# @SCOTUS: Public Sentiment, Twitter, and Media Coverage of the US Supreme Court

by

Jake S. Truscott

(Under the Direction of Richard L. Vining, Jr.)

Abstract

This dissertation explores how media outlets and average Americans employ social media platforms like Twitter to instigate public discourse in response to decision-making by the United States Supreme Court. Leveraging data mining, machine learning, and ideal point estimation techniques, my research provides novel contributions toward discerning the theoretical motivations underpinning strategic media framing behaviors and the capacity for the public to engage in discourse online. I find that social media facilitates ideologically driven behaviors as a reflection of predisposed beliefs, perceptions of trends in the justices' decision-making, and strategic media behaviors.

Index words: United States Supreme Court, Social Media, Public Opinion, Mass Media.

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# Dedication

For Papa and Cookie.

# Acknowledgments

When I first left home to start college in 2015, my dad, being the ever-faithful Pittsburgh Steelers fan he is, left me with some fatherly advice he'd borrowed from Jerome Bettis. Bettis, who'd been inducted into the Pro Football Hall of Fame only weeks earlier, recounted the day he himself left for college by noting that his father left him in South Bend, Indiana with a simple request:

*Son, I'm sending you off to school. I don't have much to give you, but I have a good name…so don't mess it up*.

My father, an everlasting source of stoic wisdom, left me in Reno with the same request. It's a pretty good name – and now I can put *Doctor* before it.

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# Chapter 1

# Introduction

On June 24, 2022, the Supreme Court issued its long-awaited decision in *Dobbs v. Jackson Women's Health Clinic*. This decision, which was expected after an unprecedented leak the month prior (Gerstein and Ward 2022), ended federal guarantees for female reproductive rights awarded by the Court's landmark decision in *Roe v. Wade* (1973). As one might expect, the immediate public response was substantial and divided, both domestically and globally. But while the nation came to grips with the Court's contentious decision, and both pro-life and pro-choice activists flooded the streets of every major American city, the first and perhaps most extensive source of political discourse emerged on social media. Within only a few minutes of the decision's release, countless media outlets, pundits, politicians, activists, and average Americans relayed their celebration or disdain in posts to social media platforms like Twitter. In the succeeding ninety minutes alone, nearly 1.5 million Twitter posts were made concerning the decision (Figure 1.1). At 1:05 pm, President Joe Biden spoke to the nation through the administration's multiple social media accounts, providing his perspective that, "Today is a very solemn moment for the United States. The Supreme Court expressly took away a Constitutional right from the American people that it had already recognized. They simply took it away. That's never been done to a right that is so important to so many Americans." The president's decision to microblog his irritation with the decision represents a behavior that is not exclusive to major actors. Instead, it illustrates an emerging trend among Americans to employ social media as a tool for political speech, and especially for commenting on decision-making by elite institutions like the Supreme Court.

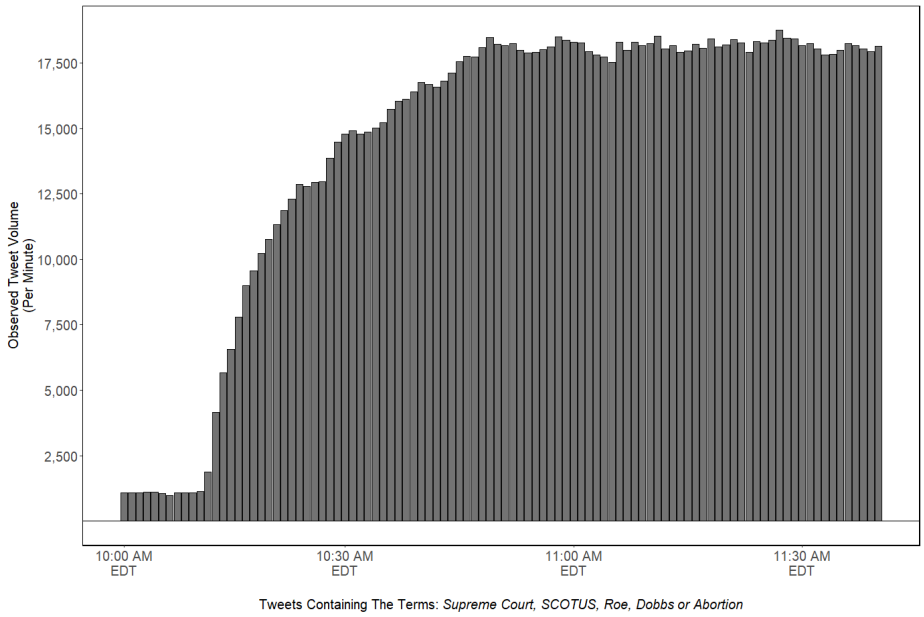



Figure 1.1: Distribution of Tweets Re: *Dobbs v. Jackson* (2022) Within 90 Minutes of Opinion Release

The Framers believed that the Court's lack of political power meant that it would "always be the least dangerous to the political rights of the Constitution" (Federalist 78). Yet, the political power of the Supreme Court has grown considerably since the founding period. Social scientists and historians contend that this growth can be attributed in large part to the public's belief in the political legitimacy of the judiciary (Baird and Gangl 2006; Jaros and Roper 1980). In essence, because the Court does not retain the constitutional power to enforce its own decisions, its ability to compel cooperation from the other branches ultimately lies in the people's perception that the institution possesses legitimate political power. However, if that support erodes, then the Court risks losing its institutional legitimacy. This in turn provides ample motivation for scholars to study the conditions that frame the public's support or opposition to the Court, and most importantly how its decision-making affects the public's perceptions of its legitimacy. Indeed, an abundance of prior literature has explored this concept at length, though there are notable shortcomings. Namely, these studies often rely on discrete samples of survey data, and often correspond with periods where the Court is most prominently in the public eye. As a result, these studies often reveal conclusions based on limited populations and only consider questions of simple recall or those related to the Court's most socially and politically salient (i.e., important) moments (Gibson and Caldeira 2009). Even more, the role of mass media as gatekeepers of Supreme Court news has historically

been observed almost solely through the lens of print media, a medium that has experienced a considerable downturn in recent years. Instead, a preferable alternative would be an analysis of public sentiments that considers a broader population and a variety of decision-making, including how an array of different conditions might mediate those behaviors. This dissertation attempts to fill this gap by exploring how and why Americans and media actors use social media as platforms to frame the public discourse in response to decisions by the United States Supreme Court.

This approach offers the ability to measure a broader collection of media coverage and public responses to decisions by the Court in real-time, rather than a narrow sample of those that meet the standards for widespread notoriety. Specifically, I approach my work through the lens of Twitter, a social media platform that has become synonymous with contemporary political discourse and information dissemination. To that end, this dissertation offers significant contributions to our understanding of the intersections linking mass media, public sentiment and political discourse, elite judicial decision-making, and emerging social media technologies through four chapters.

In Chapter 2, I provide a brief introduction to political discourse concerning the Supreme Court in social media environments like Twitter. The purpose of this chapter is to provide a foundation for this research as a whole by demonstrating that not only is social media discourse exceedingly voluminous, but analyzing behaviors online can provide considerable insights into the conditions motivating public support and opposition to the Court's decision-making. In Chapter 3, I examine the role of popular media as both agenda setters (McCombs and Valenzuela 2020) and gatekeepers (Davis 1994; Graber 2002; Johnson and Socker 2012; Spill and Oxley 2003; Vining and Marcin 2014; Zilis 2015) through the lens of an economic model of news (Hamilton 2004; McManus 1988; Vining and Marcin 2014). Using both descriptive and quantitative analyses, I develop and test an amended economic framework guiding media coverage of the Court's decisions in a social media environment. While Chapter 3 aims to discern the motivations for coverage online, Chapter 4 aims to discern what information media actors are relaying – and perhaps, more importantly, how they are structuring that information. Employing a combination of empirical strategies, including ideal point estimation and pre-trained machine learning for text classification tasks, I explore whether and how media actors engage in positional (i.e., non-neutral) framing behaviors online. With a firmer grasp on the prevalence and variation in Supreme Court news online, the final substan-

tive chapter attempts to discern whether positional framing behaviors impose residual effects on public discourse. Using similar empirical strategies as the preceding chapter, I examine how positional frames influence the perceptions of social media users engaging with media content providing coverage and other commentaries of decision-making by the Supreme Court. In the succeeding sections, I provide a comprehensive overview of the chapters to follow in this dissertation.

## Chapter 2. Social Media and the Supreme Court

Chapter 2 serves to provide a foundation for the questions guiding this dissertation. Considerable literature exists within judicial politics that combines theoretical frameworks across disciplines to explain the development of public support and opposition structures toward decision-making by the Supreme Court. Within this realm of research exists a collection of non-mutually exclusive inferences drawn from analyses of ideology, media coverage, and latent case salience, among others, with a contention that the factors mediating public opinion are reflective of a dynamic linking the Court, mass media, and public discourse. However, in pursuit of these inferences, scholarship tends to follow predictable observation strategies.

For example, to understand how certain decisions emerge in the public discourse, scholarship tends to center on measures of latent case salience and the prevalence of popular media coverage. In the same vein, scholarship analyzing public opinion is effectively beholden to survey analyses. While they are certainly useful measures of public opinion, they nonetheless introduce an assortment of potential concerns due to strained public awareness and difficulty attaining meaningful inferences from prompted respondents offering their perspectives on a Likert scale.[1] In essence, prior literature has attempted to draw causal inferences concerning this important dynamic, though the primary observation strategies present considerable obstacles and are generally indirect measures. It is here that I introduce a practical alternative in social media, a landscape that has become synonymous with contemporary political discourse and mobilization.

[1] The *Likert scale* is a five to seven-point scale frequently employed by survey researchers to gauge respondents' agreement or disagreement with a particular statement – e.g., *Strongly Disagree* to *Strongly Agree*, where responses are ordinally ranked.

Social media platforms like Twitter represent a largely untapped potential of unprompted discourse. That is, user engagement on social media networks in response to political phenomena is both voluminous and extensive across ideological demographics. Discourse concerning the Supreme Court in particular is especially notable and includes not only discussion on the Court as a political

institution but also public sentiments in response to specific decision-making in real-time. In total, this chapter serves as a prelude to the broader substantive discussions in the succeeding chapters. Given how the structure of social media environments facilitates engagement among an extensive array of average users, as well as political and media elites, this provides an avenue to not only observe broader volumes of discourse but also to test conventional theories guiding the dynamic linking the public, mass media, and the Court's decisions.

## Chapter 3. A Social Media Platform Model of Supreme Court News

The first analytical chapter aims to answer a collection of non-mutually exclusive questions focusing on the central theme of understanding Supreme Court news in a social media landscape. An appreciable extant literature has often found that media outlets face strategic challenges to provide coverage of the Court's decision-making and ultimately defer to only provide extensive coverage that will promote greater volumes of readership. Central to this dynamic is an economic model of news (Hamilton 2004; McManus 1988), which posits that media actors face considerable pressures from editorial constraints and other oversight restrictions. In effect, limitations associated with physical column space and market competition force media actors to be strategic about which notable events will receive a great deal of coverage, if any at all. Applying this framework to the Supreme Court (Vining and Marcin 2014) can explain why much of the media's print and digital coverage of the Court is oversensationalized (Hitt and Searles 2018; Krewson, Lassen, and Owens 2018; Zilis 2015) and often reserved for decisions sure to have some pronounced effect on the public discourse (Graber 2002). Yet, the introduction of social media as a practical alternative for mass media dissemination raises notable questions, chief among them being whether the economic framework fully extends to this newer medium.

After introducing the economic framework as it has been largely understood through an exclusive lens of print media, I structure my analysis using three central components. First, I develop the core theoretical framework underpinning Supreme Court news in social media environments, which I term the Social Media Platform (SMP) model. At its core, the SMP framework represents a set of amendments to the traditional economic model, wherein I consider both the potential advantages and disadvantages associated with disseminating Supreme Court news online. This includes comprehensive discussions and

corresponding hypotheses associated with the structure of social networking environments, strict character limitations, and the capacity for media actors to engage in brand-building behaviors, among others.

Next, to gain a firmer grasp on the breadth of Supreme Court news in social media environments, I construct and analyze an original dataset of 82 media outlets, pundits, and other journalists, representing considerable ideological and other diversities. The data draws on coverage volumes posted to Twitter within 48 hours of a Supreme Court decision between the 2018 and 2021 terms (October 2018 to July 2022). Primarily using descriptive analyses, I demonstrate that not only is there an extensive media presence online, but the potential limitations of social media – e.g., strict character limitations – do not deter large volumes of Supreme Court news coverage. Breaking considerably from norms of coverage scarcity except during circumstances where cases reflect heightened political salience, virtually every decision by the Court received coverage online, if not multiple tweets (i.e., posts). Even more, the capacity for these actors to engage in brand-building behaviors through systematic link embedding to their corresponding websites demonstrates that domain control is not a deterrent to posting coverage online.

Finally, I perform a direct analysis of coverage rates across print, digital, and social media environments using four traditional media heavyweights known for setting the national news agenda – *The New York Times*, *The Washington Post*, *The Wall Street Journal*, and *USA Today*. Employing both descriptive and quantitative approaches, I find considerable statistical evidence of significantly greater dependence on social media as the preferred medium for providing coverage of Supreme Court news. Not only are coverage and other commentaries more frequent on social media, but the traditional indicators of case salience and other factors do not negate the inferences drawn from this relationship.

This chapter provides among the first broad-based, systematic analyses of Supreme Court news in a social media environment like Twitter. Incorporating approximately 10,000 posts and 700 print and digital pieces, I posit that social media's apparent reduction in the economic costs associated with coverage requires viewing Supreme Court news online through an amended theoretical framework like the SMP model.

## Chapter 4. Framing Supreme Court News on Social Media

With a firmer grasp on how Supreme Court news emerges and is facilitated in a social media environment like Twitter, Chapter 4 builds on the inferences drawn in Chapter 3 by moving to consider what information media actors are relaying to their followers. Or, perhaps more intuitively, how they are structuring their coverage. As with the preceding chapter, an appreciable literature exists that has examined the role of media as the "main frame" of Supreme Court news (Linos and Twist 2016). Owing in large part to the considerable gap separating the Court's complex decision-making from the public's legal knowledge and awareness, media actors retain considerable power as gatekeepers of information (Shoemaker 1992). With this, prior studies have routinely observed media actors and institutions engaging in strategic framing behaviors, wherein coverage of the Court's decisions is structured in ways that reinforce their predisposed ideological preferences (Baird and Gangl 2006; Linos and Twist 2016; Spill and Oxley 2003; Strother 2017). This chapter provides a systematic analysis of media coverage posted to social media to consider not only if framing exists on these platforms, but if so, what conditions mediate rhetorical behaviors.

Using a sample of approximately 10,000 tweets from 81 media-affiliated Twitter users, I incorporate pre-trained machine learning for natural language processing tasks to classify their rhetorical sentiments – i.e., the positive, negative, or neutral features of the rhetoric used in their tweets. Doing so reveals that while much of the media's rhetoric online appears to be categorically neutral recitations of the Court's decision-making, this does not entirely preclude their capacity to relay support and opposition – or *positional* (i.e., non-neutral) frames. This inference raises an important set of questions. Namely, is the variance in rhetoric reflective of media actors engaging in strategic behaviors to decide whether to frame coverage? If so, what factors or other conditions can be used to predict positional framing behaviors, and is it possible to derive whether they will do so with rhetoric that relays support or opposition?

With this, I developed a theoretical framework that approaches decisions to engage in positional framing as a reflection of market-based incentives and latent case salience that drive media actors to instigate engagement with their readers. Assuming media actors decide to relay positional frames, I observe how support or opposition rhetoric are largely reflection of ideological congruence between media actors and the Court's decision-making. To measure ideology, I incorporated a Network Item Response Theory framework with expectation maximization (Barberá 2015; Imai, Lo, and Olmsted 2016), which produces a

common space to scale the conservative and liberal features of media actors based primarily on their Twitter social networks. Using a multinomial logit design, I was able to estimate the effects of ideology and other contributing factors on positional framing behaviors towards the Court's decision-making between the 2018 to 2021 terms. Doing so revealed considerable evidence of positional framing behaviors reflective of ideological congruence and perceptions of political influences in the justices' decision-making. I not only find that conditions of latent political salience and dissent among the justices instigate greater rates of framing, but more importantly that there are strict divides between liberal and conservative media actors. Between the 2018 and 2021 terms, I find that conservatives were significantly more likely to support the Court's decision-making than liberals. Interestingly enough, liberal support does not appear to reflect statistical significance even in circumstances where the majority opinion reflects a like-minded position. However, I contend that this dynamic is largely reflective of the conditions underpinning the contemporary Supreme Court. That is, a common theme among observers is to recognize the Court's discernible shift to the conservative right, especially when reviewing notable cases. The reality that majority opinions are increasingly favoring the conservative bloc appears to be a significant driving force of this dynamic.

The inferences gathered in this chapter contribute to our understanding of whether media actors engage in strategic framing behaviors online, as well as what conditions motivate why and how they do so. My results also give credence to perceptions that the behaviors of the contemporary Court are instigating sharp divides among American media actors, which can serve as a framework for future analyses. Taken together, Chapters 3 and 4 identify and explain Supreme Court news in a social media environment as one populated by ideologically motivated actors with the capacity and motivation to positionally frame the Court's decision-making.

## Chapter 5. Public Discourse in Response to Supreme Court News on Social Media

The final substantive chapter draws on the strategic behaviors observed in Chapter 4 to discern whether they relay any discernible effects on public discourse. As I noted previously, social media platforms like Twitter have become synonymous with contemporary political discourse. While the rhetoric that emerges on these platforms might not be as reflective of a virtual town hall as some might hope it to be, it nonetheless represents an important resource for understand-

ing how discourse emerges and public opinion evolves in response to political phenomena (Cody, et al. 2015, 2016; Karami, Bennett, and He 2018; Kwak, et al. 2010). In particular, I sought to understand whether positional media framing of Supreme Court news produces residual effects that permeate into this public discourse.

What factors contribute to public support and opposition structures concerning the Supreme Court? Owing again to the considerable information gap separating the Court and the public, prior scholarship has frequently viewed media coverage as the "main frame" for the public (Linos and Twist 2016). That is, media coverage is often the first, and perhaps the only, frame of reference for members of the general public to consume and understand information. This in turn presents the potential for media actors to influence how a susceptible public both learns and perceives the Court's decisions (Baird and Gangl 2006; Hitt and Searles 2018; Nicholson and Howard 2003; Spill and Oxley 2003). Yet, this relationship is not the unidimensional result of individuals simply reiterating whatever perspectives are thrust upon them by popular media. Instead, it is important to consider tertiary factors like ideological congruence between average users, the media actors they engage with, and the Court's decision-making. Even more, variance in positional responses can be influenced by unique case-specific factors and, of particular note for social media, information consumption and networks of association. Building on this scholarship, this chapter observes how social media coverage instigates and structures public discourse among engaging users.

The key contribution of this chapter is that the observation strategy draws directly on comments posted by average users directly engaging with media tweets. In effect, the objective is to mimic treatment effects. Rather than drawing inferences from survey research, we can presume that users make a conscious decision to engage with media actors' content following their consumption of the information and perspectives presented therein. Employing the same methodological strategies in Chapter 4 – i.e., ideal point estimation in a social network environment and pre-trained machine learning for sentiment classification tasks, I am able to observe how rhetorical behaviors by average users respond to conditions of media framing, ideological congruence, latent salience, perceptions of political influences in the Court's decision-making, and other unique case-specific factors.

My results yield mixed inferences concerning the effects of media framing. While I do observe consistent trends of positive and negative positional rhetoric among user responses, behaviors are considerably homogeneous with respect to ideology. That is, ideologically motivated liberal and conservative users frequently relay responses indicative of their ideology, rather than simply reciprocating media positions. In effect, while media actors may reinforce confirmation biases among like-minded users, they do not appear to alter predisposed perceptions. Overall, this chapter contributes to our understanding of the dynamics linking media consumption and public discourse with decision-making by the Supreme Court. It also demonstrates that even with considerable homogeneity among rhetorical behaviors expressed by ideologically motivated users, discourse is discernibly heterogeneous. The reality that users across ideological positions engage with media coverage regardless of whether it supports or refutes their predisposed positions underscores the role they play as a facilitator of Supreme Court discourse on social media platforms.

