject to heightened scrutiny” but instead are “governed by the same standard of review as other health and safety measures” (p. 15).

Turning back to the Due Process Clause, the Fourteenth Amendment says that no state shall “deprive any person of life, liberty, or property, without due process of law...” The word liberty is the operative one and protects both procedural and substantive interests, the latter of which is called substantive due process—at times “a treacherous field for [the] Court,” the *Dobbs* majority said, that “has sometimes led the Court to usurp authority that the Constitution entrusts to the people's elected representatives” (p. 16). The majority said the Court previously has acknowledged two categories of substantive rights protected by the Due Process Clause: (1) those enumerated in the first eight amendments, and (2) those “fundamental rights that are not mentioned anywhere in the Constitution.” The latter is where an asserted constitutional right to abortion falls.

- 1) The majority said the Court traditionally has decided whether the Fourteenth Amendment applies by examining whether an asserted right is “‘deeply rooted in [our]

history and tradition’ and whether it is essential to our nation’s ‘scheme of ordered liberty’” (p. 15). Another way of putting it is that a fundamental right must be ‘objectively, deeply rooted in this Nation’s history National History & Tradition and tradition’” (p. 16). Against that background, the majority considered whether there was a right to abortion.

The majority pointed out that no government entity had conferred a right to abortion until the courts were presented with the issue in the years leading up to *Roe*. The majority added: “Not only was there no support for such a constitutional right until shortly before *Roe*, but abortion had long been a crime in every single State” (p. 17). By the time of the Fourteenth Amendment’s ratification, the majority noted, “three-quarters of the States had made abortion a crime at any stage of pregnancy, and the remaining States would soon follow” (p. 17). The majority went on to say that “*Roe* either ignored or misstated this history, and *Casey* declined to reconsider *Roe*’s faulty historical analysis. It is therefore important to set the record straight” (p. 17). In trying to set that record straight, the majority discussed the common law laid the foundation for American law, tracing the history and traditions of abortion regulation from the 13th century through the American Revolution, concluding, “In sum, although common-law authorities differed on the severity of punishment for abortions committed at different points in pregnancy, none endorsed the practice” (p. 18).

The next section of the majority’s analysis covered American jurisprudential history leading up to the ratification of the Fourteenth Amendment, ultimately commenting, “In this country during the 19th century, the vast majority of the States enacted statutes criminalizing abortion at all stages of pregnancy” (p. 19). The majority observed that this continued until *Roe*: “At that time, ... a substantial majority—30 States—still prohibited abortion at all stages except

to save the life of the mother” (p. 19). The majority then concluded that “a right to abortion is not deeply rooted in the Nation's history and traditions. On the contrary, an unbroken tradition of prohibiting abortion on pain of criminal punishment persisted from the earliest days of the common law until 1973” (p. 19). Then the majority turned its attention to the Due Process Clause and the central holdings of *Roe* and *Casey*: that a right to abortion comes from a larger umbrella-type right to privacy. *Casey* held that the right includes “intimate and personal choices” (p. 21) and that at “the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life” (p. 21). To that the majority said: “License to act on the basis of such beliefs may correspond to one of the many understandings of ‘liberty,’ but it is certainly not ‘ordered liberty,’” (p. 21) which “sets limits and defines the boundary between competing interests” (p. 21). The majority added: “Our ... historical understanding of ordered liberty does not prevent the people's elected representatives from deciding how abortion should be regulated” (p. 21).

The majority then turned to historical precedents cited as support for a constitutional right to abortion by the Court in *Roe* and *Casey*. These precedents cited such rights as interracial marriage, parental rights pertaining to education, protection from sterilization without consent, involuntary surgery, and freedom to engage in consensual sexual acts (p. 21-22). However, the majority held that abortion is distinguishable, noting: “Abortion destroys what those decisions call ‘potential life’ and what the law at issue in this case regards as the life of an unborn human being.’ None of the other decisions cited by *Roe* and *Casey* involved the critical moral question posed by abortion. They are therefore inapposite” (p. 22).

2) Stare Decisis in Judicial Principle and Practice

The majority observed the importance of the Court's adherence to precedent, which essentially says that "things decided should stay decided unless there is a very good reason for change" (p. 62). The majority listed a number of purposes served by stare decisis, among them consistency, the legitimacy of the Court, the restraint of "judicial hubris," and protecting interests that rely upon Court rulings (p. 24). However, the majority also noted that stare decisis has its limits, in that it is not an "inexorable command" and that it is "at its weakest" where the constitution is concerned (p. 24). In consideration of these limitations, the majority noted, "in appropriate circumstances we must be willing to reconsider and, if necessary, overrule constitutional decisions" (p. 24). The majority then offered three primary examples of when the Court overruled precedents in spite of stare decisis: *Brown v. Board of Education* (1954), *West Coast Hotel Co. v. Parrish* (1937), and *West Virginia v. Barnette* (1943). Respectively, these cases overturned the "separate but equal" doctrine, the banning of states from setting labor and wage regulations, and the ability of states to compel students to salute the American flag (p. 25).

Ultimately, in *Dobbs*, the majority said its decision to overrule *Roe* and *Casey* was based on five factors: (I) "the nature of [the Court's] error, (II) the quality of [the Court's] reasoning, (III) the 'workability' of the rules [the Court] imposed on the country, (IV) their disruptive effect on other areas of the law, and (V) the absence of concrete reliance" (p. 25). The opinion expanded on each one, saying, for example, that "*Roe* was on a collision course with the Constitution from the day it was decided" (p. 25), that *Roe* had "failed to ground its decision in text, history, or precedent" (p. 26), that "the scheme *Roe* produced looked like legislation" (p. 27-28), that "*Casey* failed to remedy glaring deficiencies in *Roe*'s reasoning" (p. 30), that *Roe* and *Casey* "led to the distortion of many important but unrelated legal doctrines" (p. 32), and that

“we cannot allow our decisions to be affected by any extraneous influences such as concern about the public's reaction to our work” (p. 34).

3) Summary

Having found that “procuring an abortion is not a fundamental constitutional right because such a right has no basis in the Constitution's text or in our Nation's history,” the majority stated that a “law regulating abortion, like other health and welfare laws, is entitled to a ‘strong presumption of validity’” (p. 38), meaning that a rational-basis review would be used for constitutional challenges to abortion regulations. The majority elaborated: “It must be sustained if there is a rational basis on which the legislature could have thought it would serve legitimate state interests,” including “respect for and preservation of prenatal life at all stages of development; the protection of maternal health and safety; the elimination of particularly gruesome or barbaric medical procedures; the preservation of the integrity of the medical profession; the mitigation of fetal pain; and the prevention of discrimination on the basis of race, sex, or disability” (p. 38). Applying that standard, the majority concluded, “These legitimate interests justify Mississippi's Gestational Age Act” (p. 38), pointing to the Mississippi Legislature's findings regarding the stages of “human prenatal development” and interest in “protecting the life of the unborn” (p. 38).

Concurring Opinion: Justice Thomas

Justice Thomas voted with the majority but wrote a concurring opinion, too. He agreed with the majority that the Due Process Clause does not protect a right to abortion, but he believes that the Court's substantive due process jurisprudence is marked by “demonstrably erroneous decisions” (p. 50) and that “we should eliminate it from our jurisprudence at the earliest

opportunity” (p. 51). He said he joined “the opinion of the Court because it correctly holds that there is no constitutional right to abortion,” but he wrote “separately to emphasize a second, more fundamental reason why there is no abortion guarantee lurking in the Due Process Clause” (p. 49). He reasoned that the Due Process Clause “at most guarantees *process*” and “does not, as the Court’s substantive due process cases suppose, ‘forbid the government to infringe certain fundamental liberty interests at all, no matter what process is provided’” (p. 49). He added that in future cases the Court “should reconsider” all of its substantive due process precedents (p. 49), and he ended where he began by underlining his support for the majority opinion because it “reject[s] the fabrication of a constitutional right to abortion” (p. 51), while emphasizing more broadly that substantive due process “conflicts with that textual command and has harmed our country in many ways” (p. 51).

Concurring Opinion: Justice Kavanaugh

Justice Kavanaugh wrote a concurring opinion to explain his “views about why *Roe* was wrongly decided, why *Roe* should be overruled at this time, and the future implications of today’s decision” (p. 51). He largely repeated what the majority said—that a right to abortion “is not deeply rooted in American history and tradition” (p. 52) and that “the Constitution is neutral on the issue of abortion and allows the people and their elected representatives to address the issue through the democratic process” (p. 53). Where Justice Kavanaugh differed from the majority, or rather placed more emphasis, was on the neutrality of the Constitution when it comes to abortion, specific analysis factors of *stare decisis*, and what overruling *Roe* and *Casey* means for the Court and the country. For example, he wrote that “the Constitution does not take sides on the issue of abortion” (p. 52), that the “nine unelected [justices] do not possess the constitutional authority to override the democratic process” (p. 52), that *Roe* “caused significant negative jurisprudential

and real-world consequences” (p. 54), that “overruling the prior decision would not unduly upset legitimate reliance interests” (p. 53), and that “both sides on the abortion issue believe sincerely and passionately in the rightness of their cause,” adding, “Especially in those difficult and fraught circumstances, the Court must scrupulously adhere to the Constitution's neutral position on the issue of abortion” (p. 55).

Concurring Opinion: Chief Justice Roberts

Chief Justice Roberts filed an opinion concurring only in the judgement. His reason for doing so came from what he saw as the need for a “more measured course” (p. 55). He said that while the majority was “thoughtful and thorough,” it was also “dramatic and consequential” and “unnecessary to decide the case before us” (p. 56). He said throughout his opinion that he agreed with the majority in that “the viability line established by *Roe* and *Casey* should be discarded under a straightforward stare decisis analysis” (p. 55). However, he disagreed with the majority’s decision to overrule *Roe* and *Casey* entirely. To that end, the Chief Justice stated, “But that is all I would say, out of adherence to a simple yet fundamental principle of judicial restraint: If it is not necessary to decide more to dispose of a case, then it is necessary *not* to decide more” (p. 56). He reiterated this position throughout his opinion, and ultimately he observed that “the Court's opinion and the dissent display a relentless freedom from doubt on the legal issue that I cannot share” (p. 60). As the Chief Justice put it: “The Court's decision to overrule *Roe* and *Casey* is a serious jolt to the legal system—regardless of how you view those cases. A narrower decision rejecting the misguided viability line would be markedly less unsettling, and nothing more is needed to decide this case” (p. 59).

Dissenting Opinion

Signing onto the dissenting opinion were Justices Breyer, Sotomayor, and Kagan. They did not simply come to a different conclusion than that of the majority, but rather they found the majority to be acting out of “the proclivities of individuals” (p. 62) and said the majority was being disingenuous, writing, “Either the majority does not really believe in its own reasoning. Or if it does, all rights that have no history stretching back to the mid-19th century are insecure” (p. 62). And putting an even finer point on it, the dissent declared: “The Court reverses course today for one reason and one reason only: because the composition of this Court has changed” (p. 62).

1) *Roe*, *Casey*, and Precedent

The dissent began by laying out *Roe*'s and *Casey*'s “deep connections to a broad swath of [the] Court's precedents” (p. 62), noting “they are rooted in—and themselves led to—other rights giving individuals control over their bodies and their most personal and intimate associations” (p. 62). The dissent said these rights are “core constitutional concepts” and that they “have gone far toward defining what it means to be an American,” adding, “For in this Nation, we do not believe that a government controlling all private choices is compatible with a free people” (p. 62). The dissenting Justices then turned to *Roe* and *Casey*, observing, among other things, that the “*Roe* Court knew it was treading on difficult and disputed ground” (p. 62), that the “Court expressly reaffirmed *Roe* on two occasions and applied it on many more” (p. 63), that “what *Roe* and *Casey* also recognized—which today's majority does not—is that a woman's freedom and equality are ... involved” (p. 64), and that the “constitutional regime we enter today erases the woman's interest and recognizes only the State's (or the Federal Government's)” (p. 64).

2) Inadequacy of the Majority's Historical Analysis

The dissent said the majority’s historical analysis revolved around one question: “Did the reproductive right recognized in *Roe* and *Casey* exist in ‘1868, the year when the Fourteenth Amendment was ratified’” (p. 64)? Breyer, Sotomayor, and Kagan noted that the majority analyzed history both before and after the ratification, but they called that analysis “wheel-spinning” (p. 64) and “window dressing” (p. 65). Then they pointed to what they perceived as hypocrisy on both sides of that historical timeline, saying that “if the early history obviously supported abortion rights, the majority would no doubt say that only the views of the Fourteenth Amendment's ratifiers are germane” (p. 64-65). Moreover, the dissent focused on the status of women in 1868, saying that “the ratifiers—both in 1868 and when the original Constitution was approved in 1788— did not understand women as full members of the community” (p. 65) and that “a woman's place in society [has] changed” (p. 65). The dissent elaborated: “As a matter of constitutional method, the majority's commitment to replicate in 2022 every view about the meaning of liberty held in 1868 has precious little to recommend it” (p. 70).

3) Stare Decisis

The dissent reiterated that stare decisis is a “principle central to the rule of law,” and they said the majority “abandons” it by “overruling *Roe*, *Casey*, and more than 20 cases reaffirming or applying the constitutional right to abortion” (p. 70). They acknowledged that stare decisis is not an “inexorable command,” but they also said “the Court must have a good reason to [overrule precedent] over and above the belief ‘that the precedent was wrongly decided’” (p. 71). Breyer, Sotomayor, and Kagan pointed to factors that have been present in other such cases: (I) “a change in legal doctrine that undermined or made obsolete the earlier decision”; (II) “a factual change that had the same effect”; and (III) “an absence of reliance” (p. 71). The three justices concluded that “none of those factors apply here: Nothing—and in particular, no significant legal

or factual change—supports overturning a half-century of settled law giving women control over their reproductive lives” (p. 71). The dissent added that “...the majority throws longstanding precedent to the winds without showing that anything significant has changed to justify its radical reshaping of the law” (p. 73), that “subsequent legal developments have only reinforced *Roe* and *Casey*” (p. 73), and that “the only notable change we can see since *Roe* and *Casey* cuts in favor of adhering to precedent: It is that American abortion law has become more and more aligned with other nations” (p. 74).

4) Conflict and Division Over Abortion

After addressing Court precedents, the majority’s historical analysis, and *stare decisis*, the dissenting justices addressed the conflict and division surrounding the issue of abortion and its history at the Court. They said: “The majority accuses *Casey* of acting outside the bounds of the law to quell the conflict over abortion—of imposing an unprincipled ‘settlement’ of the issue in an effort to end ‘national division’” (p. 79). And to that they responded: “But that is not what *Casey* did” (p. 79), adding, “The Court knew in 1992, as it did in 1973, that abortion was a ‘divisive issue’” (p. 79). However, the dissent noted that *Casey* addressed this division and conflict “to emphasize how important it was, in that case of all cases, for the Court to stick to the law” (p. 79). To that end, Breyer, Sotomayor, and Kagan quoted from *Casey*: “There is a special danger that the public will perceive a decision as having been made for unprincipled reasons when the Court overrules a controversial ‘watershed’ decision, such as *Roe*. ... [O]verruling *Roe* would be perceived as having been made ‘under fire’ and as a ‘surrender to political pressure’” (p. 2278).

CHAPTER 4

THEORETICAL FRAMEWORK

This study is guided by framing theory from a dramaturgical perspective. Framing theory is used in a wide range of fields, including sociology, psychology, and journalism and mass communication. As this study concerns itself with cable news, an emphasis is placed on the use of framing in news media. Given the naturally dramatic setting of television news, even more so cable news, a dramaturgical perspective of news framing is the approach here. This chapter begins by examining framing theory as it applies to the news media, and then it addresses how framing theory is viewed through a dramaturgical lens and why this is an effective approach for studying cable news.

Framing Theory and News Media

Framing theory gained its modern prominence in the latter half of the 20th century, with seminal works in the fields of sociology (Goffman, 1974), psychology (Kahneman & Tversky, 1984), and communication (Entman, 1993). Regardless of discipline or subfield, the idea of framing is essentially the organization and presentation of information (Bock, 2020; Cacciatore et al., 2016; Entman, 1991; Entman, 1993; Kim et al., 2019; Kuypers, 2010; Pan & Kosicki, 1993). In journalism, the most influential definition of framing is Entman's (1993): "To frame is to select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation" (p. 52). In fact, Entman (1993) has been cited in

nearly 30,000 articles, papers, and presentations, and his definition of framing is the one this study uses.

c Because of these choices regarding what to include, exclude, emphasize, or minimize in a news story, news framing “encourage[s] those perceiving and thinking about events to develop particular understandings of them” (Entman, 1991, p. 7). News framing is done in multiple layers. First, every story is built by themes, which are “central organizing idea[s]” (Pan & Kosicki, 1993, p. 58). These are not simple labels or topics, but rather they are elements of the subject of discussion (Kuypers, 2010; Pan & Kosicki, 1993). For example, the topic of a news story could be 9/11, but a theme might be the state of (un)preparedness in the U.S.’s intelligence and defense apparatuses. These themes are then framed (Entman, 1991; Kuypers, 2010). To observe how themes are framed, you must look at the language and visuals in news stories. The framing of news stories can be seen in the “keywords, metaphors, concepts, symbols, and visual images” (Entman, 1991, p. 7). Framing devices are used to frame themes, and themes constitute news stories—and news stories are just that. They are stories. News stories present narratives, and through the verbal and the visual, news framing “work[s] to make some ideas more salient in the text, others less so, and others entirely invisible” (Entman, 1991, p. 7). Thus, two separate news outlets could have their own 9/11 stories and present the same themes of inadequate national security regarding terrorism, but one may frame that theme as a matter of improper funding, and the other may frame it as an attitudinal problem among leaders.

It is necessary at this point to make a conceptual distinction between news framing and two closely related, yet distinct, theories: agenda setting and priming. Agenda setting is the idea that news media tell their audiences *what* to think about (McCombs & Shaw, 1991), which is distinct from framing, in that framing tells an audience *how* to think about a news item. Priming

can go hand in hand with agenda setting, insofar as agenda items linked together will evoke one another in the mind of an audience member (Iyengar & Kinder, 1987). For instance, if a news outlet often pairs stories about the president with stories about the state of the economy, then an audience member may associate the two. All three of these theories, framing, agenda setting, and priming, are interrelated to the extent that they deal with accessibility (Cacciatori et al., 2016), and at their core the theories boil down to salience. The news items and narratives made most salient by news media will be the most impactful on news audiences.

A Dramaturgical Approach to Communication

Dramatism can be found and used across a variety of fields, including rhetoric, linguistics, sociology, psychology, and mass communication. Its founder, Kenneth Burke, used the theory in several of those fields. Burke defined dramatism as a “method of analysis and a corresponding critique of terminology designed to show that the most direct route to the study of human relations and human motives is via a methodical inquiry into cycles or clusters of terms and their functions” (Overington, 1977, p. 132). To Burke, language both influences human action and explains human action (Burke, 2018; Kuypers, 2021; Overington, 1977). Burke and dramatism are most concerned with motive, meaning motion or the causing of motion. In an essay on Burke and his dramaturgical theory, Michael Overington (1977) explained that motive in the dramaturgical sense is “the process by which some verbal explanation becomes the sufficient justification for the individual’s own action or for the persuasion of others to act” (p. 134). But things are often not so simple.

One of the examples Burke offers for applying dramaturgical theory (and its concept of motive) is the news media. Burke said of journalism that it is a rhetorical practice and thus a persuasive one that “forms attitudes or induces action” (Burke, 2018, p. 169). However, this is

often subtly done within news stories, particularly when journalists attempt to abide by the journalistic principle of objectivity. To borrow from one of Burke's (2018) examples, if a reporter from the *New York Times* were to say "America should attack China," there is an obvious call to action and an attempt to form a particular attitude toward that nation. However, such a direct call is seldom found within news stories from reputable outlets, because those outlets focus on reporting "the facts" (Henning, 1932; Ward, 2019). Consider, though, the more realistic statement "China is an undeclared enemy of the United States." That is grounded in geopolitics and is not a direct call to action, but it does serve to create and reinforce anti-China attitudes, and an audience with such an attitude could interpret the statement to mean "America should attack China" (Burke, 2018).