## Chapter 6. Concluding Remarks

I end this dissertation with a collection of concluding remarks. Apart from reiterating the core inferences gained from each chapter, I speak to the broader contributions of my research and how future studies can build on these inferences. To that end, I ultimately leave with two core discussion points concerning the necessity for observing public and media behaviors toward the Supreme Court, as well as the role that social media can play as a catalyst to do so.

# Chapter 2

# Social Media and the Supreme Court

How can scholars of law and courts analyze the conditions influencing public support and opposition to elite legal institutions like the Supreme Court? Do average Americans simply resort to predisposed ideological preferences, or are their behaviors the result of external actors shaping their perspectives? This chapter provides a substantive discussion of the dynamic linking decision-making by the Supreme Court to public opinion and discourse as it has been explored in the pre-existing literature. I specifically approach this dynamic through two primary research areas: (1) The conditions underpinning public support and opposition to decision-making by the Supreme Court; and (2) The role of mass media as gatekeepers and framers of Supreme Court news. For both discussion points, I pay particular attention to providing a comprehensive overview of the associated literatures and how analyses in both are often rooted in compatible theoretical frameworks and face similar empirical obstacles. I conclude by introducing social media as a practical alternative to alleviate many of these hurdles and set a framework to guide the substantive chapters that follow.

## 2.1 Public Opinion and the Supreme Court

As I noted in the introduction, the separation of powers system epitomized by the Constitution imposes considerable constraints on the Supreme Court, as well as the judiciary more generally. Lacking a constitutional mechanism to enforce its own decisions, the justices are beholden to the cooperation of the other branches. Scholars have attributed the consistent resolve of this relationship – even in the face of controversial rulings – to the people's perceptions that the Court retains legitimate political power, often described as the "myth

of legality" (Jaros and Roper 1980; Scheb and Lyons 2000). Yet, this does not negate the reality that the Court's decision-making can, and often does, generate considerable dissent among the public when their decisions contend with socially and politically salient issues. To compensate for this unique dynamic, scholarship frames the public's support and opposition structures as a reflection of *diffuse* (i.e., institutional) and (case) *specific* regimes.

Gibson and Caldeira (1992) describe *diffuse* support as "a central concept in efforts to explain institutional stability. Supportive attitudes constitute a reservoir of goodwill especially useful for institutional maintenance when political authorities make policies with which many disagree" (p. 1120). Alternatively, *specific* support relays "satisfaction with the performance of a political institution" (p. 1126). Gibson and Nelson (2014) aptly represent the distinction by noting that "…while diffuse support refers to general attitudes toward an institution, specific support turns primarily on the congruence between the Court's policy outputs and the public's favored policy outcomes" (p. 6) In this context, diffuse support constitutes the public's faith in an institution's legitimacy that, when satiated, can explain why the Court has historically retained comfortable levels of public support. A perfect anecdote to demonstrate the potency of this dynamic can be found in the immediate aftermath of *Bush v. Gore* (2000), a case that directly set a divided nation against itself following the 2000 presidential election. Even as the conservative majority of justices effectively ended the already month-long recount and appeals process in Florida and drew considerable dissent among Democratic voters, public support for the institution nonetheless remained comfortably stable (Gibson, Caldeira, and Spence 2003; Nicholson and Howard 2003).

However, recent years have seen a considerable decline in the Court's public support. Recent polls by Pew Research Center (2022) and Gallup (2022) observe sharp dissent among liberal and conservative (Democrat and Republican) voters in response to a flurry of controversial rulings by the Court's new conservative supermajority. These recent trends raise important questions concerning both the stability of the public's faith in the Court, as well as how the public weighs their support and opposition. Though time will tell if public support demonstrates properties of a conventional time series, wherein these shocks in public opposition will eventually return to normal, or if it is no longer sufficient to presume that a reservoir of goodwill exists to protect the Court's institutional legitimacy.[2] If that's the case, then an understanding of how individuals weigh support and opposition to the Court's discrete (i.e., specific) decision-making

[2] A recent study by Glick (2023) raised very similar questions. While institutional support among Democrats diminished significantly in the period following the death of Justice Ruth Bader Ginsburg in September 2020, they preface their inferences by noting their "…data cannot speak to the longevity of the observed changes or whether the respondents' diffuse support rebounds with time...It could be that the legitimacy changes arose and then faded in response to a specific set of salient events in which elites briefly argued about the Court in very partisan ways" (p. 10).

is critical to fully developing this dynamic.

At its core, the Supreme Court is a political institution whose primary actors retain and exercise considerable discretion in their decision-making. An appreciable literature exists to explain the conditions underpinning judicial behaviors, and the modern consensus frames the justices' discrete decision-making largely as a reflection of personal attitudes (Black and Owens 2009, 2016; Dahl 1957; Epstein and Knight 1997; Epstein, Landers, and Posner 2013; Gibson 1978; Lax and Rader 2010; Segal 1997; Segal and Spaeth 2002). That is, while the justices' rulings are framed as firmly legalistic, personal preferences can explain a significant degree of their behaviors. Recent years have seen this behavioral interpretation become increasingly familiar to the public in the aftermath of controversial rulings on generational political issues. Viewing decisions as a result of political preferences facilitates a dynamic where members of the public can weigh congruence with their predisposed beliefs. Even as the public retains questionable and varying degrees of awareness and knowledge of the Court (Caldeira and McGuire 2005; Hoekstra 2000, 2003; Gibson and Caldeira 2009), this does not preclude real opinion formulation (Caldeira 1986).

However, it is important to avoid conflating the public's ability to weigh support or opposition with awareness. That is, while sufficient legal knowledge is rarely a pre-requisite for the public to develop sophisticated opinions, the combination of legal complexity observed in the justices' decision-making and their discernible lack of engagement with the public produces a considerable information gap. If the core mechanism for the public to weigh support or opposition is through ideological congruence, how does the public come to learn of the Court's decisions? Studies have shown how social (Franklin and Kosaki 1989), occupational (Berkson 1978), and even geographic proximity (Hoekstra 2000) to decisions can instigate heightened awareness, but these indicators cannot sufficiently explain how cases emerge in the national discourse. Instead, scholarship has routinely pointed to the role of media outlets as intermediaries – or perhaps more accurately, gatekeepers and framers – of Supreme Court news.

## 2.2 Media As Gatekeepers and Framers of Supreme Court News

Prior literature has routinely observed the importance of media actors as agenda setters and gatekeepers of political news (Graber 2002; McCombs and Valen-

zuela 2020; Shoemaker 1991). On any given day, the never-ending cycle of the contemporary news landscape dictates a constant ebb and flow of media attention being placed on select events and other developments. It is difficult to overstate the prevalence of political news in this contemporary landscape, though researchers have observed a discernible imbalance in media attention toward the branches of the American government. As Graber (2002) notes, "Of the three branches…, only the judiciary [is] sparsely covered" (p. 310). Theoretically, the contrast in coverage can be linked to two underlying conditions. First, unlike members of the elected branches whose incumbency hinges on their public notoriety and accessibility (Mayhew 2004), federal judges – especially justices of the Supreme Court – strive to remain secluded from the public eye. As Graber (2002) notes, "federal judges are rarely in the limelight…and generally do not seek or welcome media attention, primarily because they fear that their impartiality and mystique might be compromised" (p. 311). The second theoretical condition lies with the reality that, because they rarely "become embroiled in open battles about policy," media outlets generally do not view "judges and the court system at the federal level as [especially] newsworthy" (p.312). However, while judges and the federal court system itself are scarcely seen as newsworthy, "their work – [i.e.,] judicial decisions – does make the news, [and] this is especially true of the U.S. Supreme Court" (p. 312).

Given the lack of reliable awareness and knowledge, the public relies on media institutions to serve as intermediaries between them and complex legal decisions by the Court. Indeed, scholars have routinely framed the propensity for decisions to emerge in the public discourse as a reflection of latent political salience, which is almost exclusively measured via a decision's appearance in popular media (Clark, Lax, and Rice 2015; Collins and Cooper 2011; Epstein and Segal 2000). Yet, the decisions of media actors in determining which cases will receive significant degrees of coverage, if any at all, are reflective of strategic behaviors instigated by the constraints of an economic framework. An economic model of Supreme Court news (*see* Vining and Marcin 2014) contends that the inter-agency competition among media outlets for a limited consumer population, combined with the practical constraints of editorial oversight and the scarcity of physical and digital column space, forces media outlets to be selective of what to publish and restrict coverage to stories that can garner a broader public appeal. As it directly relates to the Supreme Court, this means that coverage is often provided only when the decision is sure to have a pronounced effect on the public discourse (Davis 1994; Graber 2002; Johnson and Socker 2012; LaRowe and Hoekstra, 2015; Spill and Oxley 2003; Vining and Marcin

2014; Zilis 2015). In essence, practical limitations force media actors to be exceedingly selective in their reporting on the Court, even when media coverage is viewed as the main source of information on their decision-making. Yet, even assuming that media actors decide to provide coverage, the expectation that these will be simple recitations of the case facts has been consistently dismissed by researchers.

Prior literature has frequently noted how media actors engage in strategic behaviors to perceptively frame Supreme Court news in ways that reinforce predisposed ideological beliefs (Baird and Gangl 2006; Hitt and Searles 2018; Nicholson and Howard 2003; Spill and Oxley 2003). Given that the fourth estate is an economic enterprise and media actors aim to "sell stories, not the events themselves" (Shoemaker 1991, p. 27) that are "geared to attract and entertain rather than educate" (Graber 2002, p. 131), it is perhaps unsurprising that they are adept at employing strategic rhetoric to market over-sensationalized accounts of the most important and controversial decisions (Zilis 2015). The result of these behaviors can ultimately serve to influence a susceptible public whose reliance on media as the "main frame" of Supreme Court news (Linos and Twist 2016) is often the first, and perhaps the only, perspective they will consume. In short, prior literature has observed a media environment that dictates strategic choices translating into sporadic, yet often over-sensationalized accounts of decisions that serve as cues of political salience.

## 2.3 Empirical Obstacles In Observing the Dynamic

To this point, I have provided an abridged overview of the current literature. Analyzing the underlying theoretical frameworks yields discernible spillover, wherein the Court's decisions, strategic media behaviors, and public opinion (or discourse) are interconnected and often used as predictors of the other. That is, an appreciable volume of literature exists that illustrates what is effectively a cyclical dynamic (Table 2.1).

Even more, a comprehensive analysis of the empirical strategies employed reveals considerable spillover among studies. That is, observations of latent case salience as a function of coverage volumes routinely rely on measuring whether a decision receives coverage in popular, almost exclusively print news outlets. Granted, though models of latent salience and the media institutions observed in these analyses have progressed over time (Epstein and Segal 2000; Collins and

Table 2.1: Overview of Contemporary Literature Re: Supreme Court Decisions, Media Behaviors, and Public Opinion (or Discourse)

| Effect Of... | Effect On... | Sample Literature (Selected References) |
|---|---|---|
| Supreme Court Decisions | Media Behaviors | Baird and Gangl (2006); Clark, Lax, and Rice (2015); Collins and Cooper (2012); Epstein and Segal (2000); Linos and Twist (2016); Slotnick and Segal (1998); Spill and Oxley (2003); Strother (2017); Vining and Marcin (2014) |
| Media Behaviors | Public Opinion | Davis (1994); Graber (2002); Johnson and Socker (2012); LaRowe and Hoekstra (2015); Shoemaker (1992); Spill and Oxley (2003); Vining and Marcin (2014); Zaller (1992); Zilis (2015) |
| Public Opinion | Supreme Court Decisions | Epstein and Martin (2010); Casillas, Enns, and Wohlfarth (2011); Flemming and Wood (1997); Giles, Blackstone, and Vining (2008); Marshall (1989, 2009); Mishler and Sheehan (1993) |

Cooper 2012; Clark, Lax, and Rice 2015), this empirical strategy nonetheless remains consistent. In a similar vein, analyses of public opinion, knowledge, and awareness of the Court, as well as how media actors influence those perceptions, are almost entirely reliant upon survey analyses. This is all to say that while the pre-existing literature undoubtedly provides novel insights into this dynamic, the empirical strategies present consistent obstacles that have only been exacerbated over time. Below I provide a brief discussion of the two most important obstacles: 1) Surveying public opinion of the Court; and 2) Observing media behaviors through print (and more recently, digital) media.

Owing to the lack of an electoral connection binding the Supreme Court to the will of popular elections, measuring public response to the justices' decision-making presents unique obstacles absent in studies of legislative or presidential politics. That is, while presidents and members of Congress are ultimately weighed by their electoral success, scholars of judicial politics are left without

this reliable measurement tool. Instead, we are reliant almost exclusively on inferences drawn from survey respondents to not only infer public opinion but also to gather insights into which factors – e.g., media exposure (Hitt and Searles 2018) – mediate those perspectives. However, the purpose of drawing attention to survey research is not to cast doubt on the inferences drawn from them, but rather to point out two notable obstacles that emerge while pursuing it as an observation strategy. Specifically, how lack of consistent awareness among respondent populations and the priming of questions employed in these surveys might deter our ability to gather proper inferences.

As I noted previously, public awareness and knowledge of the Court's norms, procedures, and decisions are habitually viewed as lacking. Granted, lack of knowledge and awareness does not preclude real opinion development (Caldeira 1986), but it stands to reason that this might limit our ability to gather knowledgeable insights from an already-limited respondent population. Yet, some argue public ignorance of the Supreme Court might be the result of faulty research design, rather than a wholesale branding that the public lacks any discernible legal knowledge. Indeed, concerns stemming from survey procedures are shared at least in part by leading experts in the field. For example, Gibson and Caldeira (2009) draw anecdotes from several prominent studies, including nationally syndicated surveys like the American National Election Study (ANES), that show how research often prefers the use of open-ended recall questions. In short, the customary '*can you name a Supreme Court justice*' question frequently employed in these surveys lead researchers to misinterpret poor civic knowledge as the public's inability to formulate real opinions of the Court's decision-making.

However, assuming scholars wanted to gather insights into the public's perceptions of the Court's decision-making by moving beyond civic knowledge and recall, it remains that these studies often follow very predictable patterns. That is, surveys rarely extend beyond cases with the greatest propensity to have already translated into the public discourse.[3] Granted, this provides novel insights into the public's perceptions of the justices' most socially and politically salient decision-making, but it ignores a considerable majority of the docket. More recent work by Jessee, Malhotra, and Sen (2022), among others, has attempted to remedy this concern by broadening the population of decisions respondents are exposed to, but coordinating studies that incorporate the Court's entire docket of decisions is impractical.

[3] For example, surveys following the conclusion of the 2021 term rarely centered on cases beyond *Dobbs v. Jackson* (2022), a case that overturned the Court's landmark holdings in *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992); see "New Marquette Law School Poll National Survey Finds Approval of the Supreme Court at New Lows, With Strong Partisan Differences Over Abortion and Gun Rights" (Marquette University Law School, September 7-14, 2022) and "Positive Views of Supreme Court Decline Sharply Following Abortion Ruling" (Pew Research Center, August 1-14, 2022).

The second notable obstacle is how judicial scholars measure media behaviors. As I have noted extensively, media behaviors serve as primary cues for latent case salience (Clark, Lax, and Rice 2015; Collins and Cooper 2011; Epstein and Segal 2000), as well as potential guiding forces in public discourse due to their role as gatekeepers and framers of Supreme Court news (Hitt and Searles 2018; Linos and Twist 2016). Again, drawing attention to the pre-existing literature is not to cast doubt on their notable inferences, but rather to draw attention to the obstacles their observation strategies present today. Chief among these is that although prior literature has historically rooted itself in studies of print coverage, the media landscape has changed considerably in recent years. I provide an extended discussion in Chapter 3 that illustrates the contemporary, non-television media landscape as one epitomized by financial woes, staff cuts, historic reductions in circulation, corporate consolidation, and evolving media preferences among the population. Combined, these conditions demonstrate a stark reality that print is no longer the hegemonic medium for news dissemination.

To summarize, the existing literature has traditionally leveraged analyses of the dynamic linking the Court's decision-making, strategic media behaviors, and public opinion through a collection of related theoretical frameworks (*see* Table 2.1). However, the observational strategies underpinning these studies reveal considerable empirical obstacles, chief among them being the challenges emerging from survey research (e.g., Gibson and Caldeira 2009) and the longitudinal changes in the American media landscape. These challenges raise questions of whether a practical alternative exists that can theoretically observe the dynamic while reducing or eliminating the burdens emerging from these obstacles. It is here I that contend social media platforms like Twitter can provide a well of observable data and relief to these challenges.

## 2.4 Social Media as a Practical Alternative

It is difficult to overstate the level of sustained activity on social media platforms like Twitter. Since its founding in 2006, Twitter has become synonymous with contemporary political discourse and information dissemination, and emerging literature continues to demonstrate the platform's reliability as a barometer of public opinion (Cody, et al. 2015, 2016; Karami, Bennett, and He 2018). As it directly pertains to the Supreme Court, this represents a considerable well of potential data that can be analyzed to reveal a wide array of trends and patterns (Figure 2.1). The emergence of big data, a general term used to define complex and voluminous sets of data obtained using computer technologies,

has continued to grow in the social sciences as the processes have become more streamlined and user-friendly. Aided by the reality that political mobilization has become increasingly digitized in the modern age (Jost, et al. 2018), it is becoming both practical and worthwhile for social scientists to look towards social media as the next vehicle for measuring political behaviors.

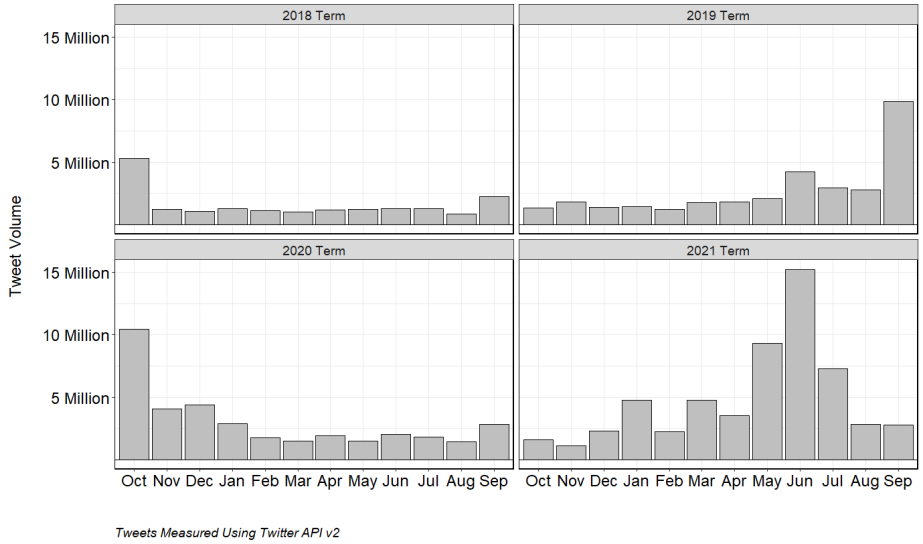



Figure 2.1: Volume of Posts Mentioning "Supreme Court" on Twitter

Recognizing the potential for Twitter, the two most important questions that emerge are how comparable alternatives to measuring the dynamic can be observed in a social media environment, as well as whether these observations are reliable. Looking first at media behaviors in response to the Court's decisions, it is important to recognize that countless media outlets, journalists, commentators, and pundits actively use social media platforms to cover political news. Especially as it relates to the Supreme Court, the diverse collection of reporters assigned to the Court for media outlets actively tweet decision-making by the Court in real-time. As I discuss in Chapter 3, the rationale for this growing dependence on these platforms as an important medium for mass political communication can be understood as a reprieve from the burdens of traditional coverage. At their core, social media platforms provide an avenue to microblog a limitless stream of content that can theoretically instigate greater volumes of coverage across a greater array of the Court's decision-making.

Alternatively, as it pertains to public opinion, the volume of user activity illustrated in Figure 2.1 is evidence that public discourse is extensive on these platforms. However, measuring support and opposition from original content

posted by average users is secondary to understanding what factors contribute to those perspectives to begin with. In the pre-existing literature, scholars were beholden to survey research to analyze the effects of media consumption and framing on perceptions of the Court's decisions (e.g., Hitt and Searles 2018). Instead, the network environment facilitated by social media platforms like Twitter encourages direct user engagement – i.e., we can observe how users interact with each other. As I discuss in Chapters 3-5, this dynamic provides an avenue to not only observe how media actors discuss the Supreme Court online but also how average users choose to consume and engage with their content.

In essence, it is feasible, and perhaps more opportunistic, to approach the relationship between media behaviors and public discourse through the lens of social media. Yet, the question remains of whether we can reliably depend on social media as an observation tool. An analysis of user demographics appears to dissuade many of the foremost concerns. A recent study by Pew Research Center (Wojcik and Hughes 2019) found marginal differences between American Twitter users and the broader public. Among them, they found a greater propensity to be younger, more educated, and express support for the Democratic party.[4] However, the key takeaway from this study is not to conclude that Twitter is entirely misrepresentative of the broader population of Americans. Instead, it should be recognized that while there are marginal differences, the considerable social and political diversity that exists on these platforms (Figure 2.2),[5] aided by the fact social media is becoming increasingly ingrained in the lives of people across demographics (especially age), serves to demonstrate the capacity of Twitter as a reliable tool for social scientists. Other potential concerns, most importantly the risks of inauthenticity associated with fake or *bot* accounts, can be mitigated through the diligence of researchers (Martini, et al. 2021).[6]

[4] Compared to national averages, adult Twitter users are three-times more likely to be less than 50-years-old, eleven percent more likely to have a college degree, and six percent more likely to indicate support for the Democratic Party.

[5] This figure incorporates a Network Item Response Theory model using Expectation Maximization (Barberá 2015; Imai, Lo, and Olmsted 2016) to scale Twitter users in an ideological common space. This sample of approximately 722,000 users was drawn from the followers of 635 members of Congress and media actors. I provide an extended discussion on this methodology in Chapter 4.5.2, as well as in the appendix materials.

[6] I provide an extended discussion on manual and automated bot removal procedures in the appendix materials (Appendix A1.3).

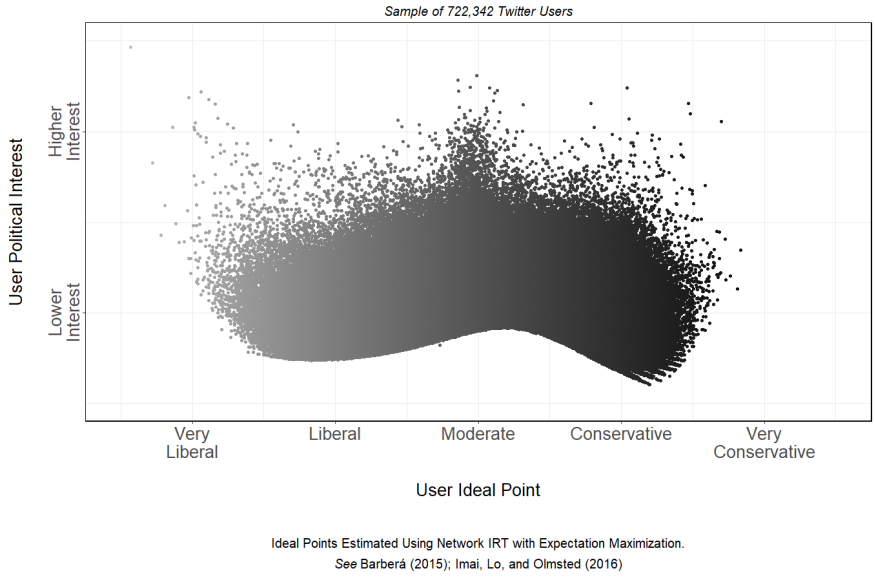



Figure 2.2: Ideological Distribution of Twitter Users (Sample of 722,342 Users)

## 2.5 Discussion

In this brief chapter, I provided an abridged overview of the contemporary literature concerning the dynamic linking decision-making by the Supreme Court, media behaviors, and public opinion and discourse. The purpose of this discussion was to demonstrate that while their findings are novel, the observational strategies found in survey research and analyses of print media present considerable obstacles to obtaining inferences. Yet, viewing this dynamic through the lens of social media provides relief to these concerns, and can even incorporate a greater volume of public discourse across a greater array of the Court's decision-making. In what follows, I present three substantive chapters that iteratively build on observing the motivations and effects of media behaviors toward the Supreme Court on social media. Through a collection of systematic analyses, I not only illustrate the environment of Supreme Court news online but also how it instigates and facilitates public discourse.

# Chapter 3

# A Social Media Platform Model of Supreme Court News

## 3.1 Chapter Overview

Decisions by the United States Supreme Court represent an interesting dichotomy. Cases reviewed by the Court have the potential to influence numerous subsets of American law. Yet, the degree of public notoriety garnered by these decisions varies considerably. Some will become everlasting presences in public discourse while others are relegated to obscurity. Certain decisions are simply considered to be more important than others. Because there is a disconnect between the public and the Court, the masses rely on popular media outlets to provide coverage of the decisions as a prerequisite for public awareness. Indeed, an abundance of prior literature highlights direct linkages between the coverage attained by any of the Court's decisions and its salience in the popular discourse (e.g., Brenner and Arrington 2002; Clark, Lax, and Rice 2015; Collins and Cooper 2012; Epstein and Segal 2000; LaRowe and Hoekstra 2014; Sill, Metzgar, and Rouse 2013).

However, these studies are often restricted to analyses of media heavyweights and observe sporadic and over-sensationalized trends of covering the Court. At the core of this dynamic is an economic framework (Hamilton 2004; McManus 1988; Vining and Marcin 2014), whereby a collection of editorial constraints and oversight restrictions ultimately reduce coverage of the Court to those decisions sure to have some pronounced effect on public discourse (Graber 2002). Yet, advances in technology have instigated the development of new media alterna-

tives, both from the perspective of emerging outlets beyond the conventional sources of print or broadcast journalism, as well as new mediums for disseminating coverage. The latter development is of particular interest, insofar as platforms like social media networks provide an unlimited content stream for their users and have become increasingly useful tools for news dissemination and consumption. While traditional news mediums are potentially limited by a strict economic model, social media can potentially alleviate many of these constraints. If so, these platforms might provide an avenue for covering the Court's decision-making in greater volumes and across a broader variety of outlets, including for those decisions that would otherwise be relegated to obscurity by traditional print media.

In this chapter, I develop and test a Social Media Platform (SMP) Model of Supreme Court news. The core structure of social media outlets like Twitter is designed to provide a limitless content stream for users. For media outlets, this facilitates access to a platform for providing coverage that alleviates many of the constraints they might face through traditional print and digital publication. It further allows outlets to pursue multi-platform brand building and greater degrees of content dissemination. This model ultimately represents a framework to illustrate the theoretical distinctions between the conditions that frame the economic model in traditional media coverage (i.e., print and digital) from those that frame the dynamic on social media. In essence, the predictors that motivate coverage on social media platforms require additional considerations than in the traditional framework.

I begin by introducing the core tenets of the economic model as they have been identified for traditional media coverage, both generally and as it directly pertains to the Supreme Court (Hamilton 2004; McManus 1988; Vining and Marcin 2014), after which I provide a discussion that highlights why an amended set of theoretical conditions are needed to better understand the dynamic on social media platforms. I subsequently conduct a descriptive analysis using coverage of the Court's decisions by a voluminous sample of media outlets, journalists, and pundits on Twitter between the 2018 and 2021 terms (October 2018 to July 2022) to highlight the significant volumes of coverage disseminated on social media, as well as how these outlets engage in sophisticated brand building behaviors online. I subsequently tailor my analysis to provide both a quantitative and qualitative analysis using a collection of prominent media outlets and their corresponding Supreme Court correspondents to analyze the variation in coverage across traditional print and social media platforms. I conclude

by noting that without the need to reconcile with the economic constraints of traditional coverage, outlets are no longer restricted to providing coverage with heightened degrees of salience. This in turn produces more coverage of the Court's decision-making and promotes broader engagement and political discourse.

## 3.2 An Economic Model of Supreme Court News

In any given term, the Supreme Court will likely grant review to no more than 100 cases. Every case will theoretically follow the same procedural steps from the acceptance of a certiorari petition to the publishing of a written opinion following public oral arguments.[7] Yet, while every case bears a degree of importance to some sector of the legal community, not every case will find its way into the public discourse. In reality, while nearly every case relays some form of *legal salience*, insofar as it purports to provide some influence on the "development of the law" (Bailey, Kamoie, and Maltzman 2005, p. 79),[8] most of the justices' decision-making fails to provide definitive *political salience*, whereby the public is intuitively drawn to the substance of the case itself. With this dramatic imbalance in relative case salience, it is perhaps unsurprising that "Of the three branches…, only the judiciary [is] sparsely covered" by popular media (Graber 2002, p. 310). In many respects, cases that exhibit strong recall with the public are often restricted to those with a broad public appeal. Social scientists often attribute this sense of public appeal to conditions of a case's latent salience, which represents the underlying importance or prominence of any issue – in these circumstances, a case being decided by the Supreme Court. Indeed, prior literature has attempted to unravel the cues that represent any case's latent salience (Brenner and Arrington 2002; Clark, Lax, and Rice 2015; Collins and Cooper 2012; Epstein and Segal 2000; LaRowe and Hoekstra 2014; Sill, Metzgar, and Rouse 2013). The consensus reveals that cases considering substantive social or political issues can often be used to explain the separation in public recall among prominent cases like *Roe v. Wade* (1973) [9] from cases like *Banister v. Davis* (2020),[10] whose importance might only be reserved for a niched legal community. However, it could easily be argued that the dynamic linking a case to its recall in the public discourse is not as simple as the existence of latent salience. Instead, social scientists recognize that the public's knowledge of the Court stems largely from information gathered through intermediary media sources.

[7] Or a per curium opinion published without oral arguments.

[8] *See also* Collins and Cooper (2012, p. 397).

[9] Which first established the legal protections for female reproductive rights.

[10] Which clarified a procedural rule in habeas corpus petitions.

Though some research has noted that the public's knowledge of the Court is markedly greater during salient periods like nomination hearings (Gibson and Caldeira 2009), consistent public knowledge and awareness have historically been observed as inadequate. To illustrate, a 2018 poll from C-SPAN/PSB that coincided with the Kavanaugh confirmation hearings found that only 48 percent of respondents could name an active Supreme Court justice, and only 35 percent could even name Kavanaugh as President Trump's nominee (Green and Rosenblatt 2018). Even more, the same poll conducted one year earlier during the Gorsuch nomination found that only 28 percent could name him as the nominee (Green and Rosenblatt 2017). Yet, a lack of substantive knowledge about the Court or the complex legal issues the justices deliberate does not deter real opinion formulation by members of the public (Caldeira 1986). Instead, members of the public are still able to construct complex opinions about the Court, and much of the information guiding those perceptions is likely facilitated by popular media coverage (Zaller 1992).

Prior literature has routinely observed the importance of media outlets as agenda setters and gatekeepers of political information (Graber 2002; McCombs and Valenzuela 2020; Shoemaker 1991), and these considerations are perhaps even more pronounced as it relates to the Supreme Court. They often find that the way media frames decisions can have a significant influence on the public's specific and diffuse support of the Court (Linos and Twist 2016; Spill and Oxley 2003). For example, Baird and Gangl (2006) found that members of the public are more likely to respond negatively to reports of a politicized Court. This is troubling considering that media outlets and political elites have historically been known to over-sensationalize the Court's decisions by focusing on divisiveness and partisanship because it will promote attentiveness and readership (Hitt and Searles 2018; Krewson, Lassen, and Owens 2018; Zilis 2015).[11] While any individual could directly retrieve information about the Court's decision-making, there are at least two major factors that might negate their desire or ability to do so.

For one, the substantive legal knowledge of any individual might not be satisfactory to fully comprehend the Court's decisions, either legally or substantively. As a result, media outlets effectively serve as translators, of sorts, capable of translating complex legal language into consumable dictations for a broader audience. Second, the reluctance of the Court to engage with the public often means that much of the Court's decision-making is not relayed to the public without some intermediary force bringing it to attention. Unlike members

[11] Also, *see* Vining and Wilhelm (2010). Here the authors illustrate that declarations of unconstitutionality and dissents also promote greater rates of coverage for state supreme courts.

of the elected branches, the justices lack an electoral incentive to pursue Mayhewian (2004) goals of advertising, position-taking, and credit-claiming. The Court simply does not advertise or promote its decision-making to the same extent we might expect from elected officials at any level. Barring appearances on the lecture circuit or releasing books, the fullest extent of any advertising efforts will be the publishing of opinions to the public. As a result, the relaying of Supreme Court news relies substantially on media outlets to both bring attention to the Court's decision-making and translate it into a format that is comprehensible to the average consumer.

With this comes a substantial degree of power and strategic choices. In serving as gatekeepers of Supreme Court news, these outlets can engage in agenda-setting behaviors to decide which cases might be presented to the public, as well as how they will be framed. However, the choice to decide which cases will be relayed to the public is approached strategically. At their core, "the press…sells news reports, not the events themselves. There is a general tendency to make their product as attractive as possible" (Shoemaker 1991, p. 27). The practical restrictions of physical and digital column space force media outlets to reconcile their desire to report on the Court with the reality that publishing coverage faces resource scarcity. As a result, these outlets often restrict their coverage to only those cases with stronger degrees of latent salience that would promote readership. Collectively, this dynamic underpins the economic model of Supreme Court news (Vining and Marcin 2014; Vining, Wilhelm, and Collens 2015).

Proponents of the economic model as a general framework for understanding sophisticated media strategies contend that these outlets will maneuver to provide coverage of newsworthy events that, by and large, preference attractiveness to a broad audience (Hamilton 2004; McManus 1988). In effect, it recognizes that media outlets face both inter and intra-agency competition. The former is self-evident, insofar as outlets are perpetually competing among themselves for readership, and this pursuit often precludes tailoring coverage to stories that attract audiences. Alternatively, the latter contends that journalists themselves compete with their coworkers for a limited volume of physical column space. Even recent advances promoting immersion with digital mediums through posting coverage to an outlet's website face similar resource scarcity as outlets can only promote so many stories at a given moment.

Translating this framework to coverage of the Supreme Court is recognizing that the justices' decisions are effectively another form of political news. Yet,

while the public may be drawn to the daily happenings of the president or other prominent elected officials, the Court's decisions often provide an array of unique features that might repel inclinations to provide coverage. Chief among them is the realization that attracting audiences requires cases to relay definitive salience, which many (if not most) of the Court's decisions fail to achieve. Not every case will contend with a deeply rooted social or political debate that audiences will be drawn to regardless of the complexity of the legal language used to frame the decision. With this, the economic model effectively purports that outlets recognize the imbalance of salience associated with the Court's decision-making and choose to reserve coverage (and especially high-profile coverage) to those that relay overt political salience.

## 3.3 Social Media as a Platform for Supreme Court News

While the economic model framework is firmly rooted in analyses of strategic media behaviors, especially as it relates to the Supreme Court, it raises an interesting notion. Namely, while the abundance of editorial constraints and oversight restrictions emerging from inter and interagency competition is surely a debilitating obstacle to providing abundant coverage of the Court's decision-making, would media behaviors change if these constraints were alleviated? Indeed, the economic framework is firmly established,[12] but the majority of scholarly works devoted to analyzing coverage of the Court follow similar observation strategies. If anything, recent decades have seen an emergence of literature that effectively expands on the volume of observations, rather than amending the observation strategy itself.

To illustrate, Epstein and Segal (2000) represent the "dominant approach in the extant literature" (Clark, Lax, and Rice 2015, p. 38) by framing latent case salience as whether the decision received front-page coverage in *The New York Times*. Owing to the concerns of focusing on a limited observation strategy,[13] Collins and Cooper (2012) built on the earlier approach by considering post-decision coverage at any level by the *Chicago Tribune*, *The Washington Post*, and the *Los Angeles Times*. Finally, Clark, Lax, and Rice (2015) reduced their observations to *The New York Times*, *The Washington Post*, and *The Los Angeles Times*, but employed text automation tools to consider whether coverage was provided at different intervals of the case's progression from the granting of certiorari to the release of an opinion. Nonetheless, these analyses follow a similar set of observational strategies curtailed to measure media coverage in its most traditional form, print media, which we can understand is going to be

[12] While the framework itself might not be cited in every work contending with strategic media behaviors toward the Supreme Court, the underlying assumptions of these works always contend that media outlets are forced to reconcile with their need to attract readership as their primary goal. With this, abundant coverage of the Court tends to suffer because most of its decision-making fails to engage with readers.

[13] Clark, Lax, and Rice (2015) aptly illustrate these concerns by noting: For example, front-page *New York Times* space is a precious commodity (and it has decreased over time), and two cases of the same level of salience may receive different attention in the *Times* because of exogenous factors, such as newsworthy events. Second, the measure assumes that salience means the same thing for the *The New York Times* editorial team as it does for the subjects of political science theories.

constrained by the economic framework. Yet, it should be recognized that while media heavyweights like *The New York Times* still serve an important role as agenda setters of the national discourse, they are no longer the sole domineering presence in the non-television media landscape.

Instead, recent years have given way to emerging new media alternatives from the perspectives of both new outlets and new mediums to disseminate coverage. While print media remains the dominant observation strategy for understanding media behaviors toward the Court, new media alternatives like social media provide an increasingly useful alternative. Twitter in particular has asserted itself as a platform rich with political discourse (Kwak, et al. 2010) and otherwise the dissemination of political news. Indeed, national surveys have routinely shown an increasing reliance on social media platforms as the primary avenue for obtaining political news.[14] This development presents a unique opportunity to observe media behaviors toward the Court in a networked environment whose structural limitations are theoretically unlimited compared to traditional print media. However, framing the media environment on platforms like Twitter requires an additional set of considerations.

[14] Recent survey analysis by Pew Charitable Trust (2022, February 2) estimates that an average of 55 percent of Americans now use social media for news either *sometimes* or *often*, up from 42 percent in the period coinciding with the 2016 United States Presidential Election.

First, what is the volume and variety of the media's presence on these platforms? Countless media outlets, journalists, commentators, and pundits actively use the platform to disseminate political information. Especially as it relates to the Supreme Court, the diverse collection of reporters assigned to cover the Supreme Court for media outlets across the ideological spectrum nearly all actively tweet decision-making by the Court in real-time. It is indeed possible that the first people beyond the chamber of the Court to learn the outcome of any case might be the Twitter followers of individuals like Nina Totenberg at *NPR* or Greg Stoher at *Bloomberg News*, both of whom report on the Court's beat. Yet, the Supreme Court press corps are not restricted solely to major outlets, and obviously, neither are social media platforms like Twitter. With this, we have seen a greater immersion between Supreme Court beat reporters and Twitter as their primary platform for reporting breaking news. Even more, their reporting is reinforced by legal commentators and correspondents who provide in-depth analysis of the cases, as well as by their media outlets directly.

A second question emphasizes users themselves by considering why they might follow a media-associated account in pursuit of Supreme Court news. This is similiar to considering why an individual prefers specific print or television media outlets. Prior research has noted that a user's perceived opinion

leadership or prestige on a social media platform motivates other users to follow them (Park 2013). Being viewed as an insider or expert on such a reclusive institution could facilitate that perception of prestige and motivate users to follow them for Supreme Court coverage. However, perhaps the most definitive reason why a user might turn to a platform like Twitter for information on the Court's decisions would be the result of convenience. Posting on Twitter demands clear and concise content. With a restrictive character limit, media-affiliated accounts are forced to condense a complex legal opinion into an informative post that might resemble a headline, rather than a complex analysis. Yet, while a character limit might be an obstacle, it is not entirely debilitating. Considering again that the public's general knowledge of the Court is often observed to be inadequate, expecting average social media users to comprehend a complex legal analysis is not likely. However, following an elite media user who covers the Court professionally and can condense difficult legal jargon into a clear and concise format is a convenient alternative.