Just like any other rhetorical text, news stories are created with interpretations of facts (Burke, 2018), and the interpretations in news stories are intentional selections from a range of possible interpretations (Burke, 2018; Kuypers, 2021). As noted in the discussion of framing theory, news stories have a finite amount of space or airtime, so choices must be made about what to include. Consider a newspaper in America and a newspaper in China. They each publish an article on the war in Ukraine, focusing on the state of the war (i.e., physical battlelines and relative strength in troop numbers and weapons). The American newspaper reports that the battlelines are static and that the Ukrainians are armed with the high-quality NATO weaponry. The Chinese newspaper reports that the battlelines are static and that the Russians continue to outnumber the Ukrainians, who cannot properly man all the weaponry they have been given. Both newspapers published stories that were based on the same facts, and both are verifiably true in the sense that they match physics and geography. But the two outlets gave very different interpretations of the same facts. At the heart of the difference is motive. The two stories, or sets

of interpretations, evoke different attitudes and actions. This is so because of the philosophy of journalists and news outlets, whether that philosophy is related to being from different nations and cultures or from institutions with different policy, ethical, or political persuasions (Burke, 2018). Personal or institutional philosophy plays a direct role in the selection of interpretations (Burke, 2018), and these interpretations feature what Burke calls “terministic screens” (Burke, 2018; Kuypers & McDaniel, 2019; Blakesly, 2001). They can be observed through dramatism to find the meaning and motive in communication, especially rhetoric (Kuypers & McDaniel, 2019). They consist of the linguistic and grammatical decisions made by a speaker, or, in this case, of journalists and news outlets (Kuypers & McDaniel, 2019). McGeough and King (2016) said of terministic screens that they are the “capacity of language (terminology) to encourage us to understand the world in some ways, while filtering (screening) other interpretations out” (p. 150). Ultimately, terministic screens in rhetoric come back to Burke’s definition of dramatism, as it applies to the “methodical inquiry into cycles or clusters of terms and their functions” (Overington, 1977).

A Dramaturgical Perspective of News Framing

The overlap of framing theory and dramatism in the news media context is difficult to overstate. Consider Entman’s (1993) description of news framing as the selection of “some aspects of a perceived reality and mak[ing] them more salient in a communicating text” (p. 52) and Burke’s (2018) statement that dramatism is a “critique of terminology” and a “methodical inquiry into cycles or clusters of terms and their functions” as they relate to human motives in communication. No, Burke did not develop dramatism with journalism in mind, but, as noted, he did apply the theory to journalism in some of his work. Burke passed away in 1993, around the time that Entman and other scholars were bringing framing theory to the fore of journalism and

mass communication. However, even with Burke gone, some in the field have taken up his work and applied it to news framing. Among the most prolific of these scholars is Jim Kuypers.

Kuypers connects the theories of news framing and dramatism in three main areas: selectivity, reduction, and tithing by tonality (Kuypers, 2021). All three of these connections stem from Burke and his work “The War of Words” (2018). The first, selectivity, has the most obvious connection to news framing. Journalists select what facts and interpretations are privileged in their stories and thus what the audience is exposed to. Equally important is what is not selected or what is minimized. The second link, reduction, applies to headlines and the tickers at the bottom of news broadcasts. This is the notion of reducing complex, nuanced issues and events into a small selection of words to focus one’s attention and understanding of them. Here, Kuypers (2021) also implicates news frames by observing that reduction “allows the press to amplify a particular point of view.” Burke (2018) and Kuypers (2021) both posit that reduction is carried out in two main ways in the context of news framing: explanatory motives and behavioral descriptions. Explanatory motives refers to “the apparent purpose of the act/event being reported upon are employed” (Kuypers, 2021), whereas for behavioral descriptions they are considered “manipulating the ‘facts’ in such a way that the preferred take of the press is advanced” (Kuypers, 2021).

Last, there is tithing by tonality, which is the most subtle (Kuypers, 2021). It is useful to consider the words Burke (2018) used to define this connection:

“Tithing” is our word for the journalistic building of animus by countless strokes of style, each so trivial that you can hardly bring yourself to point out its tiny inclination. As you see the infinitesimal but endlessly repeated reinforcement of an attitude, by different particulars, through months and years, you collect a body of testimony each item of

which is as microscopic as bacteria, yet so powerful in the mass as to threaten the very foundation of human society, particularly in an age which has so many new means of destruction as ours, goading us in our unimaginative moments to try using the new weapons as a cure for economic ills inborn to our society (p. 185-186).

In short, what Burke is referencing is the subtle, yet persistent and repetitive, usage of what Entman (1991;1993) and others (Bock, 2020; Kim et al, 2019; Kuypers, 2010) would call framing devices (e.g., keywords, concepts, metaphors, labels, visuals, etc.). Built up across time and news stories, hence the term tithing, a certain tone consistently presented builds attitudes and contributes to human action, not to mention explains other human action and attitudes.

All of which is to say: A dramaturgical perspective of news framing not only considers the themes and framing of themes within news stories (Entman, 1991; Entman, 1993; Kuypers, 2010; Kim et al., 2019) but also places a heightened focus upon salience and framing devices. Specifically, what are the motives (in a dramaturgical sense) found within news stories that are consistently presented to evoke attitudes and actions and to explain the attitudes and actions of others? What do the themes, frames, and framing devices (or terministic screens) make “invisible” or minimize to an audience? This is the utility of such a theory.

Dramatism, News Framing, and the Study of Cable News

As for cable news, an inherently dramatic setting with anchors, commentators, and sources participating in live discussion in a broadcast setting, a dramaturgical perspective of framing theory is a highly useful for observation. As noted in previous chapters, people gain 40 percent of their knowledge in human conversation through facial expressions and body language (Coleman, 2010). Cable news affords viewers that added layer of knowledge that news in the

purely textual form does not, and it amplifies all levels of persuasion (i.e., logos, ethos, pathos) and the dramaturgical concepts of selectivity, reduction, and tithing by tonality.

A dramaturgical perspective of framing theory can bring into focus the intricacies of how cable news outlets and their participants present themes, connect them with others, and frame them in live action. The theory centers attention on key framing devices and their delivery to evoke attitudes and actions, and to explain them, toward the themes presented and how they are woven into the broadcasts. In other words, whereas research from a typical news framing theoretical standpoint would observe the suggested “particular problem definition[s], causal interpretation[s], moral evaluation[s], and/or treatment recommendation[s]” found within news stories (Entman, 1993), a dramaturgical perspective grants the opportunity to observe *how* those suggestions are presented to audiences and how they create a contextual whole.

CHAPTER 5

METHODOLOGY

This chapter explains the qualitative methodology and rhetorical framing analysis that will be used to observe how cable news framed the *Dobbs* decision and how the research in this study will be conducted. The chapter begins with a discussion of qualitative methodology as a whole before moving into the specifics of rhetorical framing analysis, and toward the end is an explanation of this study's design and procedures.

Qualitative Research

The use of qualitative methods generally assumes that the issue under study is socially constructed. This is what qualitative methods are meant to do, as they are “interdisciplinary, interpretive, political and theoretical in nature,” and they use “language to understand concepts based on people’s experience ... to create a sense of the larger realm of human relationships” (Brennen, 2013, p. 4). Moreover, the assumptions and aims of qualitative methods are well suited to study the two social institutions this study focuses on: the Supreme Court and cable news. The Court is an institution where judicial matters are “decided because a specific set of facts is before the Court” and “within the social constructs and norms existing when an opinion is written” (Vorenberg et al., 2024, p. 49). Cable news, meanwhile, is a social institution that is supposed to inform audiences of perceived realities through persuasive verbal and visual rhetoric in the form

of news stories. This study takes a narrower look at that institution, however, insofar as it is most concerned with cable news's interpretations of the Supreme Court.

Generally, qualitative methods are used to answer broad research questions (i.e., what, why, how, etc.) regarding human institutions and social (in)action, to explore interpretations, and to embrace some subjectivity in data collection, data analysis, and the findings (Kuypers, 2010; Lindlof & Taylor, 2011). While there are several paradigms qualitative research falls within, the critical paradigm is where this study is situated. Qualitative research from this paradigm runs counter, mostly, to that of positivist and postpositivist work, which in large part is where quantitative research stems from. Positivist and postpositivist research generally posits that reality is singular, knowledge comes from empirical phenomena, the best research mimics the scientific method of the hard sciences, and that the goals ought to be centered around cause and effect, requiring the proposal of hypotheses for testing (Lindlof & Taylor, 2011). Research from the critical paradigm, however, makes entirely different claims and assumptions. It assumes that understandings of reality are socially constructed and dynamic and imbalanced because of the constant shifting and struggle for power between and among groups (Lindlof & Taylor, 2011). Further, critical research assumes that perceptions of reality, power, and phenomena are shaped not only by their lived experiences but also by discourse (Lindlof & Taylor, 2011). Work from this paradigm sees the researcher as attached to the final product as well as the data collection and analysis, which in turn means subjectivity is inherent to the research.

Good qualitative research of any kind requires rigor, robust data, and honesty; these are the qualities this study places an emphasis on (Brennen, 2013; Lindlof & Taylor, 2011; Tracy, 2010). Rigor in qualitative work demands nuance and layers or, as some put it, rigor necessitates a "requisite variety" (Tracy, 2010; Weick, 2007). This means that in qualitative research intricate

human relations and activities are being studied, so the methodological tool chosen to evaluate them needs to be just as nuanced (Tracy, 2010). As Sarah Tracy (2010) put it: A “researcher with a head full of theories, and a case full of abundant data, is best prepared to see nuance and complexity” (p. 841). Abundant data must be robust, meaning that the data must be not only voluminous but also detailed and layered. The data collected must be significant in order to make significant claims (Tracy, 2010). Quality and quantity are key. In addition to rigor and robust data, qualitative research must be honest (Tracy, 2010). This is of even more importance because of the presence of subjectivity within the researcher and the research itself. Subjectivity enhances the richness and depth of qualitative findings and must be acknowledged, not least to guard against any suggestion that the research is *the truth* or that it is somehow flawless. Thus, “self-reflexivity, vulnerability, honesty, [and] transparency” are required (Tracy, 2010, p. 841). This is most often achieved by including a reflexivity/subjectivity statement in the research. This helps to ensure the research is honest, as well as genuine and authentic, allowing the reader to better understand how the researcher viewed the data and made their conclusions.

A critical qualitative methodology is best suited to analyze the verbal and visual rhetoric of cable news’s coverage of the *Dobbs* decision. American law is constructed of the language and meaning of the people who create it, and it is interpreted by a judiciary that does not make it but whose rulings act on it. At the head of the judiciary is the Supreme Court, the news coverage of which is what this study examines. “Every case is decided because a specific set of facts is before the Court, and every case is decided within the social constructs and norms existing when an opinion is written” (Vorenberg et al., 2024, p. 49). In particular, these social constructs are statutes, regulations, and previous Court opinions. Of the norms, most important to consider are the common ways justices interpret the social constructs by considering their plain meaning (i.e.,

common use and/or dictionary definition), legislative intent (i.e., what the lawmakers aimed to do), and stare decisis (i.e., how the Court has interpreted a legal question or topic in the past) (Vorenberg et al., 2024). The Court mostly speaks through its opinions and orders, which are highly technical, dense, and difficult for members of the American public or press to interpret. So, careful attention must be paid to the rhetoric the Court uses in carrying out its duties and in determining the explicit and implicit meaning(s) in the written work it produces. The same must be done for news coverage in order to have a holistic understanding of how cable news outlets frame the Court's rulings to the public.

Cable news stories, like other forms of news, present narratives with “central organizing ideas,” or themes, which are subsequently framed by verbal and visual rhetoric (Entman, 1991; Entman, 1993; Kuypers, 2010). This study focuses on cable news framing of the *Dobbs* decision. With that in mind, regarding the construction of news framing, Entman (1991) said:

[News] frames reside in the specific properties of the news narrative that encourage those perceiving and thinking about events to develop particular understandings of them. News frames are constructed from and embodied in the keywords, metaphors, concepts, symbols, and visual images emphasized in a news narrative. Since the narrative finally consists of nothing more than words and pictures, frames can be detected by probing for particular words and visual images that consistently appear in a narrative and convey thematically consonant meanings across media and time (p. 7).

Crucial to this study is *what* was used in cable news's framing of *Dobbs* as well as *how* the news framing was done. These interests lend themselves to qualitative methodology and, in particular, rhetorical framing analysis.

Rhetorical Framing Analysis

Framing analysis, in general, can be found in both qualitative and quantitative research, but most of it leans quantitative (Bock, 2020; Gonçalves, 2023; Hitt & Searles, 2018; Kim et al., 2019; Linos & Twist, 2016; Nassar, 2020). These studies often set out to find specific frames and framing devices and what effects they have on audiences. While this is certainly valuable, it is not what this study aims to do. Specifically, mixed-methods content analysis is the most prevalent method found within framing analysis studies (Kim et al., 2019; Kuypers, 2010). Usually, this consists of a content analysis along with survey or experimental methods. But this would not allow for observations of *how* news framing is done. Moreover, content analyses work by finding predetermined coded items, and, as a result, they rarely, if ever, find news frames and framing devices that were not originally accounted for. Discussing needed reform within framing research, Jack Lule wrote about content analysis:

The interpretation of news language does not mean coding. Hundreds of studies purport to analyze thousands of news articles or their influence. They set about coding the language with grad students and algorithms—and provide barely a word or detail from an article or image or interaction ... No editorial board member, manuscript reviewer, or dissertation adviser should approve a framing study that does not contain at least some in-depth examples, interpretations, and explications—word by word, sentence by sentence—of the frames being offered (Kim et al., 2019, p. 18).

News stories consist of selected facts and interpretations of facts, as well as propositions and evidence (Burke, 2018; Coddington & Molyneux, 2023; Kuypers, 2010). Those interpretations consist of verbal and visual rhetoric, and rhetorical framing analysis would make it possible to interpret and understand them. Rhetorical framing analysis is a critical method primarily used for

questions of language and its shaping of understandings (Kuypers, 2010). As it applies to news media, rhetorical framing analysis focuses on the choices in language used in news narratives to “set the boundaries for public discourse” (Entman, 2007). A central question that can be answered by this method is: “How do language choices invite us to understand an issue or event?” (Kuypers, 2010, p. 298) To answer such questions, rhetorical framing analysis not only analyzes the “key words, metaphors, concepts, symbols, visual images, and names given to persons ideas and actions” (Kuypers, 2010, p. 301) but also observes how those language choices allow news narratives to “convey thematically consonant meanings across media and time” (Entman, 1991, p. 7). Visual rhetoric is also studied with this method (Aiello & Parry, 2020), and it is a key component of this study. Therefore, a brief discussion is warranted of visual rhetoric in the context of rhetorical framing analysis.

In this digital age, it has become increasingly difficult for research to ignore the impact the visual has on the verbal, and vice versa (Aiello & Parry, 2020; Blair, 2012; Bock, 2020; Coleman, 2010; Rodriguez & Dimitrova, 2011). Just like verbal rhetoric, visual rhetoric can induce attitudes and actions (Aiello & Parry; Blair, 2012; Burke, 2018; Parry, 2010). Though he was specifically discussing argumentation, Anthony Blair (2012) gave a helpful example of how verbal and visual rhetoric go hand-in-hand by discussing a political cartoon by David Low in 1938. Blair (2012) wrote:

... a man is shown sitting on a steep hillside reading a newspaper, with his back to a pile of big boulders poised above him, all prevented from tumbling down by one key boulder, labeled “Czechoslovakia”. The boulders above are labeled, “Poland”, “Romania”, “French Alliances” and “Anglo-French Security”. The man is saying, “What’s Czechoslovakia to me anyway?” Low’s visual argument was clearly that anyone who

thought the Nazi psychological war against Czechoslovakia did not matter to England was wrong, because if it fell (to Hitler's bullying), then Poland and Romania would be next, followed by the French alliances, and finally the Anglo-French security pact would come crashing down. (p. 230)

Now, consider such cartoons, or other visual imagery, at the top of a news article or in the frame of a television news program. The visual functions the same as the verbal, in the sense that it makes propositions and supports them with evidence in an attempt to persuade (Aiello & Parry, 2020; Blair, 2012). In the news media, particularly television news media, verbal and visual rhetoric are inseparable. And as a critical method, the standards of validity for rhetorical framing analysis are different from those of content analysis. Content analysis must meet certain standards of accuracy and reliability that are unfit for rhetorical framing analysis, which seeks to understand and interpret rhetoric (Kuypers, 2010). Rhetorical framing analysis is a form of criticism and thus is more subjective (Foss, 1983; Kuypers, 2010). With that in mind, rhetorical framing analyses must meet four validity criteria: justification, presentation of and responsibility for choice, coherent presentation of a theoretical framework, and the capacity to incorporate other perspectives (Foss, 1983).

First, justification means that the researcher must justify the choice of the rhetorical content under study and must present reason, evidence, and arguments for the claims they make about the rhetoric (Foss, 1983). There is no one way to view a rhetorical text, but the researcher must show by way of direct examples from the rhetorical data what led to their conclusions (Foss, 1983). Second, presentation of (and assumption of) responsibility for choice. Humans have choices in communication, and this goes both ways in research. The originator of rhetoric could have made any number of choices in their rhetoric, but they chose what they did at the

expense of other possible choices. Likewise, the researcher has any number of choices in how they view the rhetoric in question, but they will arrive at the conclusion they do and set others aside. These choices must be acknowledged and, like the claims themselves, justified (Foss, 1983). Third, there must be a coherent presentation of a theoretical framework. This is especially important because a rhetorical corpus could be viewed from any number of standpoints, so it is crucial that the researcher makes their theoretical perspective clear for the reader. This is not to ensure that readers agree with the claims made by the researcher; instead, this is so they have a clear understanding of the claims and how they were formulated, as well as how the rhetorical corpus might have led the researcher to different claims had another theoretical perspective been used (Foss, 1983). Fourth, there must be the capacity to incorporate other perspectives. Sonja Foss (1983) put it this way:

Certainly not all essays of rhetorical criticism must have wide-reaching range, but a minimum standard for adequacy seems to be that the data must be presented as more than raw data; the critic should see them as generalizable to a theory of some sort or meaningful within another metaphor or perspective... What I am advocating for is that the critic make a conscious effort to make the data significant in some way by expanding the initial perspective as a result of the study of the data (p. 293-294).

Few rhetorical framing analyses will look the same, as the researcher, research topic, and rhetoric observed will impact the structure of the research. For example, one could examine the rhetoric found within breaking news broadcasts regarding natural disasters, which might only call for the consideration of the broadcasts themselves. This study, by contrast, is comparative in nature and will examine what the Court said in the *Dobbs* decision and what cable news said the Court said. This is similar to a rhetorical framing analysis conducted by Jim Kuypers in 2006

exploring how mainstream American news media framed President George W. Bush's speeches in the aftermath of 9/11. This is what Kuypers did:

The general flow of the analysis was to first look for any themes that the president stressed in his speeches, and then to see how he framed those themes. A theme is the subject of discussion, or that which is the subject of the thought expressed. The frame, of course, is suggesting a particular interpretation of the theme. I then repeated this same process with the news reports and articles, looking for what themes the press highlighted and how they framed those themes (Kuypers, 2010, p. 302).

Rhetorical framing analyses do not have to be done in one standard way. As Black (1978) wrote, "It is neither possible nor desirable for criticism to be fixed into a system, for critical techniques to be objectified, for critics to be interchangeable for purposes of replication." Having said that, the work of Kuypers (2002; 2006) and Kuypers and McDaniel (2019) is the source of this study's inspiration. The idea is to identify themes in the rhetorical corpus and how those themes were framed—and how the rhetoric used invites the audience to understand the subjects of discussion.

Study Design and Procedures

This study is a rhetorical framing analysis of cable news coverage of the Court's decision in *Dobbs* and is guided by a dramaturgical perspective. As discussed, a dramaturgical perspective views language as the primary vehicle for human action and attitudes, as well as the explanation of actions and attitudes. This perspective of news framing places a particular emphasis on news media's amplification of favored narratives by way of selectivity, reduction, and tonality. Thus, this study will evaluate cable news's framing of the Court's decision in *Dobbs* by observing and analyzing what themes the top three cable news outlets (CNN, Fox News, MSNBC) presented

and how they framed those themes in their *Dobbs* coverage in comparison to what the Court held in *Dobbs*.

As previously noted, cable news's prominence in the United States, its noted effects on audiences, and its dramatic and partisan tendencies (Bodderly et al., 2022; Cassino, 2016; Choi, 2022; Gonçalves, 2024; Levendusky, 2013) all make this a significant news medium to analyze for this study. The timeframe for these broadcasts is June 24, 2022, the day the *Dobbs* decision was released, to June 28, 2022. This timeline was chosen in consideration of the volume of *Dobbs* decision coverage. Searches for the terms "abortion" and "Supreme Court" on GDELT, a news tracking database powered by Google, show that cable news coverage of the *Dobbs* decision spiked from the time it was released around 10:15 a.m. on June 24, 2022, and receded to normal levels ($\sim \leq 5\%$ of airtime) on June 29, 2022 (see Figures 1 & 2). Table 1 shows a list of the news programs, dates, and times. One broadcast for each cable news outlet was selected for study from the morning shows and 9:00 p.m. primetime shows. That said, there are three caveats.

The first is that these programs will be from June 24, June 27, and June 28. This is because June 25 and June 26 fell on the weekend, where there is irregular program scheduling (e.g., documentaries, re-runs from the previous week, etc.) and markedly lower viewership. The second caveat is that the *Dobbs* decision was released around 10:00 a.m. on June 24, so, instead of studying the morning shows being that day, the news broadcasts from the 10:00 a.m. hour will be used. The third caveat is that CNN and MSNBC aired special recap shows about the January 6 hearings throughout primetime on June 28, and virtually all CNN and MSNBC programming available from that afternoon was solely dedicated to coverage of those hearings. For those reasons, *CNN Newsroom with Poppy Harlow and Jim Sciutto* and *José Díaz-Balart Reports*, both of which are morning shows at 10:00 a.m., were used instead of primetime programming on June

28 for CNN and MSNBC. This is a total of 18 individual news broadcasts with 18 hours of footage. The broadcasts were retrieved from the Internet Archive, which is a nonprofit organization that functions as a digital library for a variety of news media. It is the most accessible and comprehensive cable news repository available for this research.

Figure 1

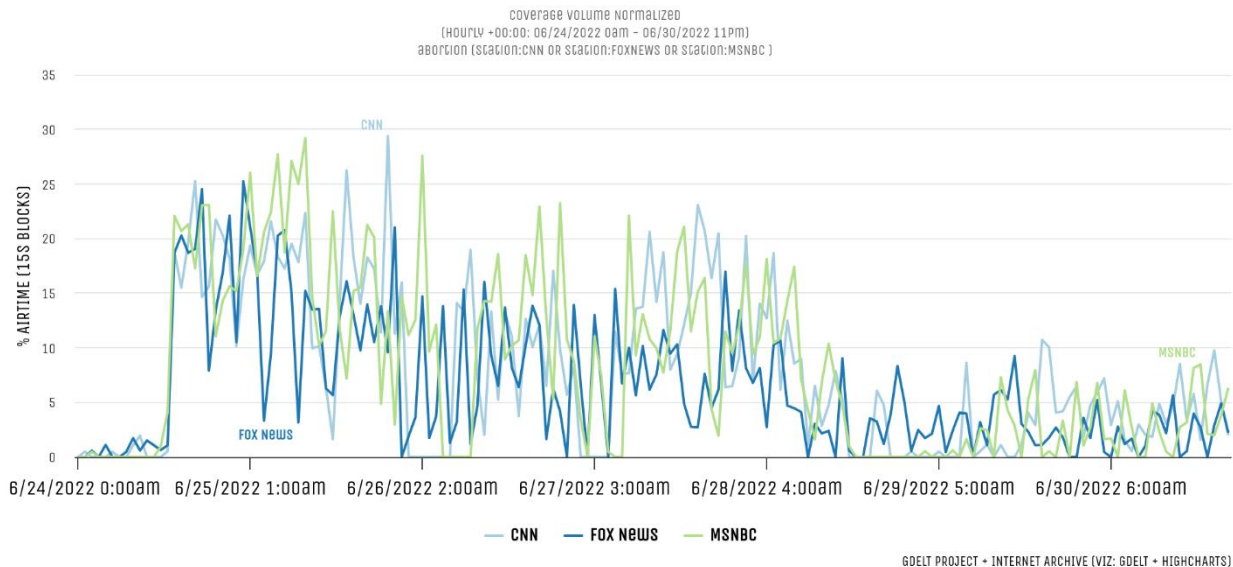


Figure 2

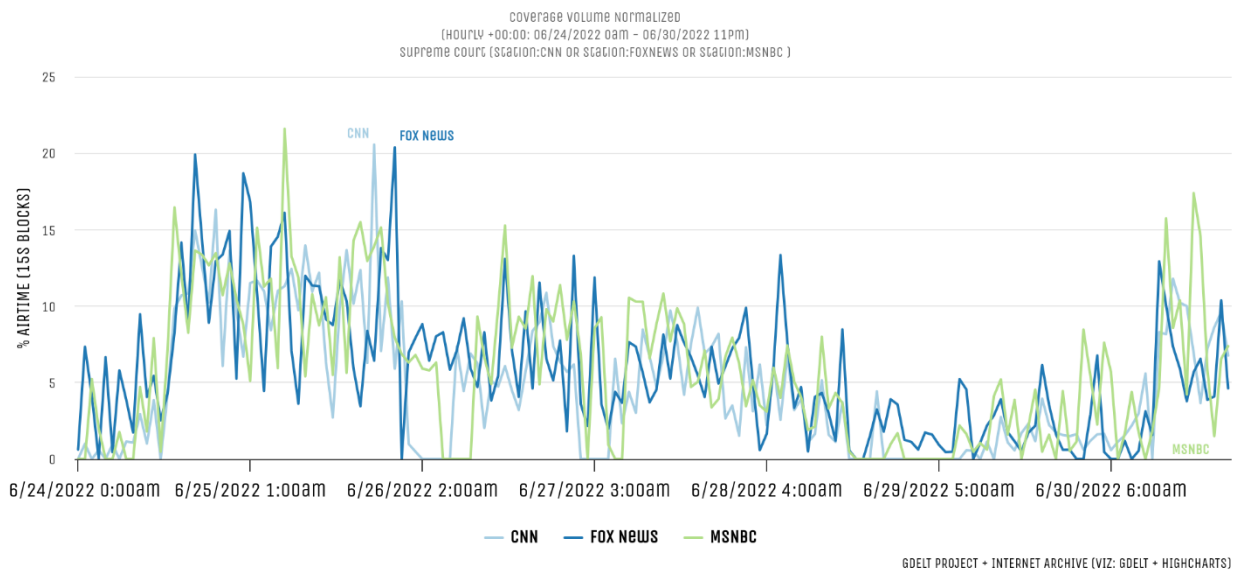


Table 1

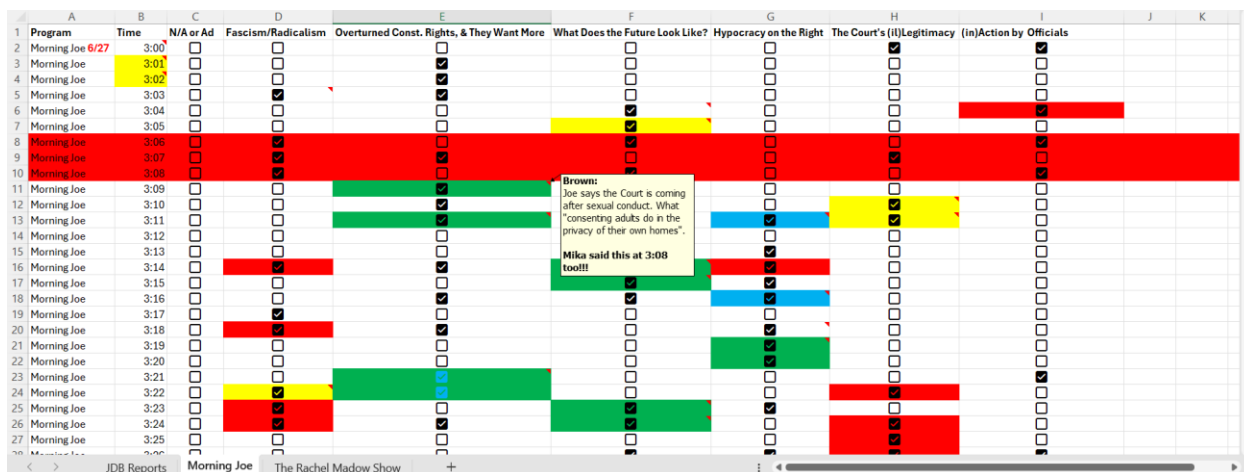
Cable News Broadcasts

Date	CNN	Fox News	MSNBC
06/24/2022	CNN Newsroom with Poppy Harlow and Jim Sciutto - 10:00 a.m.; CNN Tonight - 9:00 p.m.	America's Newsroom - 10:00 a.m.; Hannity - 9:00 p.m.	José Díaz-Balart Reports - 10:00 a.m.; The Rachel Maddow Show - 9:00 p.m.
06/27/2022	New Day with John Berman and Brianna Keilar - 6:00 a.m.; CNN Tonight - 9:00 p.m.	FOX and Friends - 6:00 a.m.; Hannity - 9:00 p.m.	Morning Joe - 6:00 a.m.; The Rachel Maddow Show - 9:00 p.m.
06/28/2022	New Day with John Berman and Brianna Keilar - 6:00 a.m.; CNN Newsroom with Poppy Harlow and Jim Sciutto - 10:00 a.m.	FOX and Friends - 6:00 a.m.; Hannity - 9:00 p.m.	Morning Joe - 6:00 a.m.; José Díaz-Balart Reports - 10:00 a.m.

The analysis of the rhetorical corpus will be done by examining the *Dobbs* decision for narrative themes followed by an examination of how those themes were framed. The same will then be done for the news broadcasts. After examining the themes and framing of the rhetorical corpus, a comparative analysis will be conducted to show how cable news outlets did or did not differ in their framing of *Dobbs* as well as where their framing did or did not converge with the Court's opinions. This will be done through immersion within, and examination of, the *Dobbs* decision and the selected cable news broadcasts. Each broadcast was watched a minimum of four times to identify and analyze the themes, framing, and framing devices. The first watch was to familiarize myself with the broadcasts, identify broad patterns, and take general notes (e.g., source lists). The second watch was to identify specific themes. The third watch was to label each minute of the broadcast by the theme(s) presented. The fourth was to note how each minute

framed the theme(s) presented (Figure 3). The results of this analysis will be supported by direct verbal and visual examples from the rhetorical corpus itself, as is standard (Foss, 1983; Entman, 1991; Kuypers, 2002; Kuypers, 2010; Kuypers & McDaniel, 2019).

Figure 3



Reflexive Statement

I feel compelled to discuss my subjectivity in this research. First, I hold the Court in high esteem. Whether or not I agree with its rulings, I admire the fact that the Court and the justices provide detailed and thoughtful explanations of why they rule the way they do. That is something that cannot often be said of modern government, and I feel the Court is not appreciated enough for it. It may be naïve (in fact, it probably is), but I take the justices at their word when they give their opinions. Even when their personal feelings and views influence them, they still must back them up with the law, hence my previous statement on admiring the Court. This makes studying news coverage of the Court even more important to me.

Second is *Dobbs* and its outcome. I did not choose this case because it dealt with abortion. *Dobbs* received a large volume of news coverage, it was extraordinarily consequential in the legal and political worlds, and it received irregularly high attention from outside groups.

This is because abortion is among the issues which divide this nation most starkly. I am not immune from that division simply because I am a researcher. But I would like to reiterate that my personal beliefs had nothing to do with my selection of *Dobbs*, and, to the best of my abilities, I have made every effort not to allow them to influence my analysis and conclusions in this research. I am interested in reporting my findings of what the Court said and what cable news said they said, not my personal feelings on abortion, the outcome of *Dobbs*, faith, politics, or life and death. In that regard, I will stay detached from the research as much as I can.

CHAPTER 6

OBSERVATION

This chapter lays out the content of the news coverage from CNN, Fox News, and MSNBC. The order of coverage begins with MSNBC, followed by CNN and Fox News. For organizational purposes, the coverage is broken down by the major themes presented by each news outlet, then by the various framings for each theme. Included are visuals from the footage to show the visual framing and to aid in giving a sense of how the coverage appeared live.

MSNBC Coverage

Three themes dominated MSNBC's coverage of the *Dobbs* decision: the Court's (il)legitimacy, the overturning of a constitutional right (with more to follow, potentially), and the future of abortion in America. With few exceptions, the MSNBC coverage avoided any in-depth substantive discussion of the Court's reasoning and presented a nearly categorical negative tone. Only one source gave a neutral-to-positive outlook on the ruling and the Court's reasoning.

The Court's (il)Legitimacy

Whether by stating explicitly that the Court is illegitimate or that its legitimacy is in question, or by suggesting the same, the Court's (il)legitimacy as an institution was among the most prominent themes within MSNBC's coverage of *Dobbs*. The most common way of framing this theme was by saying that the Court had become a fascist institution or that its members, namely the justices appointed by President Trump, were fascists. Most notable in this regard was Mika Brzezinski, co-host of *Morning Joe*, who called the Court, the conservative justices, and

the Republican Party fascists five times within 70 seconds:

It could be argued that today's Democrats are too weak, too fragile, too woke, too elitist, too disconnected from the realities of working Americans, and yet the Democrat Party is the world's last best hope against *fascism*; against an extreme autocratic, anti-woman, anti-gay, anti-contraception, anti-freedom collection of *fascists* who dominate the Trump wing of today's Republican Party; a group of *fascists* who even refuse to investigate the violent riots that their president launched on January 6th to overthrow a legitimately elected president. Why? Because they are *fascists*. And now they're claiming control over your bodies, your health, your *life*. And they've promised they're coming next to take away your birth control pills and even what you do with another consenting adult in the privacy of your own bedroom. To call Trump's Republican Party and Trump's Supreme Court extreme understates the danger these institutions pose to American freedom, to our democracy. *They are fascists* who have contempt for what 70 percent of Americans believe about *Roe v. Wade*, what 90 percent of Americans believe about universal background checks, and what *you* believe about your own body and your *life*. (*Morning Joe*, 06/27/22, 3:06-3:08)

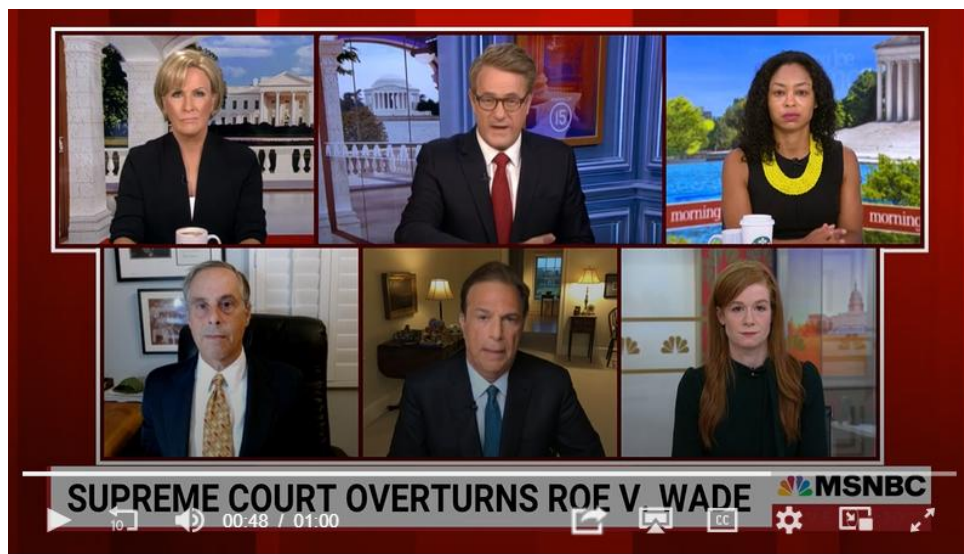
Mika Brzezinski maintained eye contact with the camera throughout her monologue, which ran over two minutes, and she was the sole person on screen. She also emphasized "fascist" and "fascism" every time she said it, indicating she wanted to drive the word home. It was as if she was speaking directly to the viewer. In fact, as seen in the above quote, she used the word "you" several times. It should be highlighted, too, that Brzezinski is the co-host, so her monologue was not the unscripted and spontaneous commentary of a guest, and, instead, it was intentional and thoughtfully planned out. Nor was Brzezinski the only co-host to frame the Court as fascist. Joe

Scarborough framed the story this way:

I talked to a lot of people who said this day would never happen, that *Roe* would never be overturned. They were shocked, but we have to believe what these radicals are saying. We should've believed it before. We need to believe it now. And they're telling you now, they're coming for your contraception, they're going after *Griswold*, they're going after marriage equality, and you add a concurring opinion from a justice, a very influential justice, who said they're even going after what consenting adults do in the privacy of their own bedrooms. If that's not fascism, if that's not Orwellian, Mika, I just don't know what is. (*Morning Joe*, 06/27/2022, 3:30)

As Scarborough was making his comments, all four guests, and Brzezinski, were nodding along with grim faces (Figure 4).

Figure 4



The guests also contributed to the “fascist” framing. Mara Gay, a member of the *New York Times* editorial board, said, “The point here is Americans are now coming to understand that this Court, this minoritarian fascist faction in the country, this is not just about abortion; this is

about power and control” (*Morning Joe*, 06/27/2022, 3:18). Throughout Gay’s comments, a montage of full-screen videos of pro-choice protestors were shown. The signs protestors were holding were readable at times, with such messages as “NO ONE ELECTED YOU!”, “MY BODY MY RIGHT,” and “Keep Your Theology Off My Biology.” Another guest, presidential historian Michael Beschloss, affirmed the fascism framing by saying, “This is fascist in many ways. That opinion sounded like Donald Trump’s inaugural address, which was basically, ‘I’ve got the power, and if you’re in a majority that doesn’t like it, it’s tough luck; I’m here’” (*Morning Joe*, 06/27/2022, 3:23). Beschloss ended the discussion, too, with similar comments:

This is authoritarian. They’re trying to say, essentially, “You in America who don’t like the fact that we on the Supreme Court can basically shove down your throat something that a majority of you don’t like, this is the new reality and you’re going to have to deal with it.” You know, Mika said at the beginning of the hour, she used the word “fascism,” and some people are going to find that a strong word. I find it a descriptive word because that’s the essence of what we’re talking about, which is a small minority essentially trying to dominate the politics of the country. And, by the way, ... look at *Dred Scott*, look at other countries. When there is this kind of angry tyranny by the minority, I think you put it perfectly, Joe, it oftentimes leads to civil war, and I pray that does not happen in our beloved country (*Morning Joe*, 06/27/2022, 3:57-3:58).