A third question is how can a reliance on social media reconcile with the brand-building incentives provided through traditional coverage. Among the most attractive benefits of traditional coverage is the ability for media outlets to reinforce their "bottom line" (i.e., net earnings or profit) by selling advertising space. However, the lack of a comparable avenue for media outlets to directly expose their audience to advertising through their social media coverage does not negate their ability to engage in brand-building behaviors.[15] Instead, media engage in strategic behaviors to use social media platforms as a promotional tool (Sheffer and Schultz 2010). In a similar vein as the previous concern regarding character limitations, an intuitive feature of social media platforms is the ability to embed hyperlinks. In essence, although they do "not permit for detailed, in-depth content, [social media] can point users towards such content" (p.475). This in turn allows media outlets to post condensed and precise coverage of the Court's decision-making while still pointing their readers towards more comprehensive coverage on their websites. As a result, media outlets can still use their social media presence to engage in traditional brand building.

[15] *Brand building* can be defined as the process of generating awareness and promotion of a media outlet through sponsorship. In this case, it refers to the ability of media outlets to attract audiences in the hopes of reinforcing their profitability and enhancing their prestige.

A final question, and perhaps most important, is discerning how media-affiliated accounts decide what decisions to cover. This can again be framed best through the lens of an economic model (Hamilton 2004; McManus 1988; Vining and Marcin 2014; Vining, Wilhelm, and Collens 2015). Choices to cover the Supreme Court often lead to over-sensationalized reporting and only provide for cases that can facilitate readership (Krewson, Lassen, and Owens 2018;

Zilis 2015). Considering that Americans are increasingly likely to view the Court through a partisan lens (Pew Research Center 2022), it is unsurprising that major media coverage of decisions would be most pronounced when cases concern prominent political or social issues. Since traditional print or digital column space is a scarce resource for media outlets, they must be strategic in how they decide to report. If the choice is between reserving column space for a perceptively lackluster Supreme Court decision or another story that might stir public interest, the choice for most media outlets would sensibly fall to the latter. However, there is reason to believe that social media platforms like Twitter might alleviate some of these concerns. This is likely because Twitter is discernibly less resource-intensive than the other conventional mediums. Rather than competing for column space or being restricted by other editorial constraints (Shoemaker 1991), any reporter or commentator can post about the Court's decisions at will.

Taken together, I expect that media coverage of the Supreme Court through Twitter will reveal insight into how users consume information and express their opinions on the platform. Perhaps more importantly, I expect that a qualitative and quantitative examination of tweets from media-associated users will reveal that the platform provides a convenient alternative to traditional media reporting that will in turn expand rates of coverage for Supreme Court decisions.

## 3.4 Observing Supreme Court News in a Social Media Landscape

To analyze how media outlets utilize Twitter as a medium for disseminating information about the Court, I rely on tweets posted between the 2018 and 2021 terms by a voluminous sample of news outlets, journalists, pundits, and other Supreme Court reporters.[16] The purpose of measuring different user types – i.e., both outlets and individual reporters – is to capture as much variation in reporting as possible, as well as illustrate how information dissemination on Twitter is a more convenient avenue for commentators as opposed to vying for column space.

[16] I provide a definitive list of the reported outlets, pundits, and other journalists employed in this analysis in the appendix materials (Table A1).

Social scientists have often noted how prominent media elites often set the agenda for the industry as a whole (McCombs and Valenzuela 2020; Vining and Marcin 2014). That is, while local news coverage might exhibit greater degrees of editorial discretion, the collection of issues and events that tend to gain broader appeal in the national discourse is often set by news syndicates with a promi-

nent, nationwide appeal (McCombs and Valenzuela 2020). Yet, while these media heavyweights are surely important, they alone do not fully represent the modern media landscape, nor do they fully capture the degree of ideological or editorial variation that can be achieved through a comprehensive analysis of behaviors on social media platforms.[17] As such, rather than strictly analyzing media heavyweights like *The New York Times* and others with longstanding roots in the national discourse, I chose to instead incorporate a sample of 89 outlets, pundits, and other journalists – of which 82 were recorded as having published at least one tweet about a decision by the Court. These media actors were chosen through a combination of drawing on pre-existing literature and a desire to incorporate those whose media activity directly centers on the Supreme Court. Namely, I first drew from the framework offered in Barberá (2015), who included a collection of prominent media actors due to their usefulness as indicators of latent ideological preferences.[18] Second, owing to the prominence of niched reporters assigned to the Court as primary sources of Supreme Court news (Davis 1994; LaRowe and Hoekstra 2014), I aimed to include a sizeable sample of these reporters and correspondents. Representing both ideological and editorial variation in outlets offers the ability to observe how both the traditional heavyweights, as well as emerging outlets like *BuzzFeed* or individual journalists and pundits like Ben Shapiro (*The Daily Wire*) and Adam Liptak (*The New York Times*), employ these platforms to relay coverage of the Court's decision-making. I provide the distribution of coverage across these outlets in Figure 3.1, which illustrates both the considerable volume of coverage, as well as consistent intra-term trends in coverage behaviors.

[17] I define *editorial variation* as a collection of indicators, including the breadth of readership, frequency of publishing, primary medium(s) for disseminating coverage and commentaries, social and political prominence, and other factors attributed to individual outlets.

[18] I provide a comprehensive overview of this methodology in Chapter 4 and the appendix materials, as well as incorporate it as a means to scale the latent ideological preferences of media actors and responding users in Chapters 4 and 5.

As it pertains to sheer volume, I observed 10,121 tweets published to the Twitter platform among the sample of users discussing decisions by the Supreme Court between the 2018 and 2021 terms.[19] This alone bears considerable importance considering how coverage of the Court has consistently demonstrated to be sporadic when observed through the traditional print medium (Hitt and Searles 2018; Krewson, Lassen, and Owens 2018; Zilis 2015). As I will demonstrate in later sections, even among media heavyweights like *The New York Times*, *The Washington Post*, and others, coverage and commentary on Twitter substantially outpace traditional mediums.

[19] I provide an extended discussion on the data collection, processing, and filtering efforts in Chapter 4, which included multiple layers of robustness checks (both automated and manual) to properly identify and match tweets to corresponding decisions of interest.

Furthermore, analyzing the data reveals consistent longitudinal trends that might be expected with coverage of the Supreme Court. Namely, the Court is well known for relegating releases of decisions for its most "important" decisions to the late-Spring and early-Summer months. Though releases may begin

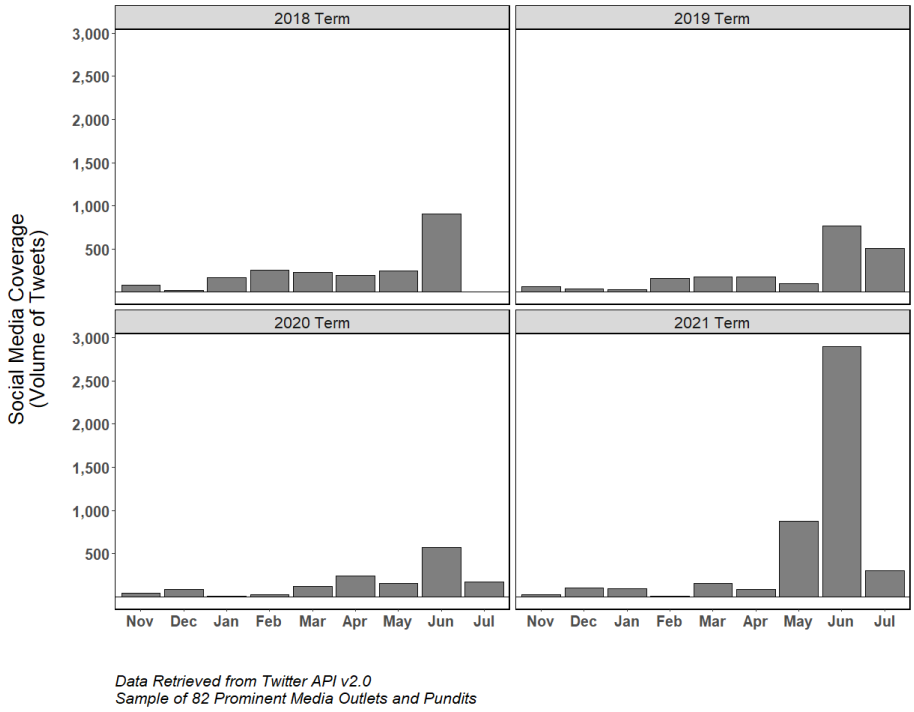



Figure 3.1: Distribution of Coverage on Twitter by Term (2018-2021 Terms)

in earnest as early as late-October or early-November, it is common for a large contingent of its decisions to be released after the justices have concluded their oral argument calendar in April or May. Indeed, coverage behaviors on Twitter appear to mirror expectations, insofar as the volume of tweets reflects consistency in coverage coinciding with the release of all opinions. Even more, in alignment with explorations of coverage through traditional mediums, coverage and commentary online grew considerably in the latter months of all terms. This is likely a reflection of both the general volume of decisions released by the Court in these months, as well as the often-greater degree of political salience associated with these decisions.[20]

[20] For example, although the Court only released 66 opinions during the 2021 term, half were released in June, alone. Many of these were the term's discernible "landmarks" –including *Dobbs vs. Jackson Women's Health Clinic* (Decided June 24, 2022), *New York State Rifle Pistol Association vs. Bruen* (Decided June 24, 2022), among others.

Yet, this is not to say that behaviors across mediums are identical. It is important to remember that coverage of the Court's decision-making has historically been viewed as sporadic and often reserved for those sure to provide a profound effect on the national discourse. Bearing this in mind, it is perhaps unsurprising that several studies have attributed degrees of social and political salience to cases reflective of their coverage in popular media (Clark, Lax, and Rice 2015; Collins and Cooper 2012; Epstein and Segal 2000). While the variance exhibited

online appears to relay similar preferences for greater volumes of coverage to be reserved for potential landmarks often reserved for the final months of the term, critical analyses of the data on social media reveal a great consistency of coverage. This especially appears to include cases that would most otherwise not raise to the degree of social or political salience detailed in the prior literature (Bailey, Kamoie, and Maltzman 2005; Graber 2002). Across the dataset, outlets averaged approximately 124 tweets with a median of 97.5.[21] Regardless, it is evident that outlets are taking advantage of the social media landscape as a practical avenue to provide coverage of the Court's decisions, including those that would potentially receive little to no coverage through traditional mediums.

[21] This minimum coincided with release of *City of San Antonio, Texas v. Hotels.com, LLP.* (May 27-29, 2021).

However, while such a presence online appears to negate concerns that any potential restrictive elements found on social media platforms (i.e., character limitations) might reduce coverage breadth and volume, the question remains whether it provides a practical avenue to pursue conventional business goals. As noted previously, perhaps the most attractive benefit of providing coverage through traditional mediums is the capacity for these outlets to reinforce their bottom line through consumer exposure to advertisers. It would be reasonable to assume that even if platforms like Twitter reduce the economic constraints of traditional coverage, journalists may nonetheless be constrained by their editors to focus their efforts away from social media for the sake of drawing readers to spaces that expose them to advertisers' content. Yet, inferences drawn from Sheffer and Shultz (2010) concerning the capacity for media users to embed hyperlinks to comprehensive coverage on their outlet's respective websites provide a comparable means to achieving these goals. As a result, media outlets can offer summarized coverage and commentary of the Court's decisions on social media while also providing an avenue to draw consumers to their websites and expose them to advertisers' content. Indeed, analyzing the corresponding metadata associated with these media posts reveals a considerable degree of consistency among outlets to take advantage of this opportunity (Figure 3.2). Among the 10,121 tweets published between the 2018 and 2021 terms, approximately 91 percent (n = 9,271) included a corresponding hyperlink. While the volume of users redirecting to these sites is not publicly available metadata, the notable consistency among outlets to engage in this behavior reveals that they likely view embedding hyperlinks as a worthwhile endeavor to drive consumers to their websites.

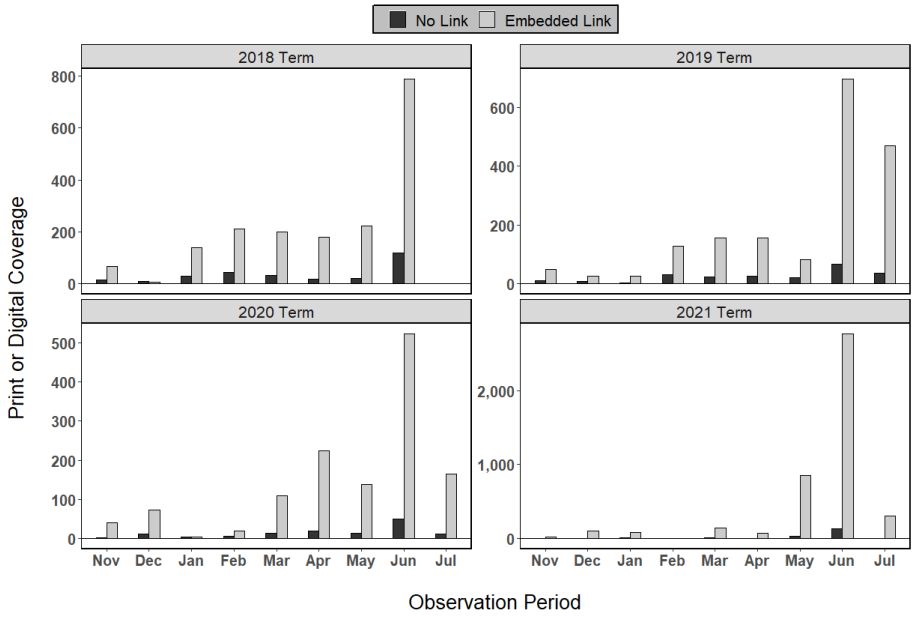



Figure 3.2: Variation in Coverage Embedding by Term

## 3.5 Printing and Posting: Comparing Supreme Court Information Dissemination in Print, Digital, and on Twitter

To date, most published studies concerning non-television media coverage of the Court's decision-making has been limited to traditional print coverage (Clark, Lax, and Rice 2015; Collins and Cooper 2012; Epstein and Segal 2000). As a result, much of our contemporary intuition about these media behaviors centers on this diminishing medium. An abundance of recent studies by the Pew Research Center depicts a considerable shift from traditional media behaviors. As of 2020, weekly circulation of major American newspapers has fallen below rates not seen since at least the 1940s.[22] Alternatively, visitation rates to these outlets' websites nearly doubled between 2014 and 2020. These behaviors can largely be attributed to evolving consumer and media ownership landscapes. Recent studies have demonstrated a greater propensity for younger generations to depend on the internet as their primary avenue for consuming political news.[23] The withering newspaper industry continues to face substantial obstacles to maintaining operations, both at the local and national levels, and these con-

[22] Weekly circulation was estimated at approximately 24.2 million for weekly publications and 25.7 million for Sunday editions, down from nearly 63.1 million and 51.7 million, respectively, in 1973. For reference, circulation in 1940 was estimated at 41.1 and 32.3 million, respectively (*see* Pew Research Center 2022, May 26).

[23] 8 percent and 21 percent of 18-29-year-olds turn to social media or news websites (or apps), respectively, as their primary source for political news, while only 7 percent rely on print. Alternatively, Americans aged 65 and older rely on social media and news websites (or apps) at rates of only 3 and 12 percent, respectively, while 47 percent still rely on print (*see* Pew Charitable Trusts 2022).

cerns were only exacerbated by the recent COVID-19 pandemic. As noted in *Forbes*, "The newspaper industry has been in steady decline triggered by a loss in readership and ad revenue which have been migrating to other media, most notably digital" (Adgate 2021). Even more, continuous reductions in revenue have forced substantial reductions in employment, and in many cases have forced long-standing outlets to shutter.[24] Those that were able to withstand the pandemic were often forced to dramatically curtail their printing operations in favor of digital, and many local outlets were forced to sell to larger publishing conglomerates. That same article by *Forbes* estimates that 25 of the largest publishers now own approximately one-third of all media publications in the United States.

[24] "Since 2004, there have been about 1,800 newspapers that have been shut down, most of them (1,700) were weeklies. Since 2004 on average 100 newspapers have been closing each year. There are now 7,000+ newspapers still publishing, a large majority (over 80%) being weeklies that are located primarily in small and rural areas with a circulation under 15,000" (Adgate 2021).

The purpose of illustrating these contemporary trends is to underscore a stark reality. The accumulation of our understandings concerning media behaviors, both generally and as it directly pertains to the Supreme Court, is contingent on a continuously evolving landscape. Even ten years ago, deriving inferences about media behaviors toward the Court could be reasonably accomplished through a strict analysis of print media. Today, however, this is no longer an assurance. Outlets are facing considerable obstacles to maintaining functionality while recognizing that the operational costs associated with traditional print circulation and the changing consumer preferences of their readers are forcing them to adapt. These conditions surely compound the economic model of Supreme Court news as the already-limited volume of physical column space forces outlets to prefer coverage of decisions with heightened degrees of political salience. Yet, the previous section demonstrates a considerable degree of media activity on social media platforms like Twitter. Combined with contemporary data that consumers are increasingly focusing their attention online, I expect that *Supreme Court news coverage on social media will prove to significantly outpace traditional mediums among these outlets*.

Apart from the sheer volume of coverage, the prior section pointed to a broader scope of cases receiving coverage. Long-held theories posit that the sporadic nature of coverage observed in traditional mediums is the result of strategic considerations by media actors and often precludes their ability to cover the full breadth of the Court's decision-making. Instead, the economic framework appears to guide outlets to toward coverage of only those cases sure to have some pronounced effect on public discourse (Graber 2002), which tends to coincide with indicators of latent case salience (Clark, Lax, and Rice 2015; Collins and Cooper 2011; Epstein and Segal 2000). Yet, the trends observed in

the prior section demonstrate a considerable breadth of coverage constituting a far greater range of the Court's decisions than the traditional theories would anticipate. From these trends, I expect that *coverage on social media comprise a greater assortment of the Court's decisions*. The apparent reduction in economic costs observed in the prior section gives way to the expectation that these major outlets will retain greater freedom to provide extended coverage online. With this, media actors can not only provide more coverage and across a greater array of the Court's docket, but they no longer appear bound to restricting coverage to salient cases most likely to emerge in traditional mediums bound by a strict economic model.

To accomplish this comparison across mediums, I again rely on tweets posted between the 2018 and 2021 terms by a sample of prominent news outlets and Supreme Court reporters that they employ. Deciding which outlets and reporters to employ was done by considering prior literature. As noted previously, social scientists have often noted that prominent media elites often set the agenda for the industry as a whole (McCombs and Valenzuela 2020; Vining and Marcin 2014). That is, while local news coverage might exhibit greater degrees of editorial discretion, the collection of issues and events that tend to gain broader appeal in the national discourse is often set by news syndicates with a prominent, nationwide appeal (McCombs and Valenzuela 2020). I chose to build on research by Epstein and Segal (2000), Collins and Cooper (2012), and Clark, Lax, and Rice (2015) by considering coverage provided by *The New York Times*, *The Washington Post*, *The Wall Street Journal*, and *USA Today*, as well as the primary Supreme Court correspondent for each outlet.[25] While these outlets are all regionally clustered in the Northeast, their particular inclusion satisfies two underlying goals. First, as of Summer 2022, they represent the four most prominent newspapers in the United States by circulation (Agility PR Solutions 2022). Second, while geographic representation is certainly an important consideration, it is important to recognize that other outlets employed in prior literature – e.g., *The Chicago Tribune*, *The Los Angeles Times*, etc. (Collins and Cooper 2012; Lax, Clark, and Rice 2015) – are better known for preferencing local issues in their coverage. Alternatively, the national readership and scope of coverage observed in the *The New York Times*, *The Washington Post*, *The Wall Street Journal*, and *USA Today* is best suited to observe media coverage of the Supreme Court.