Consistent with that “fascist” framing, MSNBC’s coverage frequently framed the Court as radical or authoritarian (note that in the quote above Beschloss described the Court as “authoritarian”). In another example, during her opening monologue on the day the *Dobbs* decision came down, Rachel Maddow said:

The only consistent principle between these two rulings in two days is that *the conservatives have the power on this Court*. And they will now wield it however they want, to achieve whatever outcomes they want, to change the country *however they want* without restriction, and you must do what they say. But, again, I think it is helpful to not try to find some evolution in conservative jurisprudence here; this isn't *that* kind of ruling. This is a political project. This is the culminating work of a concerted political project that defined this as a goal for the American political right and that put in place the people who would enact it. This is a very well organized, well-staffed, well-funded, very committed, very radical, in its prime movement (*The Rachel Maddow Show*, 06/24/2022, 6:12).

Maddow was visibly emotional as she made these comments, frequently raising and lowering her voice, waving her hands, pounding her fists, and making accompanying facial expressions, all alongside a graphic featuring the Court building with the words "That's their goal" at the top (Figure 5). Scarborough also described the Court and its ruling in *Dobbs* as "extreme" and "radical" during a conversation with Beschloss, with Scarborough asking Beschloss:

[I]t shows just how extreme this Court is, how disconnected they are from the American public, and I do wonder, Michael, what is the impact of the Court's legitimacy? What is the impact of Madisonian democracy when you have one branch so radically, so radically separated from the will of the people? (*Morning Joe*, 06/27/2022, 3:22).

Figure 5



Directly addressing the Court’s (il)legitimacy, much of MSNBC’s coverage framed the issue as revolving around the justices appointed by President Trump and the history of how they became justices. Hosts and guests would frequently refer to the “Trump justices” and the “Trump Court”. To that end, during his appearance on *Morning Joe* (06/27/2022), Beschloss said, “These three Trump justices, you were asking about [whether] the Court [is] going to be seen as illegitimate, [and] the Court is, as of Friday, hated by many people in this country” (3:24). As the historian

made his comments, a picture of a crying protestor with the words “My Body My Choice” painted beneath her eyes was on a full-screen display, followed by a graphic with the names and portraits of the five justices who voted in the majority. Beschloss underscored his comments by saying:

Look where the three Trump justices came from. Number one, a stolen seat from Barack Obama who, at least, should have had a hearing allowed, for Merrick Garland. Number two, Kavanaugh coming into a vacancy that was created after Donald Trump enticed Anthony Kennedy, both directly and through intermediaries, to leave the Court. Vacancy number three, Amy Coney Barrett rushed onto the Court eight days before the 2020 election, which Trump lost. (*Morning Joe*, 06/27/2022, 3:25)

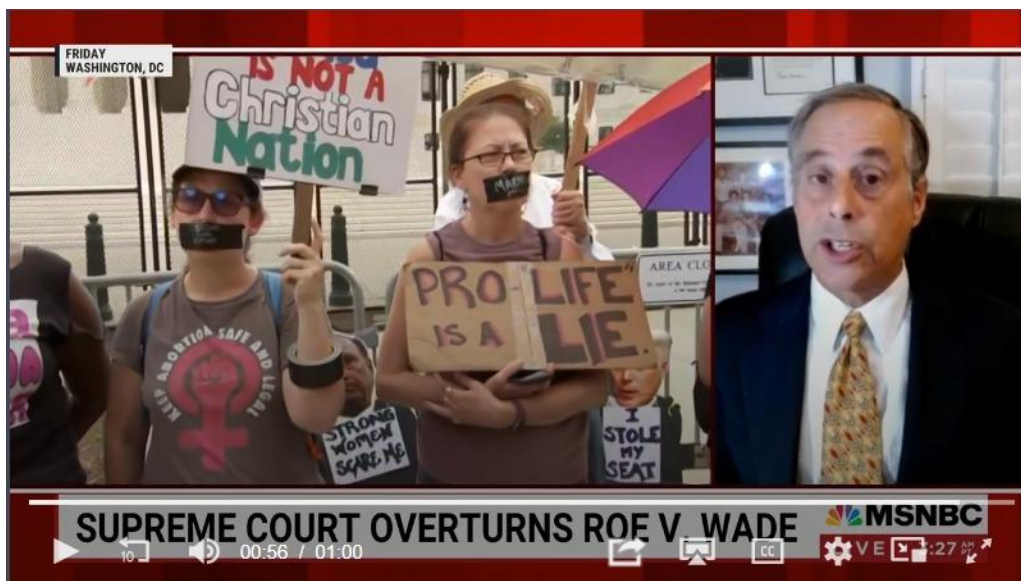
Also using the “Trump justices” framing was Harry Litman, a former U.S. Attorney and law professor at UCLA. Regarding the justices President Trump appointed, Litman said they are “a very small extreme on the far right who were bred for this job, and Trump put [them] up for their very reason, basically to do this job on *Roe*” (*Morning Joe*, 06/27/2022, 3:28). Litman went on to say, “When the Court's in that kind of position, things are really bad for the country and the Court, and you can see now the Court is terribly roiled” (*Morning Joe*, 06/27/2022, 3:28). As Litman made his comments, several videos of protesters were on screen next to him, one of which featured signs of Justices Alito and Gorsuch that read “Strong Women Scare Me” and “I Stole My Seat” (Figure 6).

Another common framing of the Court’s (il)legitimacy on MSNBC was to portray the conservative justices as hypocrites and liars. Much of the focus here was on Justice Thomas. For example, during a discussion on perceived hypocrisy in the Republican Party, Scarborough said

of Thomas:

[I]t was fascinating that Clarence Thomas showed that hypocrisy in his decision. He talked about how contraception rights should be reviewed again. He talked about marriage equality, how that should be opened up. He talked about, of course, what consenting adults do in the privacy of their bedroom—*that should be taken up*. But he didn't, for some reason, talk about *Loving*; isn't that fascinating? He didn't talk about interracial marriages (*Morning Joe*, 06/27/2022, 3:16).

Figure 6



For context, Justice Thomas is a black man whose wife, Ginni, is white. While appearing as a guest on *José Díaz-Balart Reports* (06/28/2022), Jim Obergefell, the lead plaintiff in *Obergefell v. Hodges*, the landmark same-sex marriage case, suggested that the conservative justices in the majority had lied to the American people in their confirmation hearings, saying, “[T]hese justices ... either said or implied that they considered *Roe v. Wade* settled law or precedent. Well, this decision in *Dobbs* clearly indicates they were not being completely honest in those confirmation

hearings” (7:47). Dahlia Lithwick, senior editor and legal correspondent for the online magazine *Slate*, echoed this framing on *The Rachel Maddow Show* (06/24/2022), saying, “[T]o say [that abortion] is different because life is involved, particularly from people like Alito and Kavanaugh, who told us at their hearings that they believed in stare decisis, rings kind of hollow” (6:58). Notably, the ticker at the bottom of the screen during this commentary read “Conservative SCOTUS Justices Installed By Trump All Vote To Overturn Abortion Protections”.

The Overturning of a Constitutional Right, with More to Follow?

Another theme running through MSNBC’s coverage was that the *Dobbs* decision overturned a constitutional right and that the Court would overturn others. This was framed in several ways, but the most frequent, and animated, involved a focus on Justice Thomas’s concurring opinion in which he listed Court cases that relied on the legal theory of substantive due process to confer rights to contraception, consensual sex acts, and same-sex marriage. For example, while part of Justice Thomas’s concurring opinion was displayed on screen, Maddow said, “Those three cases are about contraception, consensual sex between adults, and same-sex marriage, which means next on Clarence Thomas’s list are to get rid of all of those things” (*The Rachel Maddow Show*, 06/24/2022, 6:13). Further, Maddow said, “If the Court moves quickly on Justice Thomas’s list of what rights they’re going to abolish next, being in a same-sex marriage *now* means there is a target on you from this Court” (*The Rachel Maddow Show*, 06/24/2022, 6:14). As she made those comments, the “That’s Their Goal” graphic, discussed earlier, was on display, along with a ticker reading: “Justice Thomas: Supreme Court ‘Should Reconsider’ Rulings On Contraception Access & Marriage Equality”.

Similarly, in a discussion of the *Dobbs* majority opinion, Harvard law professor Laurence Tribe placed great weight on Thomas’s concurring opinion and his noted issues with substantive

due process, saying:

Thomas, who wrote a concurring opinion, left no doubt about it. Even though Justice Alito's majority says not to worry, it's only women we're going after. ... Thomas says, sorry, all of those rights, rights protected by what lawyers call substantive due process, rights of personal liberty, personal choice, personal integrity, dignity, all of those, unless very explicit or deeply embedded in our history, are up for grabs. And he's basically inviting challenges to the contraception decision, *Roe v. Wade*, same-sex marriage, *Obergefell*. He didn't mention interracial marriage, but *Loving v. Virginia* is also based on rights not written into the constitution, unless you say liberty and equality covers it all, but then it should cover the woman's right to control her body and her life as well.

(*Morning Joe*, 06/28/2022, 3:22-3:23)

As the professor made those comments, a montage of pictures contributed to the framing. The pictures featured female protestors displaying emotion, from screaming to crying (Figure 7). Also of note is that when the picture of the woman screaming was presented, the frame steadily zoomed in on her face, which placed an emphasis on that young woman over the others in the photo. While Tribe referred to key elements of the majority's reasoning, albeit without details or substance, most of the framing of Justice Thomas's concurring opinion suggested that the Court would go further than it did in *Dobbs*. Like the comments from Maddow, Melissa Murray, a former law clerk for Justice Sotomayor, said, "Justice Thomas has invited litigation in his concurrence around questions involving same-sex marriage, and contraception; I'm sure we will

see some developments on that front in the future” (*José Díaz-Balart Reports*, 06/24/2022, 7:46).

Figure 7



Apart from a George Mason law professor, Jennifer Mascott, every host and guest framed this theme as inherently negative. Neal Katyal, an NBC legal analyst and former acting solicitor general of the United States, said, “This is a complete flip from 50 years of a guaranteed constitutional right to women. It is as grave and dramatic as the United States Supreme Court has ever taken in our lifetimes” (*José Díaz-Balart Reports*, 06/24/2022, 7:17). In a similar vein, Joyce Vance, a former U.S. Attorney for the Northern District of Alabama, said, “I think we expected for it to feel bad. I’m not sure we all fully appreciated how devastating it would feel to see the words on the paper condemning women to second-class citizenship” (*José Díaz-Balart*

Reports, 06/24/2022, 7:34). Vance also said of other rights that could be impacted by *Dobbs*:

What we don't know is what might come next. Could, for instance, *Lawrence*, the case that makes it possible for gay people to live in civil and marital unions, could that be the next case that falls? Could there be other sorts of rights that are vulnerable? It's a very dark day in America (*José Díaz-Balart Reports*, 06/24/2022, 7:18).

At numerous points during *Morning Joe*, Scarborough placed emphasis within this framing on consensual sexual acts between consenting adults. For example, in a conversation with Professor Litman, Scarborough emphatically said:

[I]n 2022, we actually have a Supreme Court that takes away a right that over 70 percent of Americans wanted to keep, that's been in effect for 50 years, and then went on to say we're coming after contraception next, we're coming after gay marriage next, and even, and I don't think there's enough reporting of this, even saying they're coming after what consenting adults do in the privacy of their own bedroom. Let's say this again: This Court ... says *it's coming after what consenting adults in the privacy of their own bedrooms next* (*Morning Joe*, 06/27/2022, 3:09).

Professor Mascott, of George Mason, was the only guest featured in the MSNBC coverage to give a neutral to positive view of the *Dobbs* decision. After pointing to the fact the Court had never dealt with abortion in American history until 1973, Mascott said, “[W]hat the majority’s doing today is taking itself out of the seat of power, acknowledging the text and structure of the constitution has never spoken directly to the issue of abortion” (*José Díaz-Balart Reports*, 06/24/2022, 7:37). Mascott went on to say that because abortion is “such a contentious issue” with “deeply seated beliefs” on either side of the debate, abortion is “an issue for states and local

elected officials and the people's representatives to work through with them and not for the nine justices to come up with a one size fits all solution for the country" (*José Díaz-Balart Reports*, 06/24/2022, 7:37). Mascott was on air for about three minutes, and she never returned to any other MSNBC program observed in this study. Her appearance was followed by the CEO of Planned Parenthood, Alexis McGill Johnson, who said, "This is absolutely devastating. The Court just told us that we are not equal. The Court just told us that we don't have a right in the constitution to control our own bodies" (*José Díaz-Balart Reports*, 06/24/2022, 7:39).

What is the Future for Abortion?

Last, speculation about the future of abortion in America was among the key themes of MSNBC's *Dobbs* coverage. The framing of this theme largely focused on "trigger laws," which were state statutes banning or restricting abortion in the event *Roe* was overturned, as well as zombie or ghost laws, which ban or restrict abortion and were enacted in the nineteenth century but never repealed. In fact, when NBC legal correspondent Pete Williams first interrupted *José Díaz-Balart Reports* to deliver the news that the *Dobbs* decision was released, one of the first things he mentioned were the trigger laws in 13 states (*José Díaz-Balart Reports*, 06/24/2022, 7:13). More generally, there was a focus on states that had banned abortion entirely. For example, Maddow listed all seven states that had a trigger law banning abortion and read accompanying news stories regarding them (Figure 8) (*The Rachel Maddow Show*, 06/24/2022, 6:56).

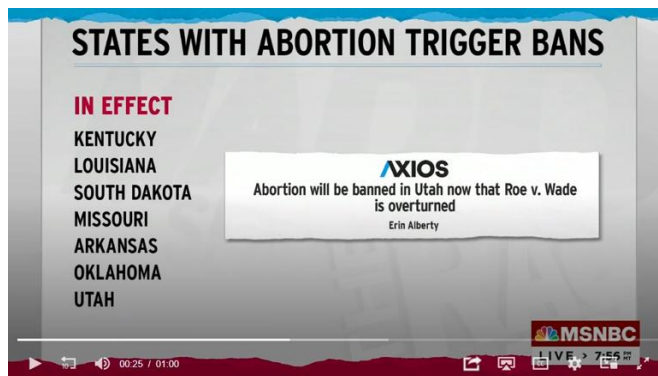
In addition, this theme was framed as a matter of two separate Americas, against the background of the possibility that some sort of civil war would take place across the country. This also included the notion of states attempting to influence abortion access in other states. For example, Lithwick, the Slate legal correspondent, said on *José Díaz-Balart Reports*

(06/24/2022):

What it's going to mean is that there are two countries, that there are quite literally red states and blue states, and we're already seeing red states making efforts to reach out into blue states and say we're going to preclude *you* from performing abortions, either by shuttering your clinics, trying to bankrupt your clinic. We're already seeing fights going on about red states that are going to want to make it impossible for people to travel interstate to get this basic healthcare, and I think we are going to see blue states, like Connecticut, passing laws that try to shield their own providers from liability in red states. So, in some sense, we are looking at a sort of constitutional, legal, I don't want to use the word civil war, but I think we're going to see immense, immense bickering about where states can control conduct of other states. (7:23-7:24)

Murray, the law professor, affirmed this framing, saying, "We're going to see a number of interjurisdictional clashes over whether or not the state can essentially extend borders of their law to include those of other states, so buckle up, this is going to be a bumpy ride..." (*José Díaz-Balart Reports*, 06/24/2022, 7:28).

Figure 8



Professor Litman also affirmed this framing on *Morning Joe* (06/27/2022), saying, "Texas's law

said, ‘Hey, if you help anyone get an abortion, and you can be from Michigan or Russia, you’re going to be liable’ ... [S]tates are going to go after people who go to another state to get their abortion” (3:28).

This theme was also framed with reference to what enforcement of abortion bans and restrictions might look like. This was often done by invoking extreme scenarios of how law enforcement would investigate violations of abortion laws. For example, consider the scenario Beschloss, the historian, set out on *Morning Joe* (06/27/2022):

[I]f a woman is in a hospital room having a miscarriage, and let’s say one of the people in the room is upset by what he or she is seeing because they read *Dobbs*, ... so what are they going to do? They’re going to call 911, the police are going to come into the hospital room with magnifying glasses, saying, “Is this an abortion, or not? We’re going to call the prosecutor”. (3:23)

Maddow offered a similar scenario regarding law enforcement, saying, “Your miscarriage will be viewed as a potential crime. Are you suspected of having induced that miscarriage? Did the police want to talk to you about some questions they have about whether somebody else may have induced it for you?” (*The Rachel Maddow Show*, 06/24/2022, 6:19). Similarly, Kavita Patel, an MSNBC medical contributor and former Obama administration health policy director, gave a warning that medical professionals were unsure of what would get them into legal trouble in the wake of *Dobbs*. Commenting on medical professionals in Texas, while dressed in scrubs and speaking from a doctor’s office, Patel said, “[T]hey have to worry about being reported and potentially being fined or put in jail ... [with] people wondering, ‘[W]hat can we do, what can’t

we do?’” (*José Díaz-Balart Reports*, 06/28/2022, 7:29).

Last, the theme of abortion’s future in America was framed in the context of negative consequences for women’s health. Regarding the newly legal abortion bans and restrictions following *Dobbs*, Patel said, “The truth is, the complication is death. I think that’s not trivial.” (*José Díaz-Balart Reports*, 06/28/2022, 7:29). In an appearance on *The Rachel Maddow Show* (06/24/2022), Rep. Barbara Lee (D-CA) said that new abortion bans and restrictions could be “very deadly” (6:45). Short of claiming women would die, while co-hosting *Morning Joe* (06/27/2022), Brzezinski said the post-*Dobbs* reality “looks like a 13-year-old victim being ordered by the state to have a forced birth of her rapist’s baby” (3:08). And Mara Gay, the *New York Times* editorial board member mentioned earlier, also on *Morning Joe* (06/27/2022), framed the issue in terms of its impact on poor women and minorities:

The people who will be the first to suffer are those who do not have the ability to travel if they need healthcare that includes abortion—those who do not have healthcare, those who may not have resources or networks to get them the care that they need. This is going to have a horrible impact on women of color, especially black women across the South who have horrendous maternal mortality rates as is in this country. (3:15)

CNN Coverage

Three themes were evident in CNN’s *Dobbs* coverage: the Court’s (il)legitimacy, the future of abortion in America, and overturning a constitutional right and the risk to others. While these themes are similar to those of MSNBC’s coverage, much of CNN’s framing was different in substance and tone, and the pro-life side of the issue was covered, too.

The Court’s (il)Legitimacy

The Court's (il)legitimacy was framed by pointing to public opinion of the Court and of the Court's ruling in *Dobbs*, both of which at the time were low. After airing an ABC News clip of a visibly angry Sen. Elizabeth Warren (D-MA) saying that the Court had "burned whatever legitimacy they may still have had," Joan Biskupic, a CNN judicial analyst, said, "There are reasons for the Court's legitimacy to be called into question. Obviously, their poll numbers are dropping right now" (*New Day with John Berman and Brianna Keilar*, 06/27/2022, 3:39). Notably, the same ticker used for the Warren clip (it read: "Elizabeth Warren: Supreme Court 'Set Torch' To Legitimacy") was displayed as Biskupic spoke, for several minutes after the clip of Warren had aired (Figure 9). Later in the same discussion, co-host Brianna Keilar said to Kate Zernike, a national reporter for the *New York Times*, that not all of the public was angry with the Court, saying, "It's worth noting that for a big chunk of the American population, the legitimacy of the Court has now been raised. They think the Court *is* legitimate because of this decision" (*New Day with John Berman and Brianna Keilar*, 06/27/2022, 3:41). Zernike agreed.