[25] These included Adam Liptak (NYT), Robert Barnes (WAPO), Jess Bravin (WSJ), and John Fritze (*USA Today*).

I offer summary statistical information in Figures 3.3-3.4, and specifically compare rates of coverage by media outlets and reporters on Twitter versus the

conventional mediums – i.e., print or digital publication. Data were collected using ProQuest's multi-database advanced search query parameters, which provided information on coverage observed in the outlets' printed circulation, as well as their digital publications.[26,27] I specifically tasked the search engine with retrieving print and digital coverage published within 48 hours of a Supreme Court decision using variations of the case's identifying parties.[28] As expected, there is a distinctive trend of coverage and other commentaries on Twitter outpacing traditional mediums. Among outlets that can be viewed among the select few who set the national agenda, approximately 61 percent more coverage was posted to Twitter than through their print or digital publications. This not only reflects a greater volumes of comparative coverage (Figure 3.3), but longitudinal trends demonstrate this expectation across all but two months between the 2018 and 2021 terms (Figure 3.4). Even more, owing to my second hypothesis, I not only find a greater breadth of coverage online during periods when the Court releases opinions, but there are entire months observed where coverage is either only observed through social media, or alternatively the distribution favors social media so considerably that coverage volumes from the traditional mediums are dwarfed by comparison.

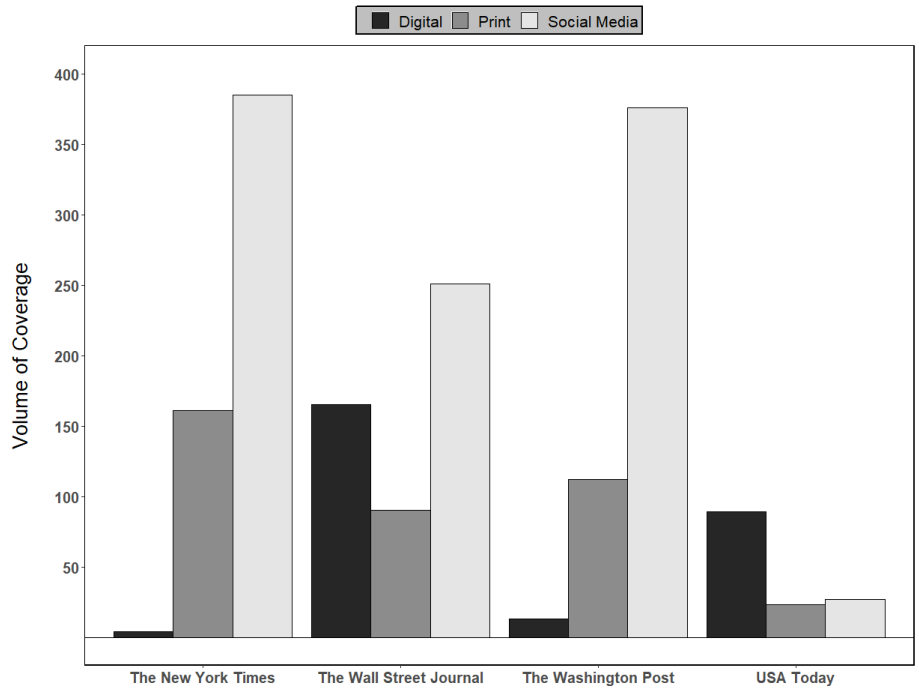
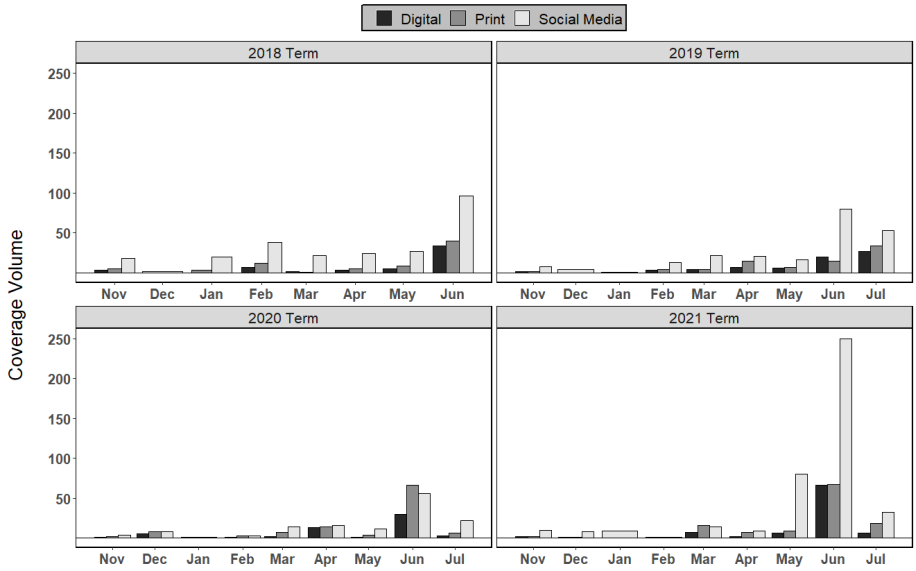



Figure 3.3: Comparison of Supreme Court Coverage by Outlet and Medium

[26] For more information, *see* https://www.proquest.com/

[27] For example, distinctions were drawn between *The Wall Street Journal* and *The Wall Street Journal* (Online).

[28] For example, search parameters for the Court's decision in *Dobbs v. Jackson Women's Health Organization* (Decided June 24, 2022), were retrieved using three separate searches of *Dobbs + Supreme Court*, *Jackson Women's Health Organization + Supreme Court*, and *Dobbs v. Jackson Women's Health Organization + Supreme Court*. This process helped to ensure that any coverage including a reference to the Court and (or) a party to the case during the corresponding observation period were retrieved by ProQuest.




*Data includes volumes of coverage from The New York Times, The Washington Post, USA Today, and The Wall Street Journal. Social Media coverage includes coverage from outlets' primary Twitter accounts, as well as those from their primary SCOTUS correspondants -- i.e., Adam Liptak (NYT), Jess Bravin (WSJ), John Fritze (USA Today), and Robert Barnes (WAPO).*

Figure 3.4: Comparison of Supreme Court Coverage by Outlet and Medium Across Terms

A broader consideration is whether these outlets and reporters employ an economic model of coverage similar to how we would expect them to behave using the conventional print and digital publication mediums. As I have noted previously, conventional coverage of the Court is often restricted to decision-making with a broad public appeal (i.e., political salience). As a result, conditions of latent saliency are seen as primary indicators of coverage by prominent media outlets. However, the reduction in resource scarcity to provide coverage on social media platforms raises two primary questions. First, if media outlets face fewer restrictions to provide coverage, will this in turn produce more coverage of cases that otherwise would not meet the thresholds for print and digital column spaces? Second, even if lesser-salient cases receive coverage on these platforms, is there still a preference to provide more coverage (or posts) about cases that do exhibit greater saliency? To analyze this, I construct a Poisson count model that considers how conditions of latent salience mediate the volume of tweets posted by the outlets and reporters. These include whether the case concerned a salient issue, which I define as those concerning *The First Amendment*, *Civil Rights*, or *Privacy*, as defined by the Spaeth, et al. Supreme Court database,[29] as well as whether the justices were split in the decision.[30] Likewise, to consider whether the presence of politically salient litigants motivates coverage, I included a term indicating whether the decision concerned a *Government Party*. These specifically included parties representing actors or in-

[29] For more information, *see* http://scdb.wustl.edu/index.php.

[30] i.e., whether it was a (6-3) or (5-4) decision, reflecting the perceived ideological division on the bench during the 2018 to 2021 terms.

stitutions of government, including state and federal executives or department heads in their official capacities, or state and federal departments and agencies. Finally, to alleviate concerns about inflated coverage estimates on days where multiple decisions were released,[31] I include a control term that considers the presence of multiple releases on the same day.

I drew on these substantive variables in particular because they would theoretically represent both the least legally complex and most sensationalized aspects of the Court's decision-making. Indeed, a collection of prior research have noted through different approaches of measuring salience that these case types – e.g., *U.C. Regents v. Bakke* (Civil Rights), *Roe v. Wade* (Privacy), and *Texas v. Johnson* (First Amendment) – routinely find their way into media headlines and the public discourse (e.g., Clark, Lax, and Rice 2015; Grosskopf and Mondak 1998). Furthermore, recent cases like *Trump v. Vance* (2020) and *Trump v. Mazar*s (2020), which directly included President Donald Trump as a party to the litigation, provide ample anecdotal evidence that cases concerning prominent political figures often find their way into the national discourse.[32] Unraveling the complexity of Supreme Court decisions is often difficult, even for seasoned reporters, so it is understandable why coverage is often found more often in cases that are "relatively easy to grasp and [present] emotionally stirring stor[ies]" (Graber 2002, p. 313). It can explain why landmark decisions like those of *Roe v. Wade* (1973), which "involved an emotional issue a woman's right to have an abortion" (p. 312), and *Brown v. Board of Education* (1954), which "declared unconstitutional the separate school of children of different races" (p.312), were and remain among the most commonly covered and memorable cases in the public political discourse. Indeed, if any cases might be expected to receive coverage from popular media, those concerning generational social and political issues or prominent figures would almost surely be among the most likely. Media actors can present a comprehensible foundation for their audiences to grasp these cases, as well provide an engaging narrative that focuses on the political ramifications and controversy (e.g., dissent among the justices) that often emerge from them.

I provide the modelling results in Tables 3.1-3.2, where coefficient estimates are disseminated to consider coverage across both traditional print and Twitter.

[31] The release of multiple opinions on a single day might produce greater rates of coverage as a reflection of the volume of decisions, rather than the latent salience associated with the decisions themselves.

[32] Graber and Dunaway (2014) refer to this as the *familiary* element of newsworthiness, which argues that media coverag is "...attractive if it pertains to well-known people or involves familiar situations of concern to many" (p. 113).

Table 3.1: Saliency Conditions as a Motivator of Supreme Court Reporting on Twitter (*Poisson Regression*)

| Area | Variable | Coef. | S.E. | Sig |
|---|---|---|---|---|
| Case Salience | Government Party | 0.587 | (0.08) | *** |
| | Salient Issue Area | 0.774 | (0.05) | *** |
| | Multiple Decisions | 0.368 | (0.06) | *** |
| | Split Court | -0.074 | (0.05) | |
| Coverage Medium | Print Coverage | -0.488 | (0.08) | *** |
| | Social Media Coverage | 0.328 | (0.07) | *** |
| Media Outlet | *The Wall Street Journal* | -0.447 | (0.06) | *** |
| | *The Washington Post* | -0.157 | (0.06) | * |
| | *USA Today* | -0.819 | (0.10) | *** |
| | Constant | 0.289 | (0.12) | * |
| | (Cragg-Uhler) $R^2$ | 0.76 | | |
| | AIC | 2910.47 | | |
| | BIC | 2951.63 | | |

* p <0.05, ** p <0.01, *** p <0.001 with Two-Tailed Test
Observation Periods = 91
(Within 48 Hours of Supreme Court Decision, 2018 to 2021 Terms)

Table 3.2: Saliency Conditions as a Motivator of Supreme Court Reporting on Twitter (*Poisson Regression, Disseminated by Coverage Medium*)

| | Print | | | Digital | | | Social Media | | |
|---|---|---|---|---|---|---|---|---|---|
| Variable | Coef. | S.E. | Sig | Coef. | S.E. | Sig | Coef. | S.E. | Sig |
| Government Party | 0.473 | (0.18) | ** | 0.348 | 0.24) | | 0.641 | (0.10) | *** |
| Salient Issue Area | 0.610 | (0.12) | *** | 0.659 | (0.15) | *** | 0.900 | (0.07) | *** |
| Multiple Decisions | 0.588 | (0.16) | *** | 0.766 | (0.22) | *** | 0.238 | (0.07) | ** |
| Split Court | 0.046 | (0.10) | | -0.040 | (0.12) | | -0.164 | (0.06) | * |
| *Wall Street Journal* | -0.295 | (0.13) | * | 0.568 | (0.51) | | -0.478 | (0.08) | *** |
| *Washington Post* | -0.409 | (0.12) | ** | 0.840 | (0.57) | | -0.085 | (0.07) | |
| *USA Today* | -0.723 | (0.22) | ** | 0.491 | (0.51) | | -1.448 | (0.19) | *** |
| Constant | -0.175 | (0.20) | | -0.836 | (0.54) | | 0.620 | (0.11) | *** |
| (Cragg-Uhler) $R^2$ | 0.43 | | | 0.51 | | | 0.84 | | |
| AIC | 621.38 | | | 461.89 | | | 1800.97 | | |
| BIC | 645.83 | | | 481.89 | | | 1827.59 | | |

* p <0.05, ** p <0.01, *** p <0.001 with Two-Tailed Test
Observation Periods = 91
(Within 48 Hours of Supreme Court Decision, 2018 to 2021 Terms)

As it relates to an economic model of news, my results yield two notable inferences. First, the estimated variation across mediums in both models indicates a significantly greater propensity for publishing coverage on social media. Even as the relationship appears negative across outlets for social media coverage in Table 3.1, an illustration of the predicted marginal effects demonstrates that this is not the case. Coverage on social media is predicted to significantly outpace print coverage, and nearly the same for digital (Figure 3.5).[33] During any given observation period, it is predicted that these prominent outlets will disseminate approximately 46 percent more coverage and commentary online.[34]

[33] The statistically significant and negative estimations across the individual outlets in Table 1 are most likely the result of the fact that the observations are constrained to each coverage medium (i.e., *print* or *digital* versus social media). An analysis of the preceding estimates in Table 3.2 demonstrates a significant and positive expectation for coverage on social media, which is further compounded by the results in Figure 3.5 across mediums.

[34] An analysis of the predicted marginal effects reveals that coverage on social media is significantly greater, with a predicted mean of 1.19 posts online versus 0.52 published via print and 0.85 via digital.

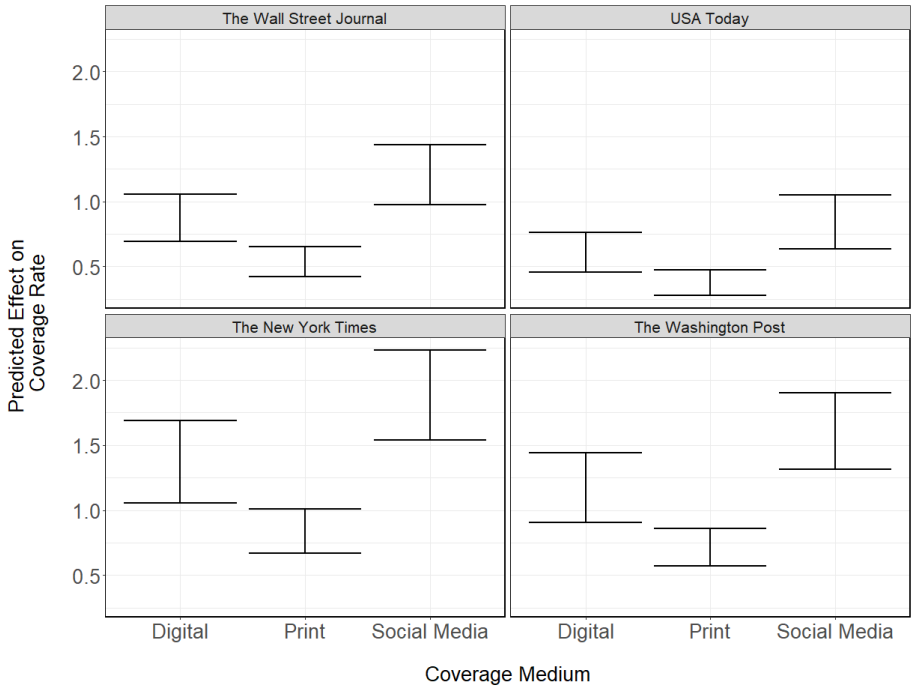



Figure 3.5: Predicted Effect of Coverage Medium Across Major Media Outlets

Second, my results reveal an interesting dichotomy as it relates to the potential presence of political salience in the Court's decisions. As noted in the previous section, the sheer volume of coverage posted online demonstrated how much of the Court's decision-making is garnering coverage and other commentaries. This was especially pertinent among those cases that would otherwise not be expected to receive an abundance of coverage, if any at all. Yet, I find that the presence of saliency conditions, insofar as the decisions concern *The First Amendment*, *Civil Rights*, or *Privacy*, produces a significant and positive effect across all outlets. This could reasonably lead us to believe that the importance of salience as a condition of coverage ultimately negates the contention that social media reduces the burdens of the economic model to an extent where coverage of less-politically salient cases might receive coverage. However, an analysis of the predicted marginal effects reveals that this fear is unpronounced. While the presence of salient legal issues might produce greater rates of coverage similar to traditional mediums, a reduction in potential salience nonetheless results in effectively the same level of expected social media coverage as salient cases in print (Figure 3.6). This not only supports my final hypothesis but highlights the broader array of cases we might expect to receive coverage in a social media environment like Twitter. Even if case salience is a reliable predictor of expected coverage volumes online, the fact that omitting this indicator does

not effectively eliminate the propensity for coverage underscores how social media encourages reporting on cases that would otherwise likely be relegated to obscurity in an environment restricted to print.

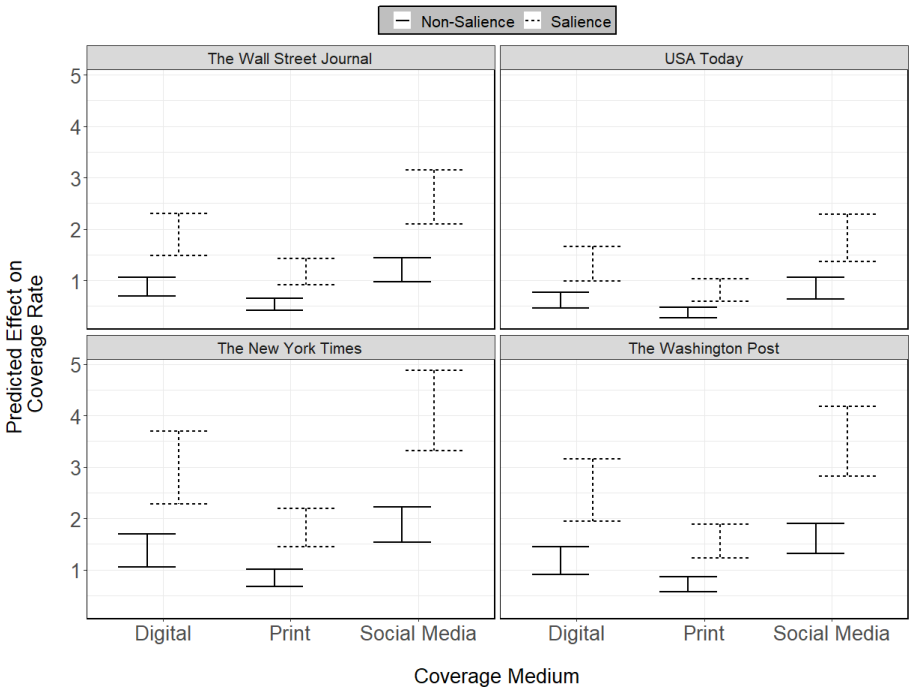



Figure 3.6: Predicted Effect of Issue Area Salience Across Major Media Outlets

## 3.6 Discussion

Social media represents the new horizon for the dissemination of political news. It has provided countless individuals, outlets, and other commentators an avenue to capitalize on a growing market of consumers pursuing concise, yet informative insights on breaking and developing stories that shape contemporary politics. Studies have historically attributed the Supreme Court's lack of consistent spectacle and the justices' usual reluctance to engage in the political discourse beyond the confines of the courtroom to explain why popular media coverage of their decision-making is considerably sparse and sporadic (Graber 2002; Zilis 2015). Other scholars, most notably Vining and Marcin (2014), depicted media behaviors toward the Court's decision-making as an extension of the theoretical frameworks underpinning an economic model of news (Hamilton 2004; McManus 1988).