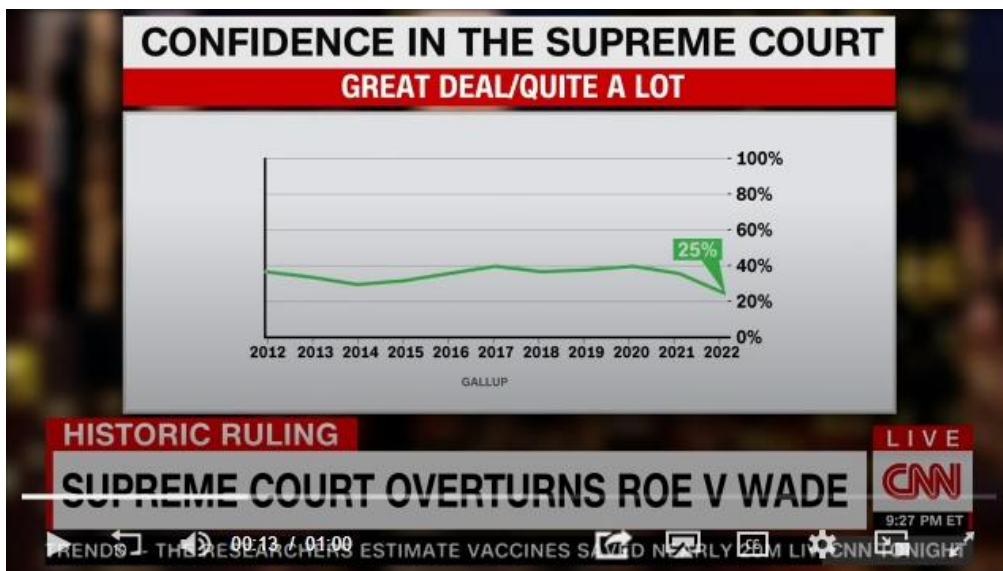
Figure 9



On *CNN Tonight* (06/24/2022), host Sara Sidner opened the show's panel segment by saying that confidence in the Court had hit an all-time low just prior to *Dobbs's* release and was down 11 percent from the prior year (6:28). Reinforcing the point, a chart was displayed on the screen showing the decline (Figure 10). Abby Phillip, at the time the anchor of CNN's *Inside Politics Sunday*, addressed public opinion against the Court, too, as it pertained to *Roe*:

Jim, you were reading from the Alito opinion. He talks about how *Roe* has, in his opinion, exacerbated the political divide on the issue of abortion, but the data that we have on public opinion as it relates to abortion just does not bear that out. For decades, more than 60 percent, in our latest poll about 66 percent, of Americans favor *Roe v. Wade* staying in place, and the number of Americans who want it to be overturned has never exceeded 40 percent. So this is actually something where the public opinion on this actually has been fairly stable over decades, and it leads to a lot of questions about what happens when the Court really is so out of step with where the country is. (*CNN Newsroom with Poppy Harlow and Jim Sciutto*, 06/24/2022, 7:40-7:41)

Figure 10



As it was for much of the show’s coverage, video footage of protests and assemblies outside of the Court building was displayed on one side of the screen (Figure 11). Similarly, when asked by *CNN Tonight* host Sara Sidner about what her organization will do in light of the ruling and the fact many people “have very strong convictions they want abortion to end,” Nancy Northup, president and CEO of the Center for Reproductive Rights, said that polling data show the “vast majority” of Americans want abortion access to be legal and that those polling data were at an all-time high (*CNN Tonight*, 06/24/2022, 6:10). Northup added:

[T]he United States is an enormous outlier to the rest of the world, which has been moving forward. In the last 30 years, 60 countries have liberalized their abortion laws. Today, we went backward, way behind the rest of the world; and we’re seeing outrage around the world about this decision. (*CNN Tonight*, 06/24/2022, 6:11)

Sidner replied to Northup’s comments by saying, “Of course, the folks on the other side think that this is a great day in America” (*CNN Tonight*, 06/24/2022, 6:12).

Figure 11



The Court's (il)legitimacy was also framed by maintaining that the justices rule in a result-oriented fashion as opposed to what the law demands. To that end, Jeffrey Toobin, CNN's chief legal analyst, said, "Some justices want to reach one result, or they'll reach another result, and they find a justification..." (*CNN Newsroom with Poppy Harlow and Jim Sciutto*, 06/24/2022, 7:29). Later in the same broadcast, Jennifer Rodgers, a former federal prosecutor and current law professor, said, "They find the right when they want the right" (*CNN Newsroom with Poppy Harlow and Jim Sciutto*, 06/24/2022, 7:38). Rodgers also made an appearance on *CNN Tonight* (06/27/2022) and advanced this framing in response to a question about the Court's legitimacy and the perception that it is a political institution, saying:

When you look at *Dobbs*, when you look at the gun case, and you start to see that they're legally indefensible, they're grasping at straws, they're selectively using history, they're not using judicial restraint, they're not following their own precedent—what's the most logical conclusion, the simplest explanation? That this is a results-driven, ideological decision, and that's how they got to where they are. They have the numbers now, they're going to do what they want to do, and we're seeing it in abortion, guns, religion, First Amendment. We're about to see it in administrative law next week or tomorrow, and it's just off the rails. (6:34-6:35)

On the same edition of *CNN Tonight* (06/27/2022), Van Jones, a former Obama administration official, framed the results-oriented approach by putting it in terms of party politics:

It used to be we could at least believe that we had referees on this fight. Now you got red robes and blue robes, so the legitimacy of the Supreme Court is now in danger. You're going to wind up in a situation, honestly, where once you get what you want and you have these catastrophes happening, we have no place to go. The Supreme Court is no

longer respected. You would agree with me that Congress is no longer respected. The presidency: people say he's not duly elected. Where is the legitimacy now for us to resolve something like this? A bomb has been thrown in the middle of this country, and you're not going to like the outcome. (6:33-6:34)

Another common framing of the Court's (il)legitimacy involved attributing *Dobbs* to the Court's Trump-appointed justices. For example, Toobin did so in a discussion of the majority's observation that *Roe* was "egregiously wrong". Toobin noted that numerous justices have said *Roe* was "quite right" since 1973 and that "[t]his just gives you an idea of how different the five justices in the majority, the three Trump justices plus Alito and Thomas, are from the other Republican appointees who have upheld this law for many years" (*CNN Newsroom with Poppy Harlow and Jim Sciutto*, 06/24/2022, 7:24). A few minutes later, Biskupic, the Supreme Court correspondent, noted that *Roe* was written by a Republican-appointed justice, Harry Blackmun, and had been upheld by numerous conservative justices. Biskupic then compared those justices with the current conservative justices, saying, "This is *such* a different Court that America is going to have to get accustomed to. The three Trump appointees are only in their 50s" (*CNN Newsroom with Poppy Harlow and Jim Sciutto*, 06/24/2022, 7:26). Biskupic went on to attribute the *Dobbs* decision to Justice Amy Coney Barrett, saying:

[She] joined in October of 2020. Less than two years we've gone [since] this majority has seized this moment. Chief Justice John Roberts would have been ready to overturn *Roe* at some point but not so quickly, and this was only because of the death of Ruth Bader Ginsburg and the succession of Amy Coney Barrett. (*CNN Newsroom with Poppy Harlow and Jim Sciutto*, 06/24/2022, 7:31)

Biskupic advanced this framing during a later appearance on *New Day with John Berman and*

Brianna Keilar (06/27/2022), where she said:

The only thing that changed was the addition of the Trump appointees, particularly in 2020 after the Louisiana law was struck down. Amy Coney Barrett comes on, and that's when everything accelerated. So the message that this Court is sending to the public is that when the personnel changes, the law will change. And that does raise serious questions of legitimacy. (*New Day with John Berman and Brianna Keilar*, 06/27/2022, 3:40)

CNN also used the words of President Biden for this framing. In her opening, Sara Sidner pointed to Biden's remarks about the ruling in which he put the blame on the justices appointed by Trump, as well as Trump himself (*CNN Tonight*, 06/24/2022). A clip of Biden's remarks was played on screen in which he said, "It was the three justices named by one president, Donald Trump, who were at the core of today's decision to upend the scales of justice and eliminate a fundamental right for women in this country" (*CNN Tonight*, 06/24/2022, 6:03).

In addition, the Court's (il)legitimacy was framed in terms of disrespect for precedent, e.g., by focusing on landmark Court cases that overturned precedent, such as *Brown v. Board of Education*, which struck down the separate-but-equal doctrine established in *Plessy v. Ferguson*. In response to a question regarding the majority's citation of *Brown* and *Plessy*, Rodgers, the law professor, said on *CNN Tonight* that it was an erroneous comparison (06/24/2022):

If you're going to overturn a precedent, ... it's supposed to be one of the fundamental, foundational things that the Supreme Court is based on. That's what Justice Roberts says in his concurring opinion, which is why he didn't want to go as far as to overturn *Roe v. Wade*, because judicial restraint and stare decisis dictated that they not do that, but they

did anyway. So the difference between what happened today and what happened in *Brown v. Board of Education* is that *Plessy v. Ferguson* was a decision that was made that didn't ... grant a constitutional right. All these years later, the Court said, 'Hey, you know what, we got that wrong when we made that decision. We now, all these years later, with society having changed, and ...we now are making the right decision overturning that wrong decision.' But they didn't take away a right that had been granted. Today, the Court really goes backward. In other words, in *Brown* they're moving forward, they're moving forward with the progress of society. Today, we're moving backward more than 50 years. (6:34-6:35)

In fact, Rodgers made an almost identical comment earlier the same day on *CNN Newsroom with Poppy Harlow and Jim Sciutto* (06/24/2022), with which Harlow, the co-host, agreed and added:

It's a very good point, because there's ... a page and a half, almost two pages, of footnotes of cases where precedent has been overturned. *Plessy v. Ferguson*, *Brown v. Board of Education*, but ... there is a fundamental significant difference between those cases being overturned and *Roe v. Wade* being overturned in terms of right expansion. (7:39)

At that point, Toobin said he couldn't think of any case similar to *Dobbs* in the context of overturning precedent—that it was akin to prohibition, which later had to be undone with another amendment (7:39). There was one guest, though, who significantly departed from this framing. On *CNN Tonight* (06/24/2022), Carrie Sheffield, a Steamboat Institute fellow, said that “just because you understand or respect precedent does not mean that precedent should stand” (6:30). Sheffield went on to make the *Brown v. Board of Education* comparison that was cited by the majority, saying, “Certainly, understanding that precedent is by no means ironclad, that there is a

moral weight and a moral right that the personhood of the child that is pre-born should be recognized as something that is enumerated to the states” (6:30).

The Future of Abortion in America

Abortion’s future in a post-*Dobbs* world was frequently framed with reference to trigger laws. However, this coverage cut both ways insofar as it featured right-expansion laws that increased abortion access previously forbidden in some states. In fact, almost as soon as the news of *Dobbs* had aired, Jessica Schneider, a CNN justice correspondent reporting from outside the Court, noted that 12 states had trigger laws or zombie laws banning or restricting abortion access that would come into effect, but she also noted that 16 states and Washington, D.C., would have laws immediately come into effect that expanded abortion access (*CNN Newsroom with Poppy Harlow and Jim Sciutto*, 06/24/2022, 7:14). Later, in the same broadcast, CNN correspondent Tom Foreman discussed via an interactive map the states that would have bans or restrictions come into effect (Figure 12). Though they were not included in the graphic, Foreman did say that 16 states and Washington, D.C., would expand abortion access (7:52).

Figure 12



New Day with John Berman and Brianna Keilar (06/27/2022) opened with a nearly identical graphic of states showing restrictive trigger laws on screen, at the same time co-host Berman commented on the expansionist states, saying, “[O]thers are taking steps to protect access and funding. Also, some major companies are pledging to provide support for employees and, in some cases, their dependents—in states where abortions are now being outlawed” (*New Day with John Berman and Brianna Keilar*, 06/24/2022, 3:00).

Coverage also framed abortion’s future in a post-*Dobbs* world by exploring corporate responses to the decision. During a piece at the beginning of *New Day with John Berman and Brianna Keilar* (06/27/2022), a graphic showed what prominent American companies had done to provide for employees’ abortion needs in states with restrictions and bans (Figure 13) (3:04).

Figure 13



Then, a clip from an interview with Miriam Warren, the chief diversity officer at Yelp, appeared as Warren said, “I think for any employer that cares about issues of diversity, equity, and inclusion to stay silent on such an issue is just ... not okay” (3:04-3:05). The narrator of the piece, CNN business and politics correspondent Vanessa Yurkevich, noted that Yelp had released a statement calling *Dobbs* a “denial of human rights and a threat to workplace gender equality”

and that Yelp was providing financial support for employees and family members seeking an abortion in states where it was banned or restricted (3:05).

Once the piece concluded, Rahel Solomon said that an unnamed brand strategist was advising companies to do the opposite, to say nothing and avoid upsetting employees and customers. Keilar, the co-host, expressed support for that approach, saying, “There are few issues as divisive as this one, and certainly they’re not going to please all of their shareholders or consumers” (3:10). Northup, the CEO of the Center for Reproductive Rights, also mentioned corporate responses to *Dobbs* in an interview on *CNN Tonight* (06/24/2022) in which the host, Sidner, said that “luckily we have employers, companies, that are stepping up and saying they’re going to cover their employees’ ability to [get abortions]” (6:08). Toobin, too, said on *CNN Newsroom with Poppy Harlow and Jim Sciutto* (06/24/2022) that corporations that fund out-of-state abortion access might face boycotts (7:21). He said the same could happen to companies that don’t speak out against the ruling or that celebrate it.

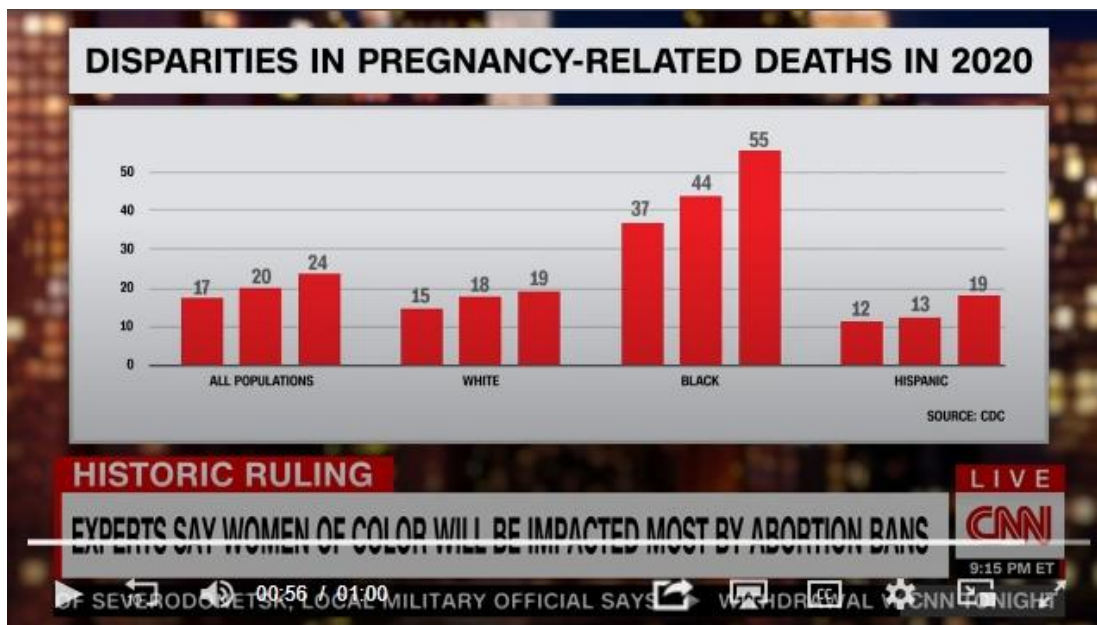
Notably, this theme was also framed in terms of potential effects for poor women and minorities. The first question asked on CNN after the *Dobbs* decision focused on who would be impacted the most by the decision (*CNN Newsroom with Poppy Harlow and Jim Sciutto*, 06/24/2022). Biskupic, the legal correspondent, said, “Definitely affects poor women the most who won’t be able to travel from state to state ... women, families, generations of Americans because gears have been switched now” (7:17-7:18). During a discussion on *CNN Tonight* (06/24/2022), both the host and Georgia gubernatorial candidate Stacey Abrams addressed the mortality rate for women of color and the potential for it to rise in the wake of *Dobbs*. Sidner, the host, set up the conversation by observing that the U.S. had the highest maternal mortality rate among developed nations and that black women, specifically, were three times more likely to die

in childbirth than white women (6:14-6:15). Sidner then pointed to Georgia, where, she said, “racial disparities in healthcare are even worse” (6:15). Abrams listed several disheartening maternal-mortality statistics for women of color in Georgia, adding:

What all of this means is that we have a healthcare system that is broken and is not equipped to do the very job it should do, and now we are going to add additional pressure by not only denying women access to medical care, but we’re also going to criminalize and prosecute doctors for providing that care. That is setting up a situation where Georgia becomes dangerous for women, and that is untenable. (6:17)

Sidner emphasized that framing by saying, “That’s a really strong statement that your state becomes, as you put it, dangerous for women” (6:17). On a visual note, the discussion was accompanied by a full-screen display of a chart featuring the maternal-mortality rate for various racial groups in America (Figure 14), and the ticker throughout the discussion read: “Experts Say Women of Color Will Be Impacted Most By Abortion Bans” (6:16-6:17).

Figure 14



Consistent with that framing, regarding women who live in states with abortion bans, Northup said earlier in the same broadcast, “It means that people who are seeking abortion care are going to have to leave their states traveling hundreds, maybe thousands, of miles if they have the means to do so ... [S]ome aren’t going to have the means” (*CNN Tonight*, 06/24/2022, 6:08).

Last, abortion’s future in a post-*Dobbs* world was also framed by rape and incest. In the discussion immediately following the release of *Dobbs*, co-host Jim Sciutto said, “This speaks to the ... breadth of this decision, because that law, beyond the 15 weeks, it had no exception for rape or incest as many of these trigger laws we see. That is quite a broad change in this country” (*CNN Newsroom with Poppy Harlow and Jim Sciutto*, 06/24/2022:21-7:22). Sciutto followed up by asking guests on the show to “imagine your wife, or girlfriend, or daughter raped or the victim of incest” (7:22). Among the most remarkable instances of this framing came during an intense argument (Figure 15) on *CNN Tonight* (06/24/2022) in which Abby Finkenauer, a former U.S. Representative (D-IA), said to Carrie Sheffield:

Every single woman in this country, including you, who is celebrating today about this overturning, you support a 12-year-old who’s been raped to have to actually carry her pregnancy to term. That is what you support. You support women dying in this country if they have an ectopic pregnancy, because that is what will happen. (6:31-6:32)

Figure 15



On a later edition of *CNN Tonight* (06/27/2022), Van Jones engaged in a similar framing, both in words and in emotional display, directed at Sheffield (Figure 16). Jones said:

You're going to get what you are asking for, and you may not like it, in that a year from now there are going to be rapists who have women who have been forced to have their children, [and] those rapists are then going to say, 'I have a right to see that child.' That's already happened. There are child molesters who are going to be saying, 'I have a right to see the child created by my molestation.' You're going to get what you want, but I don't think you're going to like it as much as you think ... [T]his is going to be a living nightmare for millions of American families. There are people right now, young women, who are packing their bags ... to go to college ... who we know statistically are going to be raped, and your answer to them is, 'Enjoy your pregnancy.' That is despicable, it is wrong, and it is not going to stand in this country. (6:30-6:31)

Figure 16



Throughout both arguments, host Sara Sidner had to interject at numerous points as the guests were talking and shouting over one another, and all involved were displaying emotive hand gestures (e.g., finger pointing and waving hands), and Jones and Finkenauer displayed clear expressions of anger and disdain.