Yet, the core intuition underpinning the economic model is theoretically bound in large part to traditional print media. Intra-agency competition, whereby individual outlets actively compete for readership, is sure to exist across any medium. Yet, the core pillar of the economic framework assumes that outlets themselves face a considerable degree of inter-agency competition for limited physical column space in an attempt to ensure that they are promoting coverage and commentary of the most socially and politically salient news. My research analyzed this framework in a social media environment that could potentially diminish the economic costs associated with reporting in physically published periodicals, while also maintaining the outlets' capacity to pursue business ventures and other brand-building goals. I theorized, and my results support, a social media environment for covering the decision-making of the Supreme Court that is ostensibly less restrictive than traditional mediums.

I began by developing a theoretical framework for a Social Media Platform Model of Supreme Court News (SMP Model), which contends that the traditional economic model, as it has been observed in prior studies, requires an amended set of conditions to frame media behaviors toward the Supreme Court online (Vining and Marcin 2014). In essence, the limited constraints associated with broad and voluminous coverage of the Court's decision-making in a social media environment like Twitter would provide media outlets and corresponding journalists with a preferable alternative to traditional coverage. The limiting of these economic constraints, aided by the ever-growing population of consumers reliant on these platforms for political news, would be demonstrated by a comparatively greater volume of the Court's decisions being covered on social media, as well as a greater comparative volume of cases that would otherwise not reach the threshold of *political salience* needed to ensure print coverage (Bailey, Kamoie, and Maltzman 2005; Clark, Lax, and Rice 2015). I approached these expectations using two sets of analyses.

First, I observed the coverage behaviors toward the Court's decision-making by 89 media outlets, journalists, and pundits on Twitter. I specifically chose Twitter as my primary observation tool because of the platform's rich presence of political discourse (Kwak, et al. 2010), as well as its diverse and voluminous population of users and media outlets. Analyzing coverage behaviors within 48 hours of the Court's decision-making using Twitter's API reveals a considerable degree of activity on par with my theoretical expectations. Among the media population, I observed 82 users posting approximately 10,000 tweets providing coverage and additional commentary on decisions released between the

2018 and 2021 terms, which represents a comparatively greater rate of coverage than anything we might expect through traditional print mediums. Even as the variation in coverage behaviors in these terms is comparable to what we might expect from traditional print in the final months of each term, the volume of published tweets across the remaining periods of each term appears to support the contention that social media provides these media users with an avenue to provide coverage of decisions that would otherwise be relegated to obscurity due to their lack of conventional political salience.

Furthermore, an analysis of the corresponding metadata reveals a considerable degree of brand-building behaviors. One of the primary obstacles to social media as a practical tool for media coverage is the fact that it supplants domain control from these outlets. In short, whether it be a physical newspaper or their organization's website, these outlets do not host the content posted to social media platforms. The inability to directly host readers means that consumers will not be exposed to their supporting advertisers' content, a primary source of financial support for any of these outlets. Yet, as Sheffer and Schultz (2010) note, not only can social media be used as a promotional tool, but the capacity to embed links offers a mechanism to direct readers toward comprehensive coverage on the outlets' websites, thereby exposing them to advertisers in an environment they control. The evidence considerably supports this marketing strategy as a practical brand-building tool. Among all media posts to the platform, approximately 92 percent included a corresponding hyperlink.

Second, to provide a more succinct comparison between coverage on social media versus traditional print mediums, I compared the behaviors of four major media outlets (*The New York Times*, *The Washington Post*, *The Wall Street Journal*, and *USA Today*) and their primary Supreme Court correspondents. These outlets are primary examples of outlets known to set the agenda for the industry as a whole (e.g., McCombs and Valenzuela 2020; Vining and Marcin 2014) and have been frequently featured as institutions for observing strategic media behaviors toward the Court. Using a Poisson count model, I find considerable statistical evidence of significantly greater dependence on social media. Not only are coverage and other commentaries more frequent on social media, but the traditional indicators of case salience and other factors do not negate the inferences drawn from this relationship.

Barring decisions with discernible indicators of political salience, coverage of the Supreme Court has traditionally been relegated to obscurity. Yet, the

growing dependence on social media platforms – both from the perspective of consumers and media producers – continues to shape the new media landscape. While theoretical frameworks contending with strategic media behaviors toward the Court provide a sturdy foundation, they do not fully encapsulate the conditions framing social media. Instead, I find that this economic relationship is best expressed through the lens of an amended SMP model, which contends that coverage on social media is quickly becoming a practical avenue for news dissemination due to the diminishing of economic constraints and the considerable (and growing) consumer population. Future studies should devote themselves to expanding on the SMP framework, insofar as additional observation periods and expanding the pool of comparable outlets will continue to enrich our understanding of the evolving conditions motivating coverage of the Supreme Court.

# Chapter 4

# Framing Supreme Court News On Social Media

## 4.1 Chapter Overview

How and why do media actors frame Supreme Court news on social media platforms? Prior literature has often noted the interesting dynamics of strategic framing by media outlets and how it influences the public's perceptions of the Court (Baird and Gangl 2006; Linos and Twist 2016; Spill and Oxley 2003; Strother 2017). These studies have acknowledged the public's reliance on media outlets to relay information concerning the Court's decision-making and how these outlets often engage in strategic behaviors to frame their coverage in ways that might reinforce their ideological preferences. However, this dynamic has received little discussion as it relates to social media platforms.

This chapter aims to fill this gap by observing the variation in coverage behaviors among a sample of prominent media outlets, pundits, and other Supreme Court journalists posting coverage and other commentaries concerning the Court's decisions to Twitter between the 2018 and 2021 terms (October 2018 to July 2022). I begin by reintroducing the core tenants of the amended economic news model (i.e., the SMP Model) discussed in Chapter 3, which demonstrates both the breadth and underlying motivations for disseminating Supreme Court news on these platforms. However, while the SMP framework helps to understand why these outlets might employ social media, it does little to explain what they are saying about these decisions. From this, I turn to view media coverage of the Court online as an extension of strategic framing behaviors, wherein media outlets can structure information in ways that largely reinforce their ideological predispositions. I specifically distinguish between tra-

ditional definitions of framing Supreme Court news, which broadly considers how media actors structure coverage, to instead focus on *positional framing*, which directly considers how these actors relay support and opposition. To directly examine positional framing, I introduce two sequential analyses. The first develops and subsequently tests a theoretical framework to discern the motivations underlying positional framing behaviors. Using a sentiment classification strategy, I find that social media environments do not preclude the capacity for media actors to engage in positional framing. Furthermore, the decision to shirk neutrality in favor of positive or negative (i.e., support or opposition) frames is largely the result of market-based incentives, which are exacerbated by conditions of issue area salience and controversy emanating from the Court's decisions. The second analysis builds on the first by considering discrete variation in positional framing. Focusing on social media coverage of Supreme Court news during the 2018 to 2021 terms, I incorporate ideal point estimation in coordination with other indicators to demonstrate how the decision to relay support or opposition frames is tied considerably to the ideological congruence between individual media actors and the Court's decision-making. While I posit that my results are largely in response to contemporary trends and perceptions, I conclude by noting that my findings nonetheless raise important considerations for the media's treatment of the Court in the future and how these behaviors might have a residual effect on public discourse.

## 4.2 Motivations for Covering the Court on Social Media

In the previous chapter, I expressed the need to look beyond the traditional economic framework of Supreme Court news to best understand how and why media outlets, journalists, and other pundits might turn to social media as a means of disseminating coverage and other commentaries. At its core, an economic model of news, both in the traditional sense (Hamilton 2004; McManus 1988) and directly as it relates to the Supreme Court (Vining and Marcin 2014), contends that a combination of editorial constraints, oversight restrictions, and sensitivity to conditions of the news market lead media actors to be exceedingly selective in what news to relay to their audiences. In effect, the scarcity of physical column space, compounded by the reality that media is a product aimed at a limited consumer population, ultimately leads to contentious intra- and interparty competition among outlets and other journalists. This often precludes consistent coverage of the Court's decision-making because, in reality, most of the justices' decision-making fails to provide definitive political salience,

whereby the public is intuitively drawn to the substance of the case itself (Bailey, Kamoie, and Maltzman 2005). It is perhaps unsurprising then that "of the three branches…, only the judiciary [is] sparsely covered" by popular media (Graber 2002, p. 310).

However, I contend, and my results support, that the benefits of disseminating Supreme Court news on social media platforms like Twitter provide relief to many of the chief concerns arising from the conventional economic framework. Using the sample of 82 media outlets, journalists, commentators, and other pundits introduced in Chapter 3, I find that coverage and other commentaries online are not only considerable and frequently address nearly (if not all) of the Court's decisions, but financial incentives associated with brand-building strategies are still seemingly attainable. That is, while a chief financial opportunity remains for media actors and institutions to retain domain control,[35] insofar as it allows for direct exposure to advertisers, inferences drawn from Sheffer and Shultz (2010) concerning the capacity for media users to embed hyperlinks to their outlet's respective websites provide a comparable means to achieving these goals. Of the nearly-10,120 tweets posted by these media users between the 2018 and 2021 terms, approximately 92 percent included a corresponding hyperlink.[36] Even more, advancing my analysis to direct comparisons of coverage behaviors in traditional print and social media among media heavyweights yielded additional inferences. Between *The New York Times*, *The Washington Post*, *The Wall Street Journal*, and *USA Today*, as well as each outlet's respective Supreme Court correspondent,[37] I again find that social media coverage considerably outpaces traditional print, and the omission of perceived political salience still produces comparatively greater rates of coverage online.

[35] i.e., facilitating consumers in environments that they control. As it relates to media actors and institutions, this can best be explained by ensuring that readers consuming their media content are doing so either on their respective websites or directly through physical print copy. Doing so ensures that advertisers, who provide considerable financial support for the outlets, can address readers as cohesively as possible.

[36] *See* Figure 3.2.

[37] Adam Liptak (NYT), Robert Barnes (WAPO), Jess Bravin (WSJ), and John Fritze (USA Today).

## 4.3 Framing Supreme Court News

While the SMP framework does much to provide a theoretical basis for understanding why media actors and institutions are turning to social media to provide coverage of the Supreme Court, it does not fully extend to considering what information is being relayed. The Court's presence as a prominent political institution means that its decisions habitually face public scrutiny, and a considerable collection of prior literature has been devoted to best understand how these decisions influence variation in the Court's *diffuse* (i.e., institutional) and *specific* (i.e., case-specific) support and opposition structures (Linos and Twist 2016; Spill and Oxley 2003). However, as I expressed in the previous chapter, there exists a considerable information gap between the Court and the public at

large. Whether it be a lack of resources or substantive legal knowledge necessary to fully comprehend the Court's decisions, the public is generally reliant on popular media to provide them with news and other information concerning the Court and its justices. As a result, media coverage of the Court often serves as the primary, and potentially the solitary, frame of reference for the public. This is of course a considerable degree of power and serves to reinforce popular media's role as agenda setters of national discourse (McCombs and Valenzuela 2020).

Yet, the decisions by these media outlets and actors in determining not only which decisions to cover, but also how to cover them, are not made in a vacuum. Like individuals, media actors and institutions can, and have often been observed to, frame their perceptions of the Court as a reflection of their implicit biases and other ideological preferences (Caldeira 1986, 1987; Clawson and Waltenburg 2003; Davis 1994; Gibson, Caldeira, and Spence 2003; Jaros and Roper 1980; LaRowe and Hoekstra 2014). This is understandable if we again consider that not only do media outlets "sell stories, not the events themselves" (Shoemaker 1991, p. 27), but media entities constitute real people whose editorial discretion is surely reflective of implicit preferences and other biases. Especially in the modern landscape, considerable evidence has led observers to draw ideological distinctions among major media outlets.[38] In effect, stories can illicit different feelings if the events themselves are prescribed different perspectives depending on the outlet presenting that information. Again, owing to the Court's presence as a major and consequential political institution, conveying its decision-making to the public is a decision rooted in perspective. Especially for decisions that present considerable degrees of political salience (Bailey, Kamoie, and Maltzman 2005), scholars have frequently observed conflictual perspectives among outlets (Boddery, Moyer, and Yates 2022). More generally, sporadic coverage behaviors toward the Court often result in over-sensationalized accounts of its decision-making (Krewson, Lassen, and Owens 2018; Zilis 2015).

[38] For example, *see* https://www.allsides.com/media-bias.

However, my analysis conducted in Chapter 3 demonstrates a considerably greater volume of coverage on social media platforms, and the core of our understanding of the strategic framing of Supreme Court news is generally bound to the confines of traditional news mediums. This begs a collection of notable questions, chief among them being whether media actors translate framing behaviors to social media environments. Given the findings in Chapter 3, it would be natural to presume they do. Yet, while social media theoretically does not preclude larger volumes of coverage, this does not necessarily mean com-

plex rhetorical behaviors are inevitable. That is, while coverage may be more voluminous, an important question remains concerning whether contextual limitations observed in social media environments – e.g., character limitations – could serve as a deterrent to sufficiently relaying an actor's predisposed biases. To answer this and other questions, it is important to not only consider whether the structure facilitated by these social media networks provides sufficient versatility to engage in strategic framing, and if so, what conditions we might expect to instigate or deter these behaviors.

## 4.4 Theorizing Positional Framing on Social Media

At their core, social media platforms like Twitter facilitate an environment where individuals (users) can interact and share information across a network space. Granted, there are slight, yet discernible differences among individual platforms,[39] but this principle underpins virtually all social media environments. As I found in Chapter 3, perhaps the most intuitive benefit for media outlets to employ a social media platform is that it serves as a cost-effective alternative to traditional print and digital media. Media actors and institutions have become increasingly adept at using platforms like Twitter as an extension of their reporting apparatus, especially as it pertains to covering political institutions like the Supreme Court. Whereas the practical limitations of scarce column space and editorial oversight might force journalists to reconcile their publishing behaviors under the lens of an economic model (Vining and Marcin 2014), social media platforms provide an unrestricted domain for posting news coverage. Further, while an economic model of Supreme Court news has historically meant that coverage will be restricted to cases with a broad public appeal (Davis 1994; Graber 2002; Johnson and Socker 2012; LaRowe and Hoekstra, 2015; Spill and Oxley 2003; Vining and Marcin 2014; Zilis 2015), the capacity to provide an unending content stream theoretically gives media outlets more latitude to provide coverage, and especially so for cases that might otherwise not be considered newsworthy for traditional publication. Yet, this development is nonetheless considerably new, and our understanding of Supreme Court news is generally bound to traditional print. While media outlets might have both an incentive and practical avenue to post coverage online, a broader question remains of how they will present it to the public. I approach this question through two avenues. First, I explore how character limitations on social media platforms do not negate the ability to provide coverage, nor do they prevent media outlets from embedding hyperlinks to more comprehensive coverage. Second, I

[39] For example, these might include different *widgets* (i.e., an application or component of an interface that enables users to perform a function or access a service), network structures (*see* Porter 2009's discussion on *symmetric* versus *asymmetric* network structures), and other unique features that frame and influence the conventional user experience on these platforms.

explore the underlying theoretical considerations for how and why media actors engage in non-neutral or *positional* framing behaviors online.

### 4.4.1 Potential Obstacles to Positional Framing on Social Media

Prior research has considered this question through the lenses of media agenda setting (Graber 2002) and framing (Baird and Gangl 2006; Hitt and Searles 2018; Nicholson and Howard 2003). They often find that media outlets engage in different agenda-setting behaviors, which include not only how they present coverage of the Supreme Court but what information they decide to relay or emphasize to their readers. However, extending these concepts to social media requires considering additional factors. Perhaps most importantly, while social media platforms like Twitter theoretically provide an unrestricted domain to publish media content, it does so with strict character limitations. Before 2017, Twitter limited posts on the platform to 140 characters, though this number has increased to 280 as of 2022.[40,41] As it relates to covering the Supreme Court, this inherently forces media actors to summarize complex (and often lengthy) legal opinions into a concise framework. Yet, this limitation may not serve to be a serious disability. Alternatively, Graber (2002) notes a preference among media outlets to assign seasoned reporters to the Court who can convey technical legal knowledge in an easily accessible configuration for lay readers. At the heart of this effort is striking a balance between precise and scrupulous coverage. It would be reasonable to expect character limitations to compel precision and likely force media users to relay information in ways that are similar to headlines.

[40] For reference, a social media post containing only 140 characters is equivalent to approximately 20 to 40 words.

[41] Note: Twitter recently announced in February 2023 that *Twitter Blue* users, a paid subscription service, will have the ability to post up to 4,000 characters in their tweets. Otherwise, limitations remain at 280 characters for non-*Twitter Blue* users. However, the data employed in this research is unaffected by these alterations.

Media headlines serve as reliable tools to attract and compel readers. Regardless of the medium used to publish news, headlines always serve as a glimpse of the author's succeeding content, and seasoned media actors are adept at using them effectively. This hinders their ability to provide comprehensive analyses in their social media posts, but there are surely benefits to this dynamic. It would likely be incorrect to assume that consumers prefer coverage that is littered with legal jargon because it runs the risk of being "too technical and dull" (Graber 2002, p. 313). As such, media outlets have the incentive to maintain a standard of content that is easily understood. I expect that these incentives are exacerbated by social media platforms for two reasons. First, with an endless stream of content for users to choose from, the ability for media outlets to draw users towards their coverage demands that it be concise and legible. Second, the ability for media accounts to embed hyperlinks to more in-depth analyses on their

websites negates the need to overextend their analysis online. Instead, I expect that much of the media's content will be short, precise, and most likely capture the essence of the Court's decision-making similar to a headline.

This expectation draws from two premises. The first again is that even if media users were disincentivized to post complex and lengthy coverage of the Court's decisions, their ability to embed hyperlinks to that style of coverage can still be provided for their audience (e.g., Sheffer and Schultz 2010). Second, media accounts provide coverage in the hope of attracting an audience to both enhance the prestige of their outlets and expose their readers to advertising (Hamilton 2004). With social media emerging as a primary source for political news, these "clickbait" behaviors employ social media as a promotional tool that draws readers to their websites for comprehensive coverage reinforcing both brand-building behaviors and the outlet's bottom line.

### 4.4.2 Positionally Framing Supreme Court News on Twitter

Although media actors might have the incentive to post coverage concisely, the pursuit of succinct recitations of the Court's decisions online should not inhibit their ability to emphasize certain sentiments, which can be understood as the underlying *positive*, *negative*, or *neutral* mood or feelings being relayed by media actors in their coverage. Given that media actors are adept at constructing engaging narratives, measuring rhetorical sentiments in this context draws on analyzing how rhetoric with positive and negative associations in particular serve as signals of underlying support or opposition. Yet, the crux of positional framing emphasizes the strategic choice to shirk neutral recitations in favor of rhetoric that conveys support or opposition. This behavior raises notable questions, chief among them being what conditions motivate media actors to relay positional (i.e., non-neutral) sentiments in their framing of Supreme Court news.

To begin, a major determinant in deciding whether to frame Supreme Court news must be the market-based incentives of providing enticing coverage that encourages engagement. Coverage of Supreme Court news is inherently an economic enterprise and media actors aim to "sell stories, not the events themselves" (Shoemaker 1991, p. 27) that are "geared to attract and entertain rather than educate" (Graber 2002, p. 131). Given this, it is perhaps unsurprising that

scholars have observed print coverage routinely framing Supreme Court news in ways that over-sensationalize disagreement and other controversies (Krewson, Lassen, and Owens 2018; Zilis 2015). As I found in Chapter 3, even in a social media environment that introduces restrictive obstacles like strict character limitations, the capacity for media actors to entice audiences with framed coverage could serve as ample motivation for readers to engage with hyperlinks that redirect to comprehensive coverage.

However, market incentives alone do not fully explain motivations for framing Supreme Court news. On their own, these incentives provide ample motivation for media actors to structure coverage in ways that encourage engagement, but it remains that not every decision will face considerable media scrutiny, let alone receive any coverage at all. It is important to remember that while coverage of the Court is routinely over-sensationalized (Krewson, Lassen, and Owens 2018; Zilis 2015), it is also considerably sporadic. Granted, these contentions are rooted in analyses of print media, and my findings in Chapter 3 give credence to the possibility that reduced economic constraints can explain why there are greater volumes of coverage on social media. However, it is also important to not conflate volume with substance. In essence, more coverage online does not invariably translate to media actors increasingly employing framing behaviors on these platforms. Instead, it is probable that they are still cognizant of which decisions are most likely to garner public attention. Owing to Graber's (2002) framework, these are most likely to be decisions sure to relay some discernible effect on the public discourse or, put more simply, those concerning important social and political questions and (or) demonstrate ideological disagreement on the bench. Specifically, I expect that *positional (i.e., non-neutral) media framing behaviors will be most pronounced in response to cases that consider salient issue areas and (or) reflect dissent among the justices*. In essence, the decision to engage in positional framing is the result of strategic decision-making by media actors to weigh market incentives with the propensity for decisions to attract public attention, which best emerges when coverage can illustrate high-profile decisions seeping with impressions of controversy. If the cost of providing coverage with perspective framing is outweighed by the utility of engagement by their audiences, then it is reasonable to expect media actors to engage in framing behaviors to stir public attention.

## 4.5 Research Design

To observe the conditions motivating positional framing by media actors toward decision-making by the Supreme Court, I again draw on the same sample of 89 media outlets, journalists, and pundits on Twitter used in Chapter 3.[42] Employing the Twitter API, I was able to retrieve approximately 17,000 tweets (i.e., posts) providing coverage and additional commentary between the 2017 and 2021 terms.[43] To ensure that these posts were pertaining directly to the Court's decision-making, I incorporated three layers of robustness into the data collection effort.

First, the assortment of search query parameters ensured that any retrieved posts were issued within 48 hours of a decision and contained any combination of pre-determined keywords most expected to be found in discussions concerning the Supreme Court. These specifically included *SCOTUS*, *Supreme Court*, or their hashtag equivalents. Second, I engaged in a comprehensive analysis of the posts' associated *entity annotations*, which are unique semantic keywords prescribed to individual tweets from topical lists curated directly by Twitter.[44] In short, adjacency feature matches within individual tweets (i.e., specific keywords, terminology, etc.) can be matched with curated lists related to specific topics that are subsequently stored as metadata. This process not only indicates whether tweets are specifically referencing the United States Supreme Court or its justices but also provides a corresponding probability distribution of the associated annotation's certainty.[45] For these data, I was sure to omit tweets that did not either contain any of the justices' names or the terms used in the original search query, as well as if the probability associated with a Supreme Court-related annotation was less than 60 percent. Finally, I engaged in an extensive manual coding procedure to ascertain case-specific focuses. From the original collection effort, approximately 7,000 tweets and eight media users were removed due to their focus being on non-decision-related news and other events.[46] Of the remaining 10,094 tweets from 81 media-affiliated users, I provide a sample of the top fifteen cases to receive coverage in Figure 4.1, including whether that coverage was posted in observation periods directly coinciding with the release of the decision. As one might expect, coverage of the Court's decision in *Dobbs v. Jackson Women's Health Clinic* (2022), including a leak of an early draft opinion, garnered considerable coverage amounting to approximately one-third of the total observations.

[42] For a comprehensive discussion concerning the selection of political and media elites sampled to construct the ideal point common space, *see* Chapter 3.4.

[43] Note: I provide an extended discussion on the data mining and collection process employed in this dissertation in the appendix materials (Appendix A1).

[44] For more information, *see* https://developer.twitter.com/en/docs/twitter-api/annotations/faq.

[45] For example, several tweets about state supreme courts were retrieved from the original data collection procedure simply because they included *supreme court*. Analyzing entity annotations provides an additional means to separate these unrelated tweets.

[46] For example, many tweets concerned docket-related orders coinciding with the mornings of opinion release days (e.g., denials of certiorari in notable litigation), while others often focused on events concerning the Supreme Court that were unrelated to the release of opinions (e.g., the Mueller investigation, the impeachment proceedings against President Donald Trump, etc.).

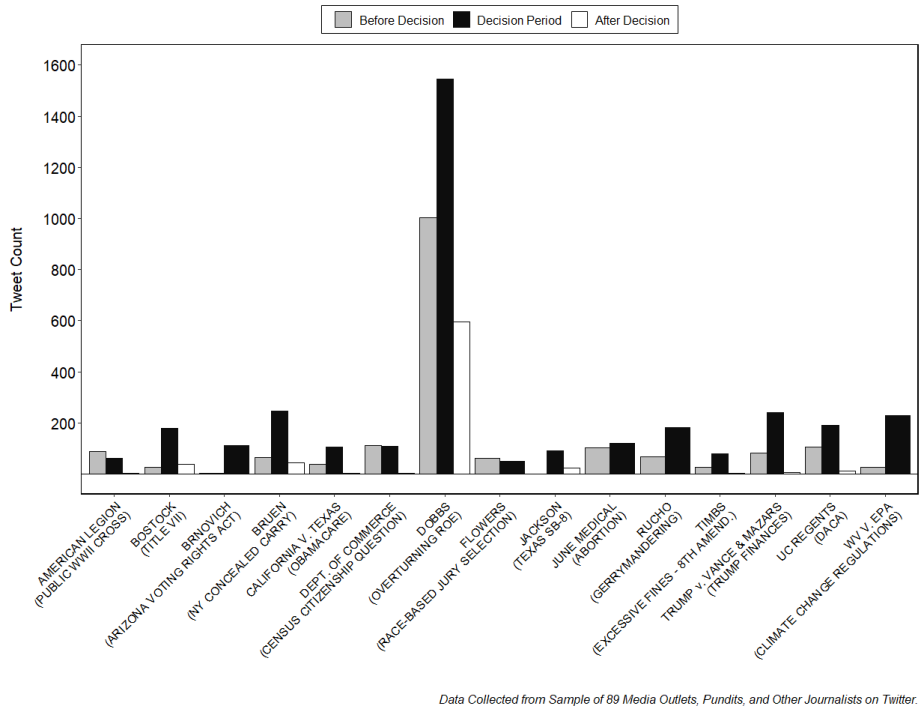



Figure 4.1: Top Fifteen Cases to Receive Coverage on Twitter (2018-2021 Terms)

### 4.5.1 Classifying Media Coverage Using Pre-Trained Machine Learning

To model media behaviors, I developed a logistic regression design that measures rhetorical sentiments employed to frame Supreme Court decisions on Twitter. Given that media actors are adept at constructing engaging narratives, the benefit of this approach is that it leverages how rhetoric with positive and negative associations serves as signals of underlying support or opposition. As such, the dependent variable is observed as a dichotomous indicator of the underlying linguistic mood (*rhetorical sentiment*) relayed by media actors to frame coverage of the Supreme Court online. Specifically, it considers whether media content relays a positional (i.e., non-neutral) frame.

To measure rhetorical sentiments, I employ a pre-trained machine learning approach capable of classifying the lexical tone of each media tweet (n = 10,094). I specifically rely on OpenAI's Generative Pre-Trained Transformer 3 (GPT-3), an autoregressive language model that uses deep learning to engage in next-word prediction and produce human-like text. As of 2023, GPT-3 is among the most attractive developments in transformer network technology, capable of drawing on 175 billion pre-trained parameters using its *Davinci* engine to engage in a

wide variety of natural language processing tasks, including text classification. I provide the distribution of classifications on a categorical scale in Figure 4.2, which illustrates whether media content best demonstrated positive, negative, or neutral rhetorical features.[47]

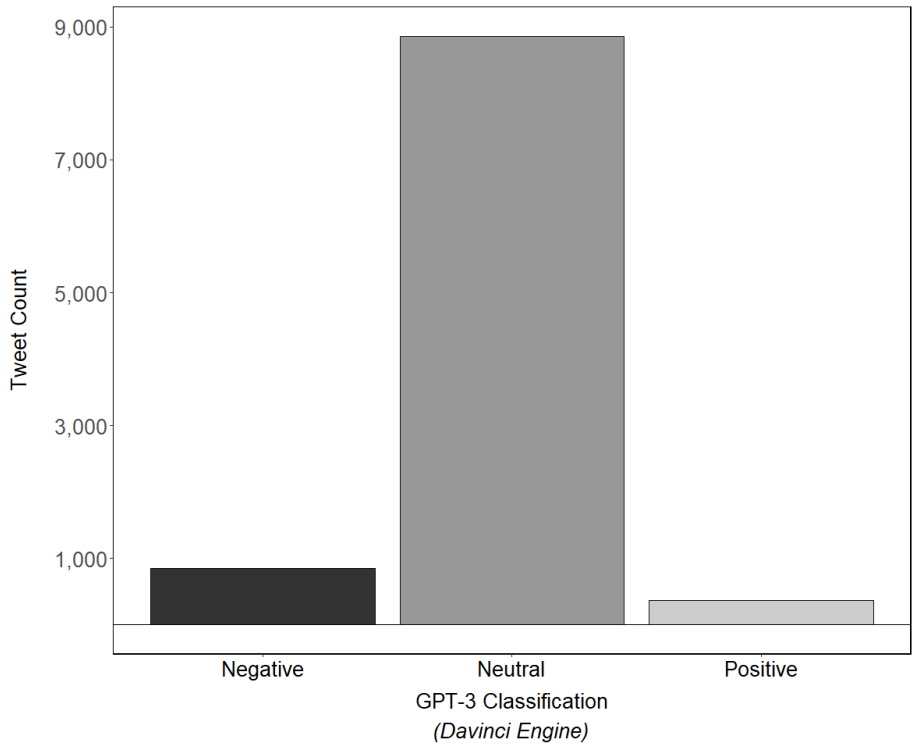



Figure 4.2: Distribution of GPT-3 Sentiment Classification Leanings (*Davinci* Engine)

[47] While GPT-3's *transformer* infrastructure is considerably complex, applying the model to sentiment classification tasks is rather uncomplicated. In short, researchers can formulate sentiment classification problems as next-word prediction problems, and the resulting classifications are the result of comparing the relevant probability distributions assigned to each potential category – i.e., *positive*, *negative*, or *neutral*. As such, tweets labeled as *neutral* in Figure 4.2 were done so because the corresponding probability was greater than positive or negative, not because there was no associated probability assigned to those alternative classification labels. I provide an extended discussion on applying GPT-3 to sentiment classification tasks in Appendix A.2.

Perhaps the most immediate inference that can be drawn from Figure 4.2 is the abundance of neutrality observed among media tweets. Given that social media necessitates strict compliance with content (i.e., character) limitations, it is perhaps unsurprising that concise, neutral recitations of the Court's decisions are prevalent among the data. Yet, the distribution of classifications highlights an important discrepancy among media behaviors. Namely, if the limitations of social media appear to promote neutral recitations, why do some media actors shirk in favor of positional framing? Owing to my theoretical framework, I expect that the conditions motivating media actors to employ position framing are rooted in perceptions of broader notoriety in the Court's decisions. In essence, decisions that exacerbate market-based incentives and motivate media actors to abandon neutral frames because positional rhetoric promotes audience engagement with content.

To model this dynamic, I began by considering the conditions underpinning cases themselves, chief among which are conditions of latent saliency. While every case reviewed by the Court bears some degree of importance to sectors of the legal community, few will garner notable discussion within the public discourse, and even fewer will become landmarks in American jurisprudence. The question remaining then is what factors translate cases from being simple "development[s] of the law" (Bailey, Kamoie, and Maltzman 2005, p. 79) to those relaying definitive political salience? In recent years, the Court has continued to capture national headlines for reviewing cases concerning generational political issues, including abortion and other privacy concerns,[48] competing interpretations of the intersection between the establishment and free-exercise clauses of the First Amendment,[49] and, of course, civil rights.[50] With this, I define salient issue areas as those concerning *The First Amendment*, *Civil Rights*, or *Privacy*,[51] and draw this expectation from the conceptual understanding that public attentiveness and interest in any decision by the Court is often deterministic of the decision's latent salience (Brenner and Arrington 2002; Clark, Lax, and Rice 2015; Collins and Cooper 2011; Epstein and Segal 2000; LaRowe and Hoekstra 2014; Sill, Metzgar, and Rouse 2013). These issue areas theoretically represent both the least legally complex and most sensationalized aspects of the Court's decision-making and prior research has often noted a growing tendency among media outlets to over-sensationalize the Court's decision-making that are "relatively easy to grasp and [present] emotionally stirring stor[ies]" (Graber 2002, p. 313). This is perhaps unsurprising given that media outlets ultimately aim to sell the substance of any event, not the event itself (e.g., Shoemaker 1991). Coverage concerning salient decision-making, which can be expected to sympathize with a mass audience, should instigate greater attentiveness from media outlets while potentially stirring division among partisans.

The second variable considers a broader measure of notoriety by observing whether the case included a government party. These specifically include parties representing actors or institutions of government, including state and federal executives or department heads in their official capacities, or state and federal departments and agencies. Recent decisions like *Trump v. Vance* and *Trump v. Mazars USA, LLP* (2021) captured national headlines, and a reasonable assumption could be made that the direct involvement of President Trump and the considerable division in public support he enjoyed served as the instigator of that attention, rather than the actual legal concerns raised in the case itself. As such, it would be reasonable to expect a heightened degree of public interest and a divergent set of perspectives in the resulting discourse to accompany cases

[48] e.g., *Dobbs v. Jackson Women's Health Clinic* (2022) and *June Medical Services, LLC v. Russo* (2020).

[49] e.g., *Espinoza v. Montana Department of Revenue* (2020), *Kennedy v. Bremerton School Districts* (2022), and *Carson v. Makin* (2022)

[50] e.g., *Bostock v. Clayton County* (2020) and *Department of Homeland Security v. Regents of the University of California* (2020).

[51] I provide an extended discussion on case issue selection in Chapter 3.5, which details the substantive merits of these particular issue areas as those most likely to resonate with broader audiences. I would also note that while there are surely alternative means to measure latent salience – e.g., the volume of amici filings, it is very likely that these alternative factors are confounded by the substantive merits of individual cases. For example, the public interest and media scrutiny attributed to *Dobbs v. Jackson Women's Health Clinic* (2022) was most likely the result of the Court's decision to overturn *Roe v. Wade* (1973), not because there were over 140 amicus briefs filed.

including these major government actors and institutions.

Apart from conditions of latent salience, it of course important to also consider the political implications, or perhaps perceptions of political influences, observed in the Court's decision-making. An extensive literature has recognized that judges are policy-oriented actors whose political predispositions guide a considerable portion of their jurisprudence (e.g., Segal and Spaeth 1993, 2002; Unah and Hancock 2006). Yet, the Court has historically shirked ostensive political displays or at least ensured that ideologically driven decision-making remains a minority of its adjudication. However, recent survey analysis has shown a growing percentage of Americans viewing the Court as simply an extension of the political arena, largely as the result of a discernible swing to the right and multiple controversies – both within and beyond the confines of the Court itself.[52] While national support is becoming increasingly constrained, it should be recognized that public discourse is considerably motivated by media coverage of the Court's decisions. Realizing that media coverage of the Court is often the result of decisions having a greater propensity to inflict some pronounced effect on the public discourse (Graber 2002), it is important to consider which factors motivate these perceptions.

[52] *See* Pew Research Center (September 1, 2022).

As such, I expressly measure variance in dissent among the justices, which I observe using the relative size of minority coalitions.[53] Recent years have seen the Court exhibit a discernible shift to the conservative right with the retirement of Justice Anthony Kennedy (2018) and the death of Justice Ruth Bader Ginsburg (2020), as well as the refusal to grant Judge Merrick Garland a nomination hearing following the death of Justice Antonin Scalia (2016). With the successive Trump appointments of Justices Gorsuch, Kavanaugh, and Barrett, observers have acknowledged a padded six-three conservative majority representing the new ideological split on the bench (e.g., Truscott and Feldman 2022). Including a measure of minority coalition sizes serve as a cue of ideological dissent among individual decisions and theoretically facilitates perceptions of ideological disagreement known to instigate divides in public opinion. Even more, media coverage of the Court – at least as it exists in traditional print – is known to surge considerably during moments and events ripe with perceptions of controversy. In effect, analyzing majority coalitions as a proxy for ideological dissent has been shown to not only serve as a signal for broader coverage but also is likely to again correspond with decisions sure to inflict some pronounced effect on the public discourse (Graber 2002). It is here that we find decisions

[53] The purpose of measuring minority coalitions, rather than majorities, is the result of several (12) cases in the dataset being unanimously decided without the full quorum of nine justices. While few may find any substantive difference between unanimous decisions by eight or nine justices, measuring the dynamic as a reflection of majority coalitions runs the risk of improperly labeling unanimous eight-zero decisions as non-unanimous since the standard would be all nine.

sure to reflect the "over-sensationalized" narrative framing much of the Court's decision-making (Zilis 2015).

## 4.6 Results

I provide the results from my generalized linear models in Table 4.1, which reveals considerable alignment with my theoretical framework. While I was able to retrieve 10,126 media tweets between the 2018 and 2021 terms, not every tweet was posted during the correct observation period. That is, approximately 31 percent of tweets were posted on days preceding or succeeding the 48 hours associated with the release of their respective decisions.[54] To ensure proper modeling of positional framing behaviors through rhetoric embodying definitive positive or negative sentiments, I made the conscious decision to provide two sets of results that separate media tweets concerning decisions during any of the 48-hour observation periods, as well as a set of results restricted to coverage observed strictly during the observation period associated with the release of the decision. I further omitted 376 media tweets concerning cases that were decided *per curium*, as well as an additional 65 where the Spaeth, et al. database could not derive an ideological *decision direction*. Nonetheless, while the propensity for media actors to relay positional (i.e., non-neutral) frames remains infrequent, decisions to engage in these behaviors are proven in both sets of results to be guided considerably by conditions of latent salience and perceptions of dissent or controversy in the Court's decision-making.

[54] As I illustrated in Figure 4.1, several cases – especially those it would be appropriate to consider "landmarks" of the 2018 to 2021 terms – received coverage during observation periods preceding and succeeding the release of the decision. Approximately half of all *Before Decision* and *After Decision* coverage was directly associated with *Dobbs v. Jackson Women's Health Clinic* (2022).

Table 4.1: Logistic Regression of Positional Media Framing Behaviors (2018 to 2021 Terms)

| | All Media Posts | | | Restricted to Observation Period | | |
|---|---|---|---|---|---|---|
| Variable | Odds Ratio | SE | Sig | Odds Ratio | SE | Sig |
| Salient Issue | 2.005 | (0.15) | *** | 2.138 | (0.19) | *** |
| Government Party | 0.798 | (0.05) | ** | 0.703 | (0.05) | *** |
| Minority Coalition Size | 1.202 | (0.03) | ** | 1.273 | (0.04) | *** |
| Constant | 0.057 | (<0.01) | *** | 0.054 | (0.07) | *** |
| Observations | 9,693 | | | 6,569 | | |
| AIC | 7077.46 | | | 4840.34 | | |
| $R^2$ | 0.029 | | | 0.045 | | |

* p <0.05, ** p <0.01, *** p <0.001 with Two-Tailed Test
DV = Positional (i.e., Non-Neutral) Media Frame

As it was with discerning what factors motivate media actors to engage in positional framing, the notion of "landmarks" again raises important considerations. I find that the presence of *government parties*, which I defined as institutions or actors of government, does not appear to generally produce greater rates of non-neutral among media users. However, while cases like *Vance* and *Mazars* represent instances where decisions with notable government litigants garnered significant media attention, the political spectacle associated with these decisions does not appear to exist universally. That is, while cases concerning prominent political actors like Presidents Trump and Biden are sure to embolden public interest due to the familiarity of the litigants, the same interest does not translate to cases concerning institutions and departments like the Securities and Exchanges Commission. Instead, latent salience appears to emerge more intuitively as a reflection of underlying substance, wherein the merits of individual cases and the ramifications of those decisions can relay some substantive influence on the public discourse (e.g., Graber 2002).