Overturning a Constitutional Right and the Risk to Others

The third major theme throughout CNN's *Dobbs* coverage was the overturning of a constitutional right and the risk to other rights. This theme was primarily framed in two ways: positive and negative reactions from the two sides of the issue as well as risks to substantive due process rights. Beginning with reactions to the decision, Sidner, the host, framed the sides and their responses during the opening of *CNN Tonight* (06/27/2022) this way:

But first, to the fury and fear on one side and the jubilation on the other, still palpable in our nation in this first week since the Supreme Court overturned the constitutional right to an abortion. Its ruling means it is now up to the states to decide whether to allow abortions. Protests against the ruling are growing, but so too is the fight by those who want to ban abortion all together, and, to their delight, a cascade of new abortion bans went into place in the hours after the ruling. (6:01)

As Sidner delivered her opening, a montage of protests from major cities around the country was displayed next to her, accompanied by a ticker that read: "Cascade of States Move To Outlaw Abortion After Scotus Ruling" (Figure 17). After a commercial break later in the show, Sidner used the same framing to emphasize the enthusiasm of both pro-choice and pro-life supporters, saying, "Protestors on both sides of the debate are reenergizing and promising to go to the polls this year" (6:15). However, one notable difference between this framing and that of Sidner's

opening is that there was a split screen of videos playing next to her that featured pro-life and pro-choice assemblers (Figure 18).

Figure 17



Sidner engaged in this same framing, too, on the day of the *Dobbs* release. In a discussion with Northup, of the Center for Reproductive Rights, Sidner asked, “Have you ever tried to understand, to empathize, with the point of view that many conservatives certainly take, and those who are against abortions being legal, that they’re on the side of the unborn because the unborn cannot speak for themselves?” (*CNN Tonight*, 06/24/2022, 6:07). Northup went on to acknowledge that “people have strong feelings on both sides” but said that the Court had compromised in *Roe* and *Casey* (6:07). Sciutto, co-host of *CNN Newsroom with Poppy Harlow and Jim Sciutto*, also contributed to this framing when he took a moment after reporting from CNN White House correspondent Kaitlan Collins to acknowledge both sides of the abortion issue and reactions to the *Dobbs* decision (*CNN Newsroom with Poppy Harlow and Jim Sciutto*, 06/24/2022). To that end, Sciutto said:

I think we should acknowledge ... that this is a deeply emotional, philosophical, moral issue for many Americans. There are Americans watching this right now upset by this decision, there are certainly some who we know are celebrating this decision, and probably many more who have complicated views and see things that they welcome and things that they're concerned about. It's the kind of issue that we pledge to you we will continue to discuss in the coming days and weeks as it affects and plays out across this country. (7:45)

Figure 18



Harlow, Sciutto's co-host, quickly replied, "You're exactly right. There are many families across America who will look at this decision and say that this should've come decades ago, and many who are devastated by this." (7:45).

Framing this theme in terms of risks to other rights, the most prominent example was a question and answer from *CNN Newsroom with Poppy Harlow and Jim Sciutto* (06/24/2022). After reading the beginning of the majority opinion, co-host Harlow asked:

This ... can have implications way beyond abortion. If you look back to all of these other

cases, *Loving v. Virginia*, interracial marriage, *Griswold*, the right to obtain contraception, *Lawrence v. Texas*, the right to engage in private consensual sexual acts, *Obergefell v. Hodges*, the right to same-sex marriage, what does this decision by the Court in this way that it is written, ... despite what Alito also says, this doesn't affect anything else, legally it can be used to undermine those rights, correct?

Biskupic, CNN's Supreme Court analyst, responded:

Of course. People are going to seize upon the basic holding here that talked about the right to abortion not being in the constitution, but you mentioned *Griswold v. Connecticut* from 1965. That was when the Court said '... there's a privacy right embodied in the 14th Amendment that covers couples', including married couples, ability to get contraceptives. That is what *Roe* was built upon. (7:30)

Later in the same broadcast, Sciutto asked a question framed in almost the exact same manner, about whether it was true that *Dobbs* affected only abortion rights, as Justice Alito had said. This time the question was directed to Professor Rodgers, who responded, "No. First of all, you have all of the rights we have been discussing that are based on this right of privacy that they've now dismissed, contraception, the right to do sexual acts in your own home with consenting adults" (7:38). Rodgers also framed rights related to abortion as at-risk during another appearance that night on *CNN Tonight* (06/24/2022). Rodgers said:

There is no principled legal distinction between abortion's right to privacy and the gay marriage, the same-sex sexual conduct right to privacy, even the contraception right to privacy. These are all based on the same thing that the Court has now said no longer exists. (6:45)

Fox News Coverage

Three themes emerged from Fox News's *Dobbs* coverage: returning the abortion issue to the states, what the Court did not say, and safety and violence. The coverage was essentially the opposite of MSNBC's in nearly every respect, and it was also markedly different from CNN's. All of the hosts and guests favored the *Dobbs* decision, except one who would have liked Chief Justice Roberts's opinion to have been controlling.

Returning the Abortion Decision to the States

Bill Hemmer, co-host of *America's Newsroom*, broke the news on the *Dobbs* decision, and among his first words reporting the decision were: The "question of abortion has been returned to the states" (*America's Newsroom*, 06/24/2022, 7:11). Immediately after Hemmer said those words, live videos of pro-life supporters celebrating (and holding signs reading "Abortion is Murder") were featured in two sections of the screen (Figure 19). This included audio from the main video where cheers could be heard at a volume nearly equal to that of the hosts' words. The hosts mentioned that some would be "dismayed" by the ruling, but no pro-choice protesters were on screen until several minutes later. This audio-video approach continued for almost all of the broadcast.

This theme was commonly framed as a constitutional requirement. The first guest after *Dobbs* was released was Andy McCarthy, a former federal prosecutor, who celebrated the ruling as adhering to the constitution, saying, "[I]t's a great day for life, it's a great day for the restoration of constitutional jurisprudence. ... [A] lot of us have been working for this for decades, so it's just a wonderful day" (*America's Newsroom*, 06/24/2022, 7:18-7:19). Later in the same program, Carrie Severino, president of the conservative Judicial Crisis Network, applauded

the ruling as constitutionally necessary and said there was finally a majority of justices who “know how to read the constitution as it’s written” (*America’s Newsroom*, 06/24/2022, 7:33).

Figure 19



Severino added that the “constitution simply does not include [the] right” of a woman to have an abortion (7:34). Moments later, when asked whether he expected the results of *Dobbs* to be what they were, Rep. Mike Johnson (R-LA), who would become Speaker of the House of Representatives in 2023, said:

I don’t think it’s a surprise. We knew that we had originalists, now a majority of those who want to fairly and faithfully apply the constitution as it’s written, and this is the result of that. As we said, abortion is obviously not mentioned in the text of the constitution, and it’s nowhere in its original meaning. And so you have justices who are faithful to that interpretation, that application of the constitution. That’s what the founding fathers intended. (7:53)

High-profile commentator Sean Hannity also engaged in this constitutional framing of the theme

during a discussion with Jonathan Turley, a Fox News contributor and law professor at George Washington University, the night *Dobbs* was released. To that end, Hannity said:

There is no enumerated [abortion] right when it comes to the constitution, but our framers and their wisdom anticipated such conflicts and such moments, and, hence, we have the 10th Amendment, and to a certain extent I would argue the 9th amendment, that sends issues like this back to the state, which seems appropriate in this case, which is why I have always felt *Roe* is bad law. (*Hannity*, 06/24/2022, 6:17)

It was during this broadcast that the lone guest not to agree fully with *Dobbs* pushed back. Alan Dershowitz, a Harvard law professor emeritus, said he agreed with the Chief Justice's opinion that judicial restraint required the Court only to rule on the 15-week abortion ban that Mississippi had enacted. Moreover, he said Hannity should agree because of the majority's "judicial activism," explaining:

I do think the Supreme Court should never have had to reach beyond the 15 weeks. That's what was before the Supreme Court, and everybody on this show seems to think that 15 weeks is reasonable. Sen. Rubio thinks 15 weeks. The Europeans think 15 weeks. Why did the Supreme Court have to jump into this and say we're not going to decide the case before us? We're going to ban *Roe v. Wade*, overrule it, and allow states ... to abolish abortion completely. That was judicial activism, overreaching, and Sean, you oppose judicial activism. You should join me and agree with [Chief] Justice Roberts that judicial activism was at play here, and it was unnecessary to go beyond 15 weeks in the Mississippi case. (*Hannity*, 06/24/2022, 6:49-6:50)

In response, Hannity again pointed to the 9th and 10th amendments, and Greg Jarrett, a Fox News

legal analyst, echoed him, saying, “There is nothing in the text or the structure or the meaning of the constitution that gives rise to this right to privacy for an abortion. It is neither explicit nor implicit” (*Hannity*, 06/24/2022, 6:51).

Returning power to the people, through their elected representatives, was another common way to frame the return of the abortion issue to the states. Rep. Johnson used this framing in his appearance on *America’s Newsroom* (06/24/2022) in which he said that *Dobbs* correctly returned the abortion issue to “the political process” and that it would now be decided by “the people through their duly elected representatives” (7:53). Professor Turley said the same thing on the same broadcast: “Legally, this now moves to the states. Most states will, indeed, preserve abortion rights. They’ve already made that clear. Other states are now free to limit it, but this will go to the democratic process” (7:21). Similarly, Ainsley Earhardt, co-host of *Fox & Friends*, read aloud several passages from a *Wall Street Journal* editorial that were displayed on screen (Figure 20), the last of which read, “The cultural victories [that Democrats] achieved by judicial fiat will now have to be won by persuading voters. We understand their frustration, but they ought to try democracy for a change” (*Fox & Friends*, 06/27/2022, 3:09). Gov. Kristi Noem (R-SD), now the secretary of homeland security, also used this framing on *Hannity* (06/27/2022) in a conversation regarding her state and what its officials and voters had decided. Noem said:

[T]he people of South Dakota really appreciate that the Supreme Court did its job here. ... [Y]ears ago they made a wrong decision, and when they put this decision back last week what they did was put this authority at the state level, which is where it should have always been. So we’ll have this conversation in South Dakota. We have a bill that passed back in 2005 that said if *Roe* was ever overturned that it would become illegal in our state to have an abortion unless it was to save the life of the mother. ... I’m sure it’ll continue

to be a debate, but I'm proud of the fact that my state stands for life; they recognize that every single life is precious and that this is something that is very clear that the people will have a debate with. (6:15)

Figure 20



During his opening on that program, Hannity used the same framing and said, “They returned the issue for the states to decide. Your elected officials, so ultimately the American people, will decide—allowing voters to debate, decide the rules and regulations surrounding abortion, in their respective states” (*Hannity*, 06/27/2022, 6:01). An unflattering graphic of Democrat officials was displayed next to Hannity while a ticker at the bottom of the screen read, “Left-Wing Voices Melt Down Over SCOTUS Rulings, Attack Legitimacy of the Court” (Figure 21).

Figure 21



This theme was also framed by reporting that the return of the abortion issue to the states was a direct result of President Trump's efforts. Shortly after the *Dobbs* decision news broke, Bret Baier, host of *Special Report with Bret Baier*, said on *America's Newsroom* (06/24/2022) that "the biggest message [*Dobbs*] sends is that elections have consequences," adding, "The Supreme Court, and putting those justices on the Supreme Court, really changes the fabric of our country" (7:25). Later in the show, Baier noted that Sen. Mitch McConnell's (R-KY) decision to block the confirmation hearings of Judge Merrick Garland "had a massive impact on the ability for President Trump to fill the seats that enabled this vote to happen" (7:32).

Similarly, Professor Turley said on *America's Newsroom* (06/24/2022) that *Dobbs* was "a victory for pro-life [and] for President Trump" (7:21). After a discussion of the decision with Turley, Hannity addressed Trump's role in *Dobbs*, saying, "This ruling should not shock anyone. From the very beginning, Donald Trump vowed to appoint pro-life, constitutionalist judges to the Supreme Court, and that's exactly what he did. Promises made, promises kept" (*Hannity*, 06/24/2022, 6:24). Meanwhile, the bottom ticker read, "Abortion Decisions Go Back to the States As Supreme Court Delivers Landmark Ruling" (6:24). Following Hannity's comments, a clip of Trump (Figure 22) played from a 2016 presidential debate in which he said he wanted the *Dobbs* decision results, i.e., the return of the abortion issue to the states. Trump said:

[I]f we put another two or, perhaps, three justices on, that's really what's going to be happening. ... [T]hat'll happen automatically, in my opinion, because I am putting pro-life justices on the Court. I will say this: It will go back to the states, and the states will then make a determination. (6:24)

Former state Attorney General Pam Bondi (R-FL), now the Attorney General of the United States, advanced this framing by saying to Hannity, "Promises made, promises kept. ... President

Trump did everything. ... And look, what he said has happened thanks to him, putting these great justices on the bench, they're following the law. ... It's going to go back to the states to make the decision" (6:25).

Figure 22



As Bondi spoke, the ticker at the bottom of the screen, on its third unique iteration in two minutes, read, “Today’s Supreme Court Ruling Gives States The Power To Allow, Limit, Or Ban Abortion Altogether.”

What the Court Did Not Say

What the Supreme Court *did not say* was a major theme of Fox News’s *Dobbs* coverage, and it was framed by stressing that the Court’s ruling applied only to abortion. Professor Turley engaged in this framing on *America’s Newsroom* (06/24/2022) during a discussion with co-host Bill Hemmer in which Turley said, “I think it’s very important to point out what’s *not* in the opinion, because people are already taking considerable flight from reality in terms of what the Court has said” (7:35). Turley continued:

The majority says that this is confined to abortion. There’s already statements that critical

cases like *Griswold*, *Obergefell*, things like same-sex marriage, is now at risk. ... The Court directly deals with that, and it ... swats back at the dissent for suggesting that. [It] says that we ‘have stated unequivocally that nothing in this opinion should be understood to cast doubt on precedents that do not concern abortion.’ And then [it] goes on to say that ‘rights regarding contraception and same-sex relationships are inherently different from the right to abortion.’ So the Court puts that very plainly. ... [P]eople who are suggesting this is extending beyond this field are simply ignoring what it has said and is saying in this opinion. (7:35)

Professor Turley attributed these suggestions to “an effort to create a parade of horrors beyond the decision itself” (7:36). Hannity reiterated this framing later on his show (06/24/2022) by saying, “This ruling is about abortion and abortion alone. It’s not about contraception, it’s not about gay rights, it’s not about interracial marriage, as many have been suggesting and lying about” (6:07). Hannity appeared frustrated as he talked, squinting his eyes and pointing toward the camera with his hands moving them up and down (Figure 23). Hannity then read the same passage from the majority opinion that Turley read earlier on *America’s Newsroom* (06/24/2022) regarding the majority’s observation that *Dobbs* applies only to abortion. All the while, the ticker at the bottom of the screen read, “Supreme Court Overturns Roe v. Wade. Returning Abortion Decision to the States” (*Hannity*, 06/24/2022, 6:07). Hannity accused the “media mob” and Democrats of “conveniently ignoring the truth, the facts, the text, in the ruling” (6:08). Hannity played a montage of CNN and MSNBC clips in which hosts and guests suggested (some quite emphatically, both verbally and physically) that other rights were at risk because of *Dobbs* (6:08-6:09).

Figure 23



This theme was framed, too, by emphasizing that *Dobbs* did not outlaw abortion. On *Fox & Friends* (06/27/2022), co-host Steve Doocy told a story about an interaction with his friend Tom at a bagel shop after *Dobbs* was released. Doocy said the first words Tom spoke were: “They didn’t ban abortion! People don’t understand. They did not ban abortion. There is no constitutional right, the Supreme Court said, to an abortion and left it up to the states” (3:04). In his opening, Hannity repeated this framing in a monologue in which he said, “[T]his decision did not outlaw abortion in America” (*Hannity*, 06/27/2022, 6:01). On an earlier edition of *Hannity* (06/24/2022), Rep. Lauren Boebert (R-CO) said, “[L]et’s make this crystal clear as you have been doing tonight on the show to the American people. Today did not outlaw abortion. It returned this issue of what protections the unborn should receive back to the states” (6:53). Hannity pointed to states whose laws would expand abortion rights in the wake of *Dobbs* (6:04) and said, “[S]ome states with the most liberal abortion laws that even allow third trimester abortions, ... they will continue to allow them. [T]his decision does not make abortion in America illegal” (6:04). As Hannity said so, a map titled “States Allowing Late-Term Abortion” appeared on screen (Figure 24), and the ticker below the display read, “Left-Wing Rage On Full Display Following Today’s Abortion Ruling.” Finally, in an appearance on *America’s Newsroom*

(06/24/2022), after saying he and other pro-life supporters wondered if they would ever see such a ruling, Guy Benson, political editor of townhall.com, framed this issue as Hannity did, saying:

A number of people on this broadcast have pointed out that just because *Roe v. Wade* is being overturned ... in *Dobbs*, that does not make abortion illegal across the ... country. We will see a patchwork of abortion laws from state to state, some very permissive, I would say inhumanely so, already on the books, some much more restrictive, if not close to totally restrictive. (7:41)

Figure 24



Safety and Violence

Safety and violence was a significant theme of Fox News’s *Dobbs* coverage, and much of the time it was framed with reference to threats to the justices’ physical safety. In the first few minutes after the *Dobbs* decision was released, Shannon Bream, Fox News’s chief legal analyst, said, “There was worry about these justices. We have somebody now charged with thinking about trying to assassinate Justice Kavanaugh” (America’s Newsroom, 06/24/2022, 7:18). The assassination attempt on Kavanaugh was featured during the opening monologue of *Hannity*

(06/27/2022), and it revolved around *Dobbs*-related threats and violence. Hannity said:

Because now violent left-wing groups are now showing up at their private homes, meaning the justices. One man had a plot to assassinate Justice Kavanaugh. Meanwhile, other left-wing groups are committing huge acts of violence all over the country, all in the name of abortion rights. (6:04)

As Hannity made these statements, a picture featuring a *New York Times* headline about the assassination attempt took up most of the display next to him, while the ticker read, “Pro-Abortion Protestors Turn To Violence” (Figure 25).

Figure 25



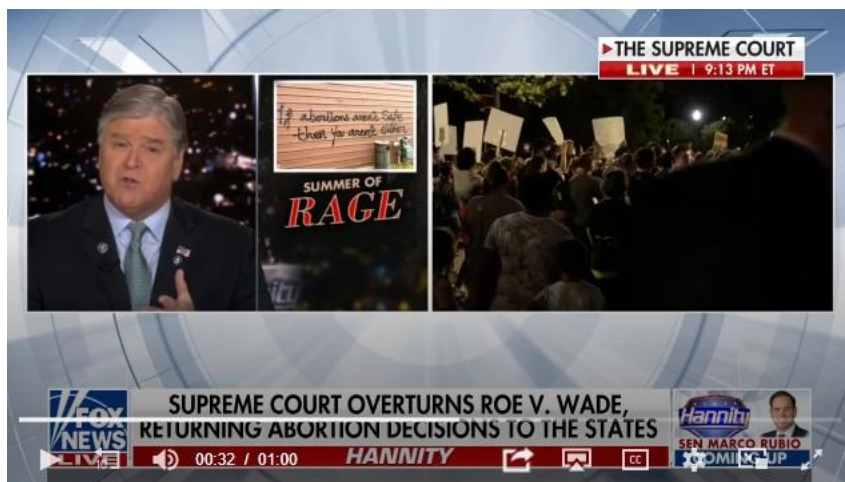
In an earlier edition of *Hannity* (06/24/2022), the host noted the assassination attempt as he listed other threats to the justices. Hannity said “heavily armed guards” remained outside the Court for a reason:

Ever since the majority opinion was leaked, the justices have been targeted with harassment, threats of violence, and, by the way, no condemnation from the Democrats, Joe Biden, his press secretary, other Democrats. [The justices’] addresses have been

published online, protestors showing up at their homes, a man traveling from California to the front door of Justice Kavanaugh in what was ... a plot to assassinate him. (6:13)

On screen with Hannity was a graphic featuring the words “Summer of RAGE,” displayed in red letters and accompanied by a picture of graffiti reading, “If abortions aren’t safe, then you aren’t either” (Figure 26). A live video of assemblers outside the Court was on screen, too, next to the graphic. These images of threats or signs implying violence against the justices were a common occurrence (Figure 27).

Figure 26



Apart from the assassination attempt on Justice Kavanaugh, Andy McCarthy, the lawyer, noted during an appearance on *America's Newsroom* (06/24/2022, 7:27) that there were “security concerns about the justices and their families.” Dana Perino, one of the co-hosts, extended this framing by pointing out that protestors had been in front of several justices’ houses and caused Congress to increase security for the justices and their families. In response, Professor Turley said, “[W]hen people are calling for a ‘day of rage,’ you know reason will be a stranger, and that’s what we’re already seeing. People feel very passionately, but there are some that can take that to violent ends” (7:29).

Figure 27



In addition, this theme was framed in terms of general acts of destruction and violence from radical activists. While commending the justices in the majority in *Dobbs*, Severino said, “[Y]ou can see the violent threats and riots out there” (*America’s Newsroom*, 06/24/2022, 7:33). On *Fox & Friends* (06/27/2022), the hosts inventoried violent actions committed by pro-choice protestors following *Dobbs*—riots, breaking and entering, blocking interstates, and assaults of police officers (Figure 28).

Figure 28



The cause of the violence was frequently attributed to Democrats. For example, in an opening monologue (Figure 29), Hannity played a clip of Chicago Mayor Lori Lightfoot at a rally yelling, “Fuck Clarence Thomas” (*Hannity*, 06/27/2022, 6:03). The video was followed by the display of a tweet from Lightfoot in which she said, “This moment has to be a call to arms” (6:03). Also featured in the monologue, and at numerous times throughout Fox News’s *Dobbs* coverage, were comments made by Sen. Chuck Schumer (D-NY) in March 2020. Hannity linked Schumer’s remarks with coverage from CNN and MSNBC to the violence in the wake of *Dobbs*:

Democrat leader, ... Chucky Schumer, he threatened justices right on the steps of the U.S. Supreme Court, saying, ‘You have released the whirlwind, Gorsuch and Kavanaugh! And you will pay the price! You won’t know what hit you!’ What did that mean, Chuck? Because now violent left-wing groups are now showing up at their private homes. ... One man had a plot to assassinate Justice Kavanaugh, [and] meanwhile other left-wing groups are committing huge acts of violence all over the country, all in the name of abortion rights. Over the weekend in Lynchburg, VA, vandals targeted a pro-life pregnancy center [by] spray painting, ‘If abortion ain’t safe, you ain’t safe.’ Another pregnancy center in Colorado was lit on fire and spray painted with a similar message. In Portland, OR, private businesses all over town were damaged during a violent pro-abortion riot, numerous windows were smashed. ... In Arizona, pro-abortion protestors attempting to storm the state senate building and trapping lawmakers inside. According to one state senator, ‘We are currently there being held hostage inside the senate building due to members of the public trying to breach our security, and we smell tear gas, and the children of one of the members are in the office sobbing with fear.’ Unfortunately, fake news CNN, MSDNC, they love insurrection talk, but apparently not now. They love

covering it only if it advances, what, their political agenda? Democrats, the media mob, only seem to care about democracy when it's politically expedient. Safety, security, they only speak out against when it advances their political cause. (6:03-6:05)

For clarity, the full comments made by Sen. Schumer that were played throughout Fox News's coverage were made in March 2020 on the steps of the Court building, and his exact words were: "I want to tell you, Gorsuch! I want to tell you, Kavanaugh! You have released the whirlwind. And you will pay the price. You won't know what hit you if you go forward with these awful decisions" (*Hannity*, 06/24/2022, 6:21).

Figure 29



CHAPTER 7

ANALYSIS

RQ1) What narrative themes were presented by cable news in their coverage of Dobbs, and how were those themes framed?

MSNBC

Beginning with MSNBC, *Dobbs* was reduced to the themes of the Court's (il)legitimacy, the overturning of a constitutional right with more to follow, and the future of abortion in America. These themes were framed to paint a thoroughly negative picture of the Court and its decision in *Dobbs* (Table 2). There was little nuanced discussion regarding why the Court ruled the way that it did. Instead, discussions with selected sources (Table 3) who were decidedly and vocally opposed to the Court's ruling consistently focused on the perceived harm done by the Court and on accusations of bad faith and practice, leading to a constant and pervasive negative tone throughout the coverage. This tone was often reinforced by visuals of emotionally distressed protestors carrying readable signs critical of the Court and of abortion restrictions.

Consider the sources that were selected to frame MSNBC's coverage. Out of 27 unique sources, only one source across all of MSNBC's coverage offered a positive framing of *Dobbs*, Professor Jennifer Mascott, and she was only on the air for roughly three minutes. Moreover, Mascott's appearance was flanked by a former federal prosecutor, who said women would "have little rights left" (*José Díaz-Balart Reports*, 06/24/2022, 7:35), and the president and CEO of

Planned Parenthood, who accused the Court of telling women they are not equal and have no right to control their bodies (7:39). Aside from MSNBC reporters and hosts, the remaining 19 sources were members of left-of-center news outlets, liberal legal professionals, and pro-choice advocates and doctors. Jim Obergefell, the lead plaintiff in the Court case that found a constitutional right to same-sex marriage, was also a source.

Table 2 **MSNBC Themes and Framing**

<i>Themes</i>	<i>Framing</i>
The Court's (il)legitimacy	A fascist institution – The conservative justices are radicals – Trump's Court – The conservative justices are liars and hypocrites
Overturning a Constitutional Right with More to Follow	Justice Thomas's list – An undue stripping away of rights
The Future of Abortion in America	Trigger laws banning abortion – Two Americas – Draconian law enforcement – Harmful consequences for women's health

For the individual themes, beginning with the Court's (il)legitimacy, MSNBC framed the Court as fascist, autocratic, and radical. This was done by hosts and guests directly or indirectly, calling the Court and its members fascist, autocratic, radical, Orwellian, anti-democratic, and the like. They also framed the Court as an instrument molded and influenced by President Trump, with a special emphasis on the three justices he appointed. Many of the legal sources framed the Trump-appointed justices as having sought to overturn *Roe* their whole careers and as being brought up for that task. Moreover, the conservative justices were framed as liars and hypocrites. Video clips and quotes of the justices, particularly from their Senate confirmation hearings, were displayed and referenced as evidence of their being liars and hypocrites in the context of abortion cases and precedent.

On the theme of overturning a constitutional right with more to follow, it is key to note that the people appearing throughout MSNBC’s coverage not only considered abortion to be a

Table 3 MSNBC Sources

<i>José Díaz-Balart Reports</i> – 6/24	José Díaz-Balart – host; Pete Williams – NBC News correspondent; Ken Dilanian – NBC News correspondent; Neal Katyal - NBC legal analyst and former acting solicitor general; Joyce Vance - former U.S. attorney for the Northern District of Alabama; Dahlia Lithwick - senior editor and legal correspondent for <i>Slate</i> ; Jennifer Mascott - George Mason law professor; Alexis McGill Johnson – president and CEO of Planned Parenthood; Melissa Murray – former law clerk for Justice Sotomayor
<i>The Rachel Maddow Show</i> – 6/24	Rachel Maddow – host; Amy Hagstrom Miller – Whole Woman’s Health founder and CEO; Anna Rupani – Fund Texas Choice co-executive director; Rep. Barbara Lee (D-CA); Dahlia Lithwick - senior editor and legal correspondent for <i>Slate</i>
<i>Morning Joe</i> – 6/27	Joe Scarborough – co-host; Mika Brzezinski – co-host; Harry Litman - former U.S. Attorney and law professor at UCLA; Michael Beschloss – NBC News presidential historian; Mara Gay – NYT editorial board member; State Senator Mallory McMorrow (D-MI)
<i>The Rachel Maddow Show</i> – 6/27	Rachel Maddow – host; Dr. Rebecca Gomperts – Aid Access founder
<i>Morning Joe</i> – 6/28	Joe Scarborough – co-host; Mika Brzezinski – co-host; Willie Geist – co-host; Eugene Robinson – <i>Washington Post</i> associate editor; Katty Kay – BBC News U.S. special correspondent; Laurence Tribe – Harvard law professor; Jaime Harrison – DNC Chairman
<i>José Díaz-Balart Reports</i> – 6/28	José Díaz-Balart – host; Pete Williams – NBC News correspondent; Dr. Kavita Patel - NBC News medical contributor and health policy director in the Obama administration; Jim Obergefell – lead plaintiff in <i>Obergefell v. Hodges</i>

constitutional right (regardless of what the Court ruled), but they also talked about overruling related rights as an inevitability. The cases cited in Justice Thomas’s concurring opinion were at the core of this framing, especially around contraception, same-sex marriage, and consensual sexual acts among adults. Graphics listing these rights or featuring a respective passage from Thomas’s opinion were frequently displayed during discussions of this theme, and tickers (such as “Justice Thomas: Supreme Court ‘Should Reconsider’ Rulings on Contraception Access & Marriage Equality”) were often used. The context and legal reasoning of these cases were not

discussed in any meaningful way, and neither were the context and reasoning included in the majority opinion. Thomas's opinion was framed to indicate that he simply disliked those rights, and the majority opinion was framed in basically the same way.

Regarding the theme of the future of abortion in America, MSNBC framed it to portray an America where abortion was largely scarce and illegal. The coverage focused on states with trigger laws restricting or banning abortion, as opposed to states that would maintain or expand abortion access. Several graphics were used across the coverage to highlight the states where access would be restricted or banned, but no graphics were used to highlight the states that would maintain or expand access. Frequently, the future of abortion was framed by vivid hypotheticals involving the enforcement of anti-abortion laws. A host or guest would ask the audience to imagine a police officer entering a hospital room to investigate whether a patient had a natural miscarriage, with the nature of the investigation left to the imagination. Other hypotheticals involved a nurse or doctor or other medical professional who would report a patient to the police on the belief that a miscarriage was not natural. Finally, the future of abortion was framed as significantly negative for women and women's health. Reports and commentaries stated or implied that women, especially those in their teens, would be raped and required to give birth to a rapist's child, that the same would result from incest, or that women would die or have severe health consequences as a result of not having abortion access.

CNN

CNN's *Dobbs* coverage reduced the Court's decision to three themes: the Court's (il)legitimacy, the future of abortion in America, and overturning a constitutional right and the risk to others. CNN's framing (Table 4) was mostly unfavorable to *Dobbs*, but the coverage's tone was not universally negative. There were occasions when hosts and guests acknowledged

that good people, with good reasons, would respond differently to the decision. However, details of the legal reasoning in *Dobbs* were not discussed.

Table 4 CNN Themes and Framing

<i>Themes</i>	<i>Framing</i>
The Court's (il)Legitimacy	Public (dis)approval – Results oriented ruling – Trump's justices – Disrespecting precedent
The Future of Abortion in America	Trigger laws and access expansion laws – Corporate abortion aid – Effects on poor women and minorities – Rape and incest
Overturing a Constitutional Right and the Risk to Others	Positive and negative public reactions – Substantive due process rights at risk

CNN's sources (Table 5) mostly disfavored, strongly, the *Dobbs* decision. This included liberal legal experts, such as Joan Biskupic and Professor Jennifer Rodgers; Democratic political figures, such as Stacey Abrams and Van Jones; and pro-life activists and medical professionals, such as the chief medical officer of Planned Parenthood, Hudson Peconic, and the president and CEO of the Center for Reproductive Rights. Also notable were a *New York Times* reporter, the chief diversity officer at Yelp, and a Ph.D. student who had an abortion. However, there were two sources who favored *Dobbs*: Lila Rose, a pro-life activist and founder of the group Live Action, and Carrie Sheffield, a fellow at the conservative Steamboat Institute. The former was on air for less than 30 seconds, but the latter was on air often and in panel discussions across *CNN Tonight*. That said, to be clear, Rose and Sheffield were far outnumbered by sources who framed *Dobbs* negatively, and even though Sheffield appeared in many panels, she was always with at least two other sources who were highly critical of *Dobbs*.

Table 5 CNN Sources

<i>CNN Newsroom with Poppy Harlow and Jim Sciutto – 6/24</i>	Poppy Harlow – co-host; Jim Sciutto – co-host; Jessica Schneider – CNN justice correspondent; Joan Biskupic – CNN legal analyst and Supreme Court biographer; Jeffrey Toobin – CNN chief legal analyst; Jennifer Rodgers – former federal prosecutor and NYU law professor; Kaitlan Collins – CNN Chief White House correspondent; Abby Phillip – CNN’s <i>Inside Politics Sunday</i> anchor; Tom Foreman – CNN correspondent
<i>CNN Tonight – 6/24</i>	Sara Sidner – host; Nancy Northup – president and CEO of the Center for Reproductive Rights; Stacey Abrams – Georgia gubernatorial candidate (D); Jennifer Rodgers – former federal prosecutor and NYU law professor; Abby Finkenauer – former U.S. Representative (D-IA); Carrie Sheffield – Steamboat Institute fellow
<i>New Day with John Berman and Brianna Keilar– 6/27</i>	John Berman – co-host; Brianna Keilar – co-host; Josh Campbell – CNN correspondent; Allana Edmonson – Yale Ph.D. student who had an abortion; Asha Banerjee – Economic Policy Institute analyst; Miriam Warren – Yelp chief diversity officer; Vanessa Yurkevich – CNN business and politics correspondent; Rahel Solomon – CNN business correspondent; Andrea Gallegos – executive administrator of Tulsa Women’s Clinic and Alamo Women’s Reproductive Services; Joan Biskupic – CNN legal analyst and Supreme Court biographer; Kate Zernike – NYT national reporter
<i>CNN Tonight – 6/27</i>	Sara Sidner – host; Andrea Gallegos – executive administrator of Tulsa Women’s Clinic and Alamo Women’s Reproductive Services; Dr. Meera Shah – chief medical officer of Planned Parenthood Hudson Peconic; Lila Rose – founder and president of Live Action; Jennifer Rodgers – former federal prosecutor and NYU law professor; Carrie Sheffield – Steamboat Institute fellow; Van Jones – former Obama Administration official
<i>New Day with John Berman and Brianna Keilar– 6/28</i>	John Berman – co-host; Brianna Keilar – co-host; Christine Romans – CNN’s <i>Early Start</i> anchor
<i>CNN Newsroom with Poppy Harlow and Jim Sciutto – 6/28</i>	Poppy Harlow – co-host; Jim Sciutto – co-host; Erica Hill – CNN anchor and national correspondent; Elisa Wells – co-founder and co-director of Plan C

With respect to the theme of the Court’s (il)legitimacy, public (dis)approval numbers were front and center. The polls and surveys shown all presented a public highly disapproving of the *Dobbs* decision and Court. While several hosts and sources pointed out that many Americans were pleased with the Court and its decisions, no infographics or data were presented to support that position, and it was typically presented as an afterthought. Moreover, CNN primarily relied on polling that asked if people favored retaining *Roe*, a position that did have significant support. What was not shown was the response when asked how they felt about abortion restrictions after

15 weeks of pregnancy (i.e., the issue in *Dobbs*). Moreover, although CNN aired some images of people celebrating *Dobbs*, mostly from the Court plaza, the vast majority of the images showed people nationwide protesting the Court and its ruling.

The Court's (il)legitimacy was also framed by accusing the justices in the majority of being results-oriented, meaning that they did not care about law or principle—that they simply wanted to do away with abortion. Professor Rodgers put this bluntly by saying *Dobbs* was “a results-driven, ideological decision, and that’s how they got to where they are” (*CNN Tonight*, 06/27/2022, 6:35). This theme’s framing focused, too, on “Trump justices.” This involved presenting the Trump-appointed justices as *the other*, as different from even those appointed by other Republican presidents. In this regard, Justice Barrett received special attention, with some saying that the *Dobbs* decision was entirely her doing. Trump-appointed justices were presented with little, if any, regard for the proper role of precedent in judicial decision-making. Aside from a brief reference to it by Sheffield, no one on CNN discussed how the majority engaged with any precedents in its opinion.

Another major theme was the future of Abortion in America. CNN framed it by focusing on the abortion laws that would take effect post-*Dobbs*. Importantly, the hosts and guests often mentioned that these laws would be both restrictive and expansive. While infographics depicted states where abortion would be outlawed or restricted, there were infographics depicting states where abortion access would be expanded. Notably, hosts and guests also posed questions about the criminalization of abortion, but they did not explore the idea of abortion restrictions after 15 weeks of pregnancy (i.e., again, the issue in *Dobbs*). Hosts and guests commented on corporate actions to support employees seeking abortion access if they lived and worked in a state where it would be restricted, all while displaying the relevant company logos on screen. No company was

featured that favored the ruling, though it was acknowledged that some were not speaking out publicly because they did not want to upset their customer bases.

Some of the framing emphasized what would happen to poor and minority women as a result of *Dobbs*. Hosts and guests pointed to out-of-state travel costs, maternal-mortality rates across demographics, and general access to healthcare. This coverage often included a link to framing regarding women who became pregnant because of rape or incest. Hosts and guests discussed such detailed and hypothetical scenarios while imploring the audience to consider the consequences if a friend or family member was the victim. The number of women who become pregnant through rape and incest was portrayed as large, but no specifics were provided (these statements typically referred to “millions of families” or “women across this country”).

Finally, the theme of overturning a constitutional right and the risk to other rights. This was framed through the juxtaposition of public protests and celebrations at the Court, with the former receiving considerably more attention in words and visuals. When celebrations were shown, they were accompanied by visuals of protests, but protests were frequently shown by themselves. Accounts of the celebrations generally were given in passing by hosts and guests who often expressed their personal dismay with the decision, referring to *Dobbs* as a “betrayal,” and “heartbreaking.” In addition to the focus on abortion rights, this theme was framed by exploring the risks to other substantive due process rights—same-sex marriage, contraception, and consensual sexual activity—previously recognized by the Court under the right to privacy. Invalidating these rights because of *Dobbs* was not framed as inevitable, but those rights were framed as at-risk because of the “empty promises” in *Dobbs* that they were not affected by the *Dobbs* majority opinion.

Fox News

Fox News reduced *Dobbs* to the themes of returning the abortion issue to the states, what the Court *did not* say, and safety and violence (Table 6). The coverage's tone very much favored the ruling, and it was negative toward those protesting it, both peaceably and non-peaceably. Hosts and guests spoke positively of *Dobbs*, except for one who would have rather seen Chief Justice Roberts's opinion be that of the majority. Although the hosts and guests expressed their great pleasure with the ruling, there was little substantive discussion of the Court's reasoning.

Table 6 Fox News Themes and Framing

<i>Themes</i>	<i>Framing</i>
Returning the Abortion Decision to the States	What the constitution dictates – the people and democracy – The efforts of President Trump
What the Court Did Not Say	The ruling only applies to abortion – <i>Dobbs</i> did not outlaw abortion
Safety and Violence	Threats to Justice's physical safety – Acts of destruction and violence

Fox News's sources (Table 7) were mostly conservative legal professionals, such as Professor Jonathan Turley and former Assistant U.S. Attorney Andy McCarthy; political commentators and Fox News hosts, such as Guy Benson and Bret Baier; and Republican politicians, such as Gov. Kristi Noem (R-SD) and Rep. Mike Johnson (R-LA). Also noteworthy was Alan Dershowitz, a Harvard Law professor emeritus and member of President Trump's defense team for his first impeachment trial. With the exception of Dershowitz, every Fox News source was overtly in favor of *Dobbs*, and most of them directly and repeatedly said as much.