As such, it is important to consider latent salience more conceptually in this context as a reflection of certain case typologies. Owing largely to their comparative ease of understanding among broader audiences and their frequent use in prior research (e.g., Clark, Lax, and Rice 2015; Grosskopf and Mondak 1998), I expected that decisions concerning *The First Amendment*, *Civil Rights*, or *Privacy* would best demonstrate conditions of latent salience, insofar as issue area designations alone can relay such conditions. Among the decisions in the dataset, approximately 27 percent (n = 66) met this distinction. Measuring issue area salience as an independent condition, I observe two notable inferences. First, as a raw share, media tweets concerning the 66 salient cases constituted approximately 60 percent of the total observations (n = 6,006) – a significant portion of which understandably stems from the Court's privacy ruling in *Dobbs*. Second, as expected, conditions of latent salience appear to exacerbate positional framing behaviors (Figure 4.3).

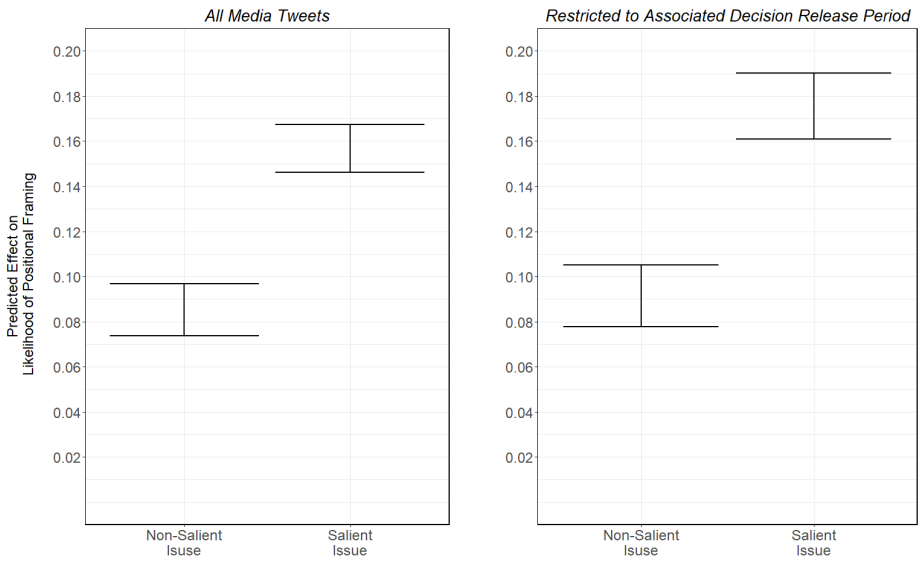



Figure 4.3: Predicted Marginal Effect of Issue Area Salience on Positional Framing Behaviors

Apart from conditions of latent salience, I was also interested in whether alternative case-specific factors served as mediators of positional framing. In particular, conditions that serve as potential signals of political influences and other controversies in the Court's decision-making. To model these circumstances, I began by introducing a general measure of minority coalition sizes. The expectation is that the Court's proclivity to shirk unanimity in its decision-making, by definition, signals dissent among the justices. Even more, decisions that split strictly along partisan lines have historically corresponded with the Court's most infamous rulings, and evidence from the 2018-2021 terms appears to have continued this trend with rulings like *Brnovich v. Arizon*a (2021), *Dobbs*, *Kennedy v. Bremerton School District* (2022), *Carson v. Makin* (2022), and *New York State Rifle & Pistol Association vs. Bruen* (2022). Notwithstanding the ideological preferences of individual media actors, I find considerable evidence that positional framing significantly increases as a response to broader dissent on the bench (Figure 4.4).

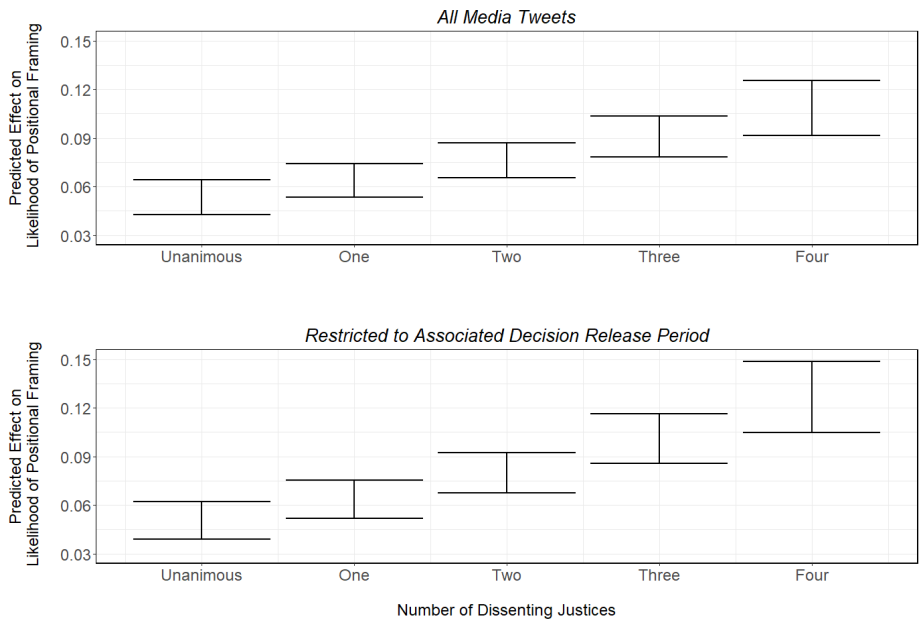



Figure 4.4: Predicted Marginal Effect of Minority Coalition Sizes on Positional Framing Behaviors

Given that market incentives often drive media actors to relay coverage with enticing narratives that instigate engagement with their audiences, it is perhaps unsurprising that positional framing best emerges in response to decisions where media actors can over-sensationalize disagreement among the justices (Krewson, Lassen, and Owens 2018; Zilis 2015). However, this raises another important question concerning whether positional framing emerges as a result of dissent as an independent term, or if there are conditions that confound these expectations. Understanding that issue salience was shown to significantly increase the propensity for media actors to relay positional frames, I provide the predicted marginal effects of interacting issue salience and minority coalition sizes in Figure 4.5. Doing so reveals how the incorporation of cases concerning legal issues with greater propensities for relaying *political salience* (Bailey, Kamoie, and Maltzman 2005) continues to serve as the primary motivator of positional framing. Even more, a comparison of Figures 4.4 and 4.5 illustrate that although the relevant predicted marginal effects between increases in minority coalition sizes and non-salient issue areas in Figure 4.5 represent insignificant differences from Figure 4.4, the introduction of issue salience significantly increases the likelihood of positional framing behaviors.

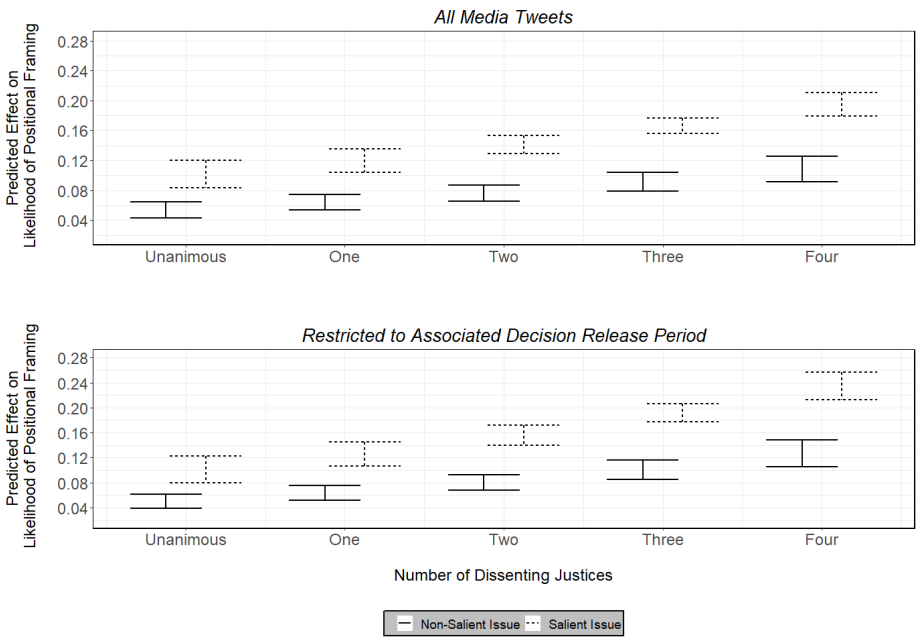



Figure 4.5: Predicted Marginal Effect of Issue Area Salience and Minority Coalition Sizes on Positional Framing Behaviors

To this point, my analysis has centered on discerning the conditional influences that drive media actors to abandon neutral recitations of the Court's decision-making in favor of positional frames. My results provide a holistic representation of these behaviors as being the result of issue area salience and perceptions of dissent (i.e., controversy) among the justices, which sensibly fuels market-based incentives to present Supreme Court news using positional frames. Yet, assuming the strategic calculus favors engaging in positional framing behaviors, the most important question remaining is how media actors will relay support or opposition. As I illustrated in Figure 4.2, there is discernible variance among coverage relaying non-neutral sentiments. To better understand discrete variance in media behaviors, I developed and tested an extended theoretical framework of positional framing between the 2018 to 2021 terms that consider how additional factors comport to instigate positive or negative frames, chief among them being the influences of ideological congruence between media actors and the Court's decision-making.

## 4.7 Observing Positional Framing During the 2018 to 2021 Terms

At the core of media behaviors toward the justices' decision-making is the influence of ideology, wherein media actors retain implicit biases and other preferences to weigh the Court's decision-making. Yet, determining how media actors infer the ideological leaning of individual decisions is potentially multifaceted and could be rooted in strategies as simple as referencing the judicial ideologies of majority opinion authors or as complex as conducting a thorough analysis of the Court's legal justifications. Either approach provides a foundation to discern the ideological leanings of the Court's specific decision-making. Nonetheless, just as prior literature has illustrated how specific support and opposition for the Court are guided by sophisticated and personal perceptions of the substance observed in each decision (Caldeira and Gibson 1992; Gibson and Caldeira 1992; Gibson, Caldeira, and Baird 1998), I expect that the same conditions extend to media users posting on social media accounts. Specifically, I expect that *rhetorical sentiments used to frame coverage of the Court's decisions will reflect a media actor's ideological congruence with the Court's decision-making*. That is, recognizing the discrete variance among decisions as potentially representing definitive liberal or conservative positions serves as an important mechanism to weigh support or opposition. Broadly understood, decision-making that ideologically aligns with media actors will result in supportive frames articulated by positive rhetorical sentiments in their coverage.

Yet, ideological congruence itself raises an important consideration. Namely, are these behaviors predicated on ideology alone, or does variance in the Court's decision-making serve as a mediator? Put simply, are liberal or conservative media actors predisposed to approach the Court's decision-making with certain behaviors, or do they respond differently depending on the substance of the Court's specific decision-making? An approach comparable to a tit-for-tat would lead us to believe that media actors are responsive to individual decisions, wherein support or opposition can best be predicted by whether the Court rules in a way that supports their preferred positions. However, while this framework acknowledges variance in the Court's decision-making, it nonetheless ignores the relative weight or importance of those decisions.

As I discuss at greater length in later subsections, recent trends in the Court's decision-making have become synonymous with preferring conservative positions in high-profile cases. Even as the distribution of opinion authorship is

nearly split among liberal and conservative justices between the 2018 and 2021 terms, decisions in most of the Court's landmarks have been authored by conservatives flexing their majority – and, more recently, a new supermajority. Given that the Court's landmarks often receive greater media coverage,[55] it is perhaps unsurprising that the public appears keenly aware of the Court's recent conservative tendencies. As I noted in Chapter 2, Glick (2023) raises concerns that these recent trends are instigating broad disagreement among Democratic and Republican voters,[56] which could just as easily be emblematic of broader ideological disagreement among the public in how they view the Supreme Court and its justices. Recognizing that media actors have been shown to approach the Court through similar ideological lenses, it would be reasonable to expect that discrete decision-making will do little to motivate behaviors among liberal and conservative media. While we might expect media actors to frame coverage in ways that reflect the congruence between themselves and the Court's specific decisions, it is important to be cognizant of how trends in the Court's decisions facilitate perceptions of justices' behaviors. In effect, this expectation further operationalizes my hypothesis concerning ideological congruence as a primary motivator of positional framing behaviors. The difference is that ideological congruence is rooted in broader assessments of the Court's decision-making, rather than a discrete response to each decision.

[55] *See* Chapter 3 (Figure 3.6).

[56] *See* Chapter 3 (Footnote 2).

### 4.7.1 Research Design

Using the same sample of 81 media users on Twitter, I incorporate a multinomial logit design where the dependent variable considers the propensity for media actors to relay positive or negative frames, rather than adhere to neutrality. This includes 9,693 media posts concerning decisions by the Supreme Court between the 2018 and 2021 terms, as well a restricted observation set that only includes posts coinciding with the 48-hour release period of the decisions themselves (n = 6,659). Apart from retaining the same independent variables employed in previous binomial regression, I introduced a collection of independent variables aimed at discerning the influences of ideology.

To measure the ideological preferences of media users, I rely on a network item response theory model (Network IRT) using expectation maximization first introduced by Imai, Lo, and Olmsted (2016) and Barberá (2015) that measures ideal points in a latent dimension.[57] Specifically, the approach considers the ideal point of users reflective of two conditions, the follower networks of media users and the probability that those following users likewise follow other political or media accounts. As Barberá (2015) highlights, "the decision to follow

[57] As I note in the appendix materials (Appendix A3), the *tweetscores* methodology was first introduced by Barberá (2015). However, owing to the considerable computational costs associated with estimating ideal points using Barberá's two-stage approach, Imai, Lo, and Olmsted (2016) introduced a practical alternative using Network IRT with expectation maximization. This process not only diminishes computational time, but robustness tests demonstrated considerable correlation with Barbera's original ideal point estimates.

is considered a costly signal that provides information about Twitter users' perceptions of…their ideological location…" (p. 77). This means that analyzing who follows a certain user reveals insights into both parties' ideological preferences since it is reasonable to imagine that follower networks on the platform are more likely to be populated by like-minded users. This framework is especially beneficial to studies of social media because prior research has illustrated how the networks of association that users build on these platforms are commonly homophilic (Barberá 2015; Conover, Gonçalves, et al. 2011; Conover, Ratkiewicz, et al. 2011; Myers, et al. 2014). That is, just as we might expect people to form associations with other like-minded individuals in the real world, the ability for social media users to determine who they will follow is a costly behavior that indicates both the following user's ideological preferences, as well as the user they are following. Barberá's (2015) model focuses on estimating two latent variables, $\theta_i$ and $\Phi_j$, where $\theta_i$ represents a user's ideology and $\Phi_j$ represents a political or media elite's ideology. Since both variables are unobserved, the model depends on the adjacency matrix to estimate the probability that a user$_i$ will follow a media elite user$_j$. In essence, the model is capable of estimating both the ideology of a political or media elite on Twitter, as well as for each of their respective followers, with the presumption that greater separation between a user and the political or media elite ($\theta_i$ - $\Phi_j$), the less likely it is that the user would follow that elite. This can be represented as:

$$P(y_{ij} = 1) = \text{logit}^{-1}(\alpha_j + \beta_i - \gamma(\theta_i - \Phi_j)^2) \tag{4.1}$$

Where:

$P(y_{ij} = 1)$ = The probability that a user$_i$ follows an elite political or media user$_j$.

$\alpha_j$ = The popularity of political or media elite user$_j$.[58]

$\beta_i$ = The political interest of user$_i$, measured as the number of political or media elites a user$_i$ follows.

$\gamma$ = A normalizing constant greater than zero that will model the importance of political ideology

Barberá (2015) subsequently employs a likelihood function:

$$p(y|\theta, \Phi, \alpha, \beta, \gamma) = \prod_{i=1}^{n}\prod_{j=1}^{m} \text{logit}^{-1}(\pi_{ij})^{y_{ij}}(1 - \text{logit}^{-1}(\pi_{ij}))^{1-y_{ij}} \tag{4.2}$$

Where:

[58] $\alpha_j$ adjusts for the consideration that some elites on Twitter, simply because they are prominent elites, will have more Twitter followers than others (ex: POTUS, BarackObama, etc.). Including this term allows for the model to consider whether a user follows an account because it is truly reflective of their ideology, or if it is alternatively more a reflection of the elite's prestige.

$$(\pi_{ij}) = \ldots \alpha_j + \beta_i - \gamma\,(\theta i - \Phi j)^2$$

To estimate ideal points, I retrieved the follower networks of 633 political and media elites, which included members of Congress, as well as major media outlets, journalists, and pundits, among others. To develop a common space, I incorporated expectation maximization (Imai, Lo, and Olmsted 2016), which approximates the posterior and saves considerable computational time while retaining high degrees of validity. Focusing solely on media-affiliated users, I illustrate the common space in Figure 4.4, where the x-intercept represents the media user's ideological location $\Phi_j$ in an unbounded space, and the y-intercept represents the user's propensity to be followed $\alpha_j$.[59] At face value, the resulting placement of outlets in the common space reflects considerable accuracy to normative assumptions. Outlets and pundits frequently prescribed liberal-leaning preferences like *MSNBC* and Chris Hayes (*MSNBC*) are firmly positioned to the ideological left, while those like *One America News Network* (OANN), *NEWSMAX*, and Sean Hannity (*FOX News*) are positioned neatly to the ideological right.

[59] Note: Unlike some other spatial voting models (e.g., DW-NOMINATE), scores are theoretically unbounded in a latent dimension.

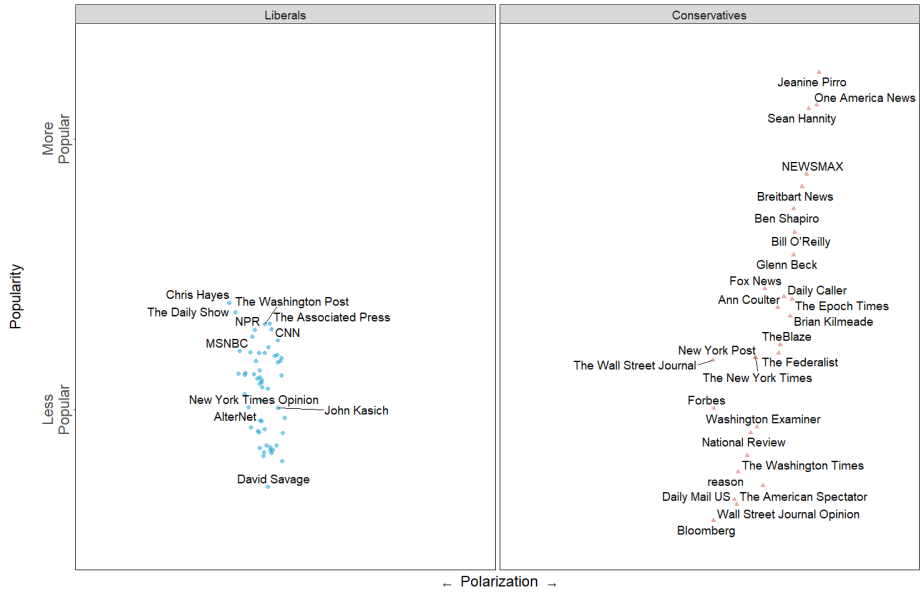



Figure 4.6: Ideal Point Common Space of Media Outlets on Twitter

Yet, positional framing of Supreme Court decisions may be as unambiguous as who authors individual decisions because certain justices are associated with representing definitive ideological positions. Over their tenures, Justices like Ruth Bader Ginsburg and Antonin Scalia were synonymous with representing polar opposite wings of the ideological spectrum, often finding themselves

at odds in most of the Court's landmark holdings between 1993 and 2016. The modern era demonstrates a similar trend. Especially for decisions devoid of unanimity, authorship by justices like Sonia Sotomayor