Table 7 Fox News Sources

<i>America's Newsroom</i> – 6/24	Dana Perino – co-host; Bill Hemmer – co-host; Shannon Bream – Chief legal correspondent; Andy McCarthy – Former Assistant U.S. Attorney; Jonathan Turley – Constitutional law professor at George Washington University & Fox News
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	Contributor; Bret Baier – Anchor of <i>Special Report with Bret Bair</i> ; Carrie Severino – Judicial Crisis Network president; Guy Benson – Townhall.com political editor; Rep. Mike Johnson (R-LA)
<i>Hannity</i> – 6/24	Sean Hannity - host; Kevin Corke – Fox News reporter; Mike Tobin – Fox News reporter; Larence Jones – host of Fox News’s <i>Lawrence Jones Cross Country</i> ; Jonathan Turley - Constitutional law professor at George Washington University & Fox News Contributor; Pam Bondi – Former Florida AG (R); Tammy Bruce – Fox News contributor; Kayleigh McEnany – co-host of <i>Outnumbered</i> and former WH Press Secretary; Steven Miller – America First Legal founder; Kellyanne Conway – Former Senior Counselor to President Trump; Shelby Talcott – Senior WH Correspondent, Daily Caller; Sen. Marco Rubio (R-FL) ; Alan Dershowitz – Harvard Law professor emeritus; Gregg Jarrett – Fox News legal analyst; Rep. Lauren Boebert (R-CO) ; Rep. Ronny Jackson, M.D. (R-TX)
<i>Fox & Friends</i> – 6/27	Ainsley Earhardt – co-host; Steve Doocy – co-host; Brian Kilmeade – co-host; Jose Castillo – Walt Disney World employee
<i>Hannity</i> – 6/27	Sean Hannity – host; Kayleigh McEnany – co-host of <i>Outnumbered</i> and former WH Press Secretary; Clay Travis – Outkick founder; Kristi Noem – Governor (R-SD)
<i>Fox & Friends</i> - 6/28	Ainsley Earhardt – co-host; Steve Doocy – co-host; Brian Kilmeade – co-host
<i>Hannity</i> – 6/28	Sean Hannity - host

The theme of returning the abortion decision to the states was framed as a simple matter: It is what the constitution requires. Hosts and guests pointed to the fact that abortion is not mentioned in the constitution, and the 10th Amendment grants states power over unenumerated rights not found in the constitution. Dershowitz was the one source to counter this framing, arguing that it was not the issue presented to the Court. Notably, his pushback was flanked by Hannity and Jarrett, the hosts, arguing that Dershowitz was wrong. Returning power to the people and to democracy was another framing of this theme. Hosts and guests frequently said *Roe* and *Casey* had frustrated the people’s ability to vote on a matter of great importance, and returning the issue to elected representatives was inherently democratic. They often observed that states can expand abortion access, not just restrict it, and that *Dobbs* was a significant victory for the president, who had advocated to return the issue of abortion to the states and had promised to nominate justices who would “apply the constitution” accordingly.

Then there was the theme of what the Court *did not* say. Hosts and guests underscored that the majority opinion applies only to abortion and not to other issues or rights. Clips from MSNBC and CNN were often played featuring hosts and guests on those networks saying that the Court had imperiled other rights, and they were portrayed as fear-mongering and misleading. This theme was also framed by emphasizing that the Court did not outlaw abortion but, instead, returned to the states the ability to decide whether to restrict abortion. Here, again, clips from MSNBC and CNN were shown to depict as disingenuous other news figures and outlets.

Last, safety and violence emerged as a major theme of Fox News's coverage, and its framing largely revolved around threats of violence made toward the conservative justices. Chief among those threats was the attempted assassination of Justice Kavanaugh. It was discussed in nearly every conversation regarding safety of the justices, and headlines from other news outlets, such as the *New York Times*, were featured alongside pictures of graffitied threats to the Court, to pregnancy centers, and to churches. Similarly, hosts and guests brought attention to other threats and acts of violence in response to *Dobbs* that did not target the Court or its members, including generalized calls for "rage" and "unrest" from groups like Jane's Revenge, along with vandalism and arson toward establishments considered to be pro-life.

RQ2) Where did the cable news outlets' narratives and framing converge and contrast?

At a high level, MSNBC and CNN were critical of the *Dobbs* decision, whereas Fox News celebrated it. MSNBC and CNN both framed the Court and its decision in a negative light by saying that the Court and its conservative members are fascist or results-oriented, that the Court is an instrument of President Trump, and that other rights are under threat. Meanwhile, Fox News applauded *Dobbs* and the Court for what its hosts and guests characterized as a restoration

of constitutional order and as granting power to the people, all while fixing a spotlight on real or threatened violence in response to *Dobbs* and allegedly committed by “the other side.”

Though MSNBC and CNN both employed an overall negative tone in their *Dobbs* coverage, and they adopted highly similar themes, their framing was distinct in several ways. To begin, the theme of the Court’s (il)legitimacy was central to CNN’s and MSNBC’s coverage, but MSNBC’s framing was far harsher. For example, consider Brzezinski’s repeatedly saying that the Court and the conservative justices were fascists and that calling them extreme would not suffice because it “understates the danger” they pose to “American freedom” and “our democracy” (*Morning Joe*, 06/27/22, 3:06-3:08). She also said the Democratic Party was “the world’s last best hope” against fascism (3:06). This framing was far more negative than that of CNN, where no host ever made a declarative statement about whether the Court was legitimate or illegitimate, and they did not explicitly declare the justices to be fascists or autocratic.

In the context of the future of abortion in America, CNN and MSNBC framed the theme by reporting on trigger laws across the states, but only CNN discussed the fact that many of the laws would expand abortion access, whereas MSNBC exclusively covered laws that would restrict abortion. Both networks framed the future of abortion as decidedly negative for women, but CNN focused on the impact to poor and minority women, and MSNBC focused on extreme cases of death and physical harm to women trying to get abortions in the face of restrictions. Meanwhile, each network cited pregnancies resulting from rape and incest with an inclination toward making such cases seem abundant.

CNN and MSNBC also had two similar themes regarding the overruling of a constitutional right to abortion and what would happen to related rights. There was a subtle difference here, as the theme for CNN was overturning a right and the risk to others, while

MSNBC's was overturning a right with more to follow. Indeed, MSNBC depicted a Court whose goal was to overturn other rights related to abortion—and soon. CNN, however, presented that risk as real but not imminent. Both networks cited Justice Thomas's commentary on due process rights (found in his concurring opinion) and the majority's assurances that *Dobbs* affected only abortion. MSNBC framed Thomas's commentary as if it spoke for the majority and as if the majority was openly lying in observing that only abortion was affected. CNN framed Thomas's commentary concerning and the majority's assurance as an empty promise rather than a lie. In short, MSNBC reported an immediate danger that the Court would take away more rights, and CNN reported that it was possible in the future.

Continuing with MSNBC and CNN, their sources were similar. Both relied on liberal legal scholars and practitioners, such as Harry Litman and Laurence Tribe for MSNBC and Jennifer Rodgers and Joan Biskupic for CNN. The networks relied on pro-choice activists and medical professionals, too, and had it not been for Sheffield and Rose on CNN, along with MSNBC's brief use of Macott, these sources would have been exclusively liberal and pro-choice. However, both networks did exclusively use Democrat politicians as sources. Neither CNN nor MSNBC ever brought on a Republican politician during their *Dobbs* coverage. Both networks featured sources from left-leaning news outlets, but the main difference was that MSNBC used the sources more often and more prominently than CNN did.

Fox News stood in stark contrast. Its sources unanimously favored *Dobbs*, except Dershowitz, and apart from Dershowitz all legal sources were highly conservative, such as Turley and McCarthy. Similarly, the sources from other news outlets came from exclusively conservative organizations, such as Benson of townhall.com and Talcott of *The Daily Caller*. Notably, Fox News never used pro-life activists or medical professionals, unless one counts Rep.

Ronny Jackson (R-TX), who is also a medical doctor. Many of the political commentators and Fox News personnel, such as Steven Miller and Kayliegh McEnany, openly expressed their pro-life sentiments.

With respect to themes and framing, it is difficult to imagine how Fox News's *Dobbs* coverage could have been more different from that of CNN and MSNBC. While MSNBC depicted the Court as fascist, Fox News depicted the Court as properly returning power to the people. CNN framed the justices in the majority as results-oriented, but Fox News said they were abiding by the constitution. Fox News often used its ticker to reinforce its verbal framing, such as "Abortion Decisions Go Back To The States As Supreme Court Delivers Landmark Ruling" (*Hannity*, 06/24/2022, 6:24). This differed from CNN and MSNBC, which more often ran simple tickers like "Supreme Court Overturns Roe v. Wade" (*Morning Joe*, 06/27/2022, 3:06; *CNN Tonight*, 06/24/2022, 6:01). In visual framing, Fox News showed images of people celebrating the *Dobbs* decision as well as acts of violence and vandalism by protesters. This was markedly different from CNN, which showed protesters, though never breaking the law, along with the occasional visual of people celebrating the ruling. In an even starker contrast, MSNBC showed protesters overcome with negative emotions (e.g., screaming and crying).

All of that said, there was one framing element similar between Fox News and MSNBC. Fox News hosts, like their MSNBC counterparts, made declarative statements about the Court's legitimacy and that of *Dobbs*. They did so, of course, expressing very different viewpoints, with *Hannity* saying, for example, that the decision "returns abortion law back to the states where it belongs" (*Hannity*, 06/24/2022, 6:04). The only real convergence among all three networks was that none featured in-depth, substantive discussions about why exactly the Court ruled as it did and why the dissenting justices did what they did. Across all three networks, discussions of the

Court's reasoning were superficial. Hosts and guests made references to national history and tradition as a basis of the majority's reasoning, but there was no nuanced discussion about what that history and tradition was. Similarly, it was often noted that the dissenting justices disagreed strongly with the majority, but there was little to no substantive discussion of the legal reasons for the disagreement. Instead, the final words of the dissenting opinion came to be the crutch that the outlets relied on to explain the dissent: "With sorrow—for this Court, but more, for the many millions of American women who have today lost a fundamental constitutional protection—we dissent" (*Dobbs*, 2022, p. 81).

RQ3) Where did the cable news narratives and framing converge and contrast with the official opinions in the *Dobbs* decision?

Fox News's framing converged with certain components of the majority opinion and Kavanaugh's concurring opinion—e.g., constitutional neutrality on abortion, the role of *stare decisis*, whether the abortion issue should reside in the courts or in legislatures, and whether *Dobbs* concerns only abortion. However, the bulk of the majority's reasoning (e.g., legal history pre/post-1868 and the due process clause of the 14th Amendment) was not addressed. And Fox News largely left the dissent unaddressed. Rather than explicating its merits, words and images about protestors were the focus of the anti-*Dobbs* coverage.

As discussed earlier, Justice Thomas wrote a concurring opinion, and Chief Justice Roberts wrote an opinion concurring only in the judgement. Notably, here, neither played a meaningful role in Fox News's coverage. In fact, Thomas's opinion was not addressed at all (the only mentions of Thomas involved protestors who released his home address and the Chicago mayor who cursed his name during a rally). Meanwhile, when Roberts's opinion was covered, his insistence on addressing only the 15-week ban was dismissed as unwisely ignoring the larger

constitutional question. Here, again, little to no attention was given to the legal reasoning (e.g., judicial restraint and *stare decisis*).

Interestingly, MSNBC and CNN largely ignored the dissent, too. They scarcely discussed the specifics of *stare decisis* or why the majority's historical analysis was erroneous. Instead, where the framing concerned the dissent, MSNBC and CNN focused on accusations made by dissenting justices (e.g., nothing changed but the Court's members, and the majority was disingenuous) that were rarely, if ever, attributed to the dissenting opinion or even the dissenting justices. There were, though, two parts of the dissent that did receive attention from MSNBC and CNN, and they both concerned *Roe* and *Casey*. The first was the observation that *Roe* and *Casey* were connected to other cases that established various civil rights (e.g., same-sex marriage and interracial marriage). The second was that *Roe* and *Casey* considered a woman's equality and freedom as part of the constitutional analysis in relation to abortion. Even so, these parts of the dissent were rarely attributed to the dissenting justices.

Covering the majority opinion, MSNBC and CNN focused on the outcome, centering their coverage around perceived harms of the decision, as well as public animosity toward the Court and the conservative justices. There was sustained coverage of the concurring opinions of Thomas and Kavanaugh, but, like the dissenting opinion, it was not their legal reasoning that was explicated. Thomas's opinion was used to inventory the other rights that the Court wanted to target, and Kavanaugh's opinion was characterized as wishful thinking in its proposition that abortion would now be decided by the democratic process and that would be the end of the matter. As for the Chief Justice's opinion concurring only in the judgement, both CNN and MSNBC gave it scant coverage. It was chalked up to a failed attempt at containing the other

conservative justices to protect the institutional legitimacy of the Court, legitimacy which both CNN and MSNBC called into question or denied.

CHAPTER 8

CONCLUSION

This study set out to observe and understand cable news’s framing of the Court by examining coverage of the *Dobbs* decision by CNN, Fox News, and MSNBC. The findings of the rhetorical analysis both reinforced and furthered what is known about cable news framing generally and of the Court specifically, and they leave open several compelling opportunities for future research.

Consistent with previous literature on cable news and its partisan tendencies, this study found that CNN and MSNBC used consistently negative framing across broadcasts covering a decision made by conservative government officials. Likewise, Fox News used consistently positive framing of the same conservative officials and consistently negative framing when covering those with opposing views. What is new here is that these officials were not partisan officials in the overtly political legislative or executive branches—they were justices of the U.S. Supreme Court.

This is significant because the news media frame issues, in part, out of necessity. In the modern media world in which information is voluminous and constant, news outlets cannot fit every detail or perspective of a news item into their limited space or airtime. Choices must be made, and because of these choices, news framing “encourage[s] those perceiving and thinking about events to develop particular understandings of them” (Entman, 1991, p. 7). The stories

present narratives, and through the verbal and the visual, news framing “work[s] to make some ideas more salient in the text, others less so, and others entirely invisible” (Entman, 1991, p. 7).

Consider the critical news element of sourcing. Across the CNN and MSNBC coverage used in this study, only 3 out of 53 spoke favorably of *Dobbs*. The remaining 50 sources ranged from calling the Court and its conservative members fascists to being, at a minimum, skeptical of the ruling. On the other hand, Fox News’s coverage was the opposite, with 28 out of 29 sources speaking favorably of *Dobbs*, and the only one not speaking favorably still agreed substantially with it.

Similar dynamics are evident in the visual framing. Recall, for example, the images of the public prominently displayed by the three networks. Though CNN did occasionally show images of people celebrating the decision, both MSNBC and CNN made peaceful protestors the core of their visual representations of the public response to *Dobbs*. In contrast, Fox News’s coverage featured members of the public celebrating the decision as well as violent demonstrators and the results of criminal actions. MSNBC also showed infographics of states where abortion access would be banned or restricted, CNN showed infographics of states where abortion access would be banned or restricted and where access would expand, and Fox News showed infographics of the states where late-term abortions would be allowed.

The visual framing roughly matched that of the verbal. MSNBC hosts and guests referred to the Court and its ruling in *Dobbs* as fascist, autocratic, Orwellian, devastating, and draconian. This coverage represented *Dobbs* as little more than the act of an illegitimate Court composed of liars and hypocrites keen on striking down more constitutional rights, against the background of a surprisingly large number of children to be born from rape and incest. To be sure, CNN’s coverage was appreciably different, though it still exhibited a highly negative disposition toward

Dobbs and the Court. CNN hosts did not directly share their personal views of *Dobbs* (they left that to the guests), and throughout CNN's coverage the guests criticized an unpopular Court that was results-oriented and made up of Trump justices who disregard precedent and put the health and lives of women at risk.

Far from CNN and MSNBC was Fox News. Hosts and guests presented a Court that followed the constitution and rightfully returned power to the people where it belongs in a democratic society. Moreover, the ruling was presented as the just result of the efforts of President Trump, who promised to return the abortion issue to the states by appointing justices who have the same view. Fox News framed a ruling that did not itself restrict abortion and only affected abortion, and most of those expressing their displeasure with the ruling were radicals who made threats of violence, assaulted police, committed arson, and partook in vandalism.

This is all significant because cable news, as noted earlier, is an inherently dramatic setting with anchors, commentators, and sources participating in live discussion, and in general people gain 40 percent of their knowledge in human conversation through facial expressions and body language (Coleman, 2010). Cable news affords viewers an added layer of knowledge that news in the purely textual form does not, and it amplifies all levels of persuasion (i.e., logos, ethos, pathos). This advances the idea that journalism, including cable news coverage of the Supreme Court, is a rhetorical practice and thus a persuasive one that "forms attitudes or induces action" (Burke, 2018, p. 169).

Contradicting some previous research, the notable lack of discussion of the Court's reasoning, across the networks, makes it difficult to conclude that cable news outlets deferred to the Court's judgment. Instead, what was observed was a reaction to the outcome of the ruling and whether it favored a news outlet's partisan orientation. Further, to say cable news' coverage of

the *Dobbs* ruling was game-framed would be a significant understatement. For CNN and MSNBC, the ruling was not simply unprincipled; it was cruel, fatal, and the product of a dangerously flawed institution. For Fox News, *Dobbs* was not only principled but also common sense, morally outstanding, and handed down by justices who strictly adhere to the constitution.

The findings of this study show that the top three cable news outlets presented two distinct and opposing realities in their *Dobbs* coverage, little of which was predicated on what the Court actually said. CNN and MSNBC presented a reality in which a partisan and harmful decision was made by a Court that is dangerous at worst and unprincipled at best. Fox News presented a reality in which authority and power were properly restored to the voter by an upstanding Court unafraid to perform its duties. Given the wide reach of these news outlets and the modern partisan climate in America, this coverage would have contributed meaningfully to the American public's view of the Court, its legitimacy, and its proper function within American government and society.

This is consistent with the idea that news stories, just like any other rhetorical text, are created with interpretations of facts (Burke, 2018), and the interpretations in news stories are intentional selections from a range of possible interpretations (Burke, 2018; Kuypers, 2021) and that personal and institutional philosophy can play a direct role in the selection of interpretations (Burke, 2018), emerging from the “capacity of language ... to encourage us to understand the world in some ways, while filtering ... other interpretations out” (p. 150).

Limitations and Future Research

There are several limitations to this research. The first is the nature of the subject matter. Television news is highly dynamic, and there are myriad framing factors occurring all at once on

screen, ranging from sources, visuals, tickers, mannerisms, facial expressions, voice tones and inflections, and the spoken words themselves. To capture and convey all of these factors and the nuances among them for just one program, let alone multiple programs across several networks, is difficult. While this study made it a point to do so in a thorough and thoughtful manner, it can be improved upon, and studies like this one can be used as a foundation and launching point for research seeking to observe one or two of these framing factors in depth. In other words, future research can start from here and progressively narrow the focus to find even more nuance and understanding related to cable news coverage of the Court.

Further, this study examined only cable news coverage of *Dobbs*. The nature of the case is controversial, dramatic, and highly consequential. It is possible that more mundane or typical cases would not receive the same highly partisan coverage from the three outlets observed here. This is not to say that *Dobbs* is an extreme outlier but rather that there are cases which inherently possess clear dramatic and partisan angles—and cases that do not. *Dobbs* is solidly within the first camp. Future research could seek to examine cable news coverage of Court cases that are more typical to learn whether the framing patterns documented here are still present.

There are also limitations in the methods of this study. As discussed, rhetorical framing analysis is a qualitative method of the critical variety, and thus the researcher's subjectivity is an issue more than it might be with other methods. The study's findings are robust and backed by voluminous examples from the news coverage observed, but another researcher might have focused on different parts of the coverage and come to other conclusions, depending on their own subjectivity, theoretical approach, or understandings.

Last, this study provides a template that can be used going forward to observe not just cable news coverage of the Court but of other broadcast news, print news, online news, podcast

and radio news, and more. This study was able to go beyond the mere counting of this or that framing device, theme, or overall tone. It showed *how* these elements came together to construct the top three cable news networks' Court coverage in *Dobbs*. That is the reason this study used a dramaturgical perspective of framing theory to bring into focus the details of how cable news outlets present themes, connect them with others, and frame them in live action. In other words, where research from a typical news framing theoretical standpoint would observe the suggested "particular problem definition[s], causal interpretation[s], moral evaluation[s], and/or treatment recommendation[s]" found within news stories (Entman, 1993), the dramaturgical perspective used here granted the opportunity to observe *how* those suggestions are presented to audiences and how they create a contextual whole.

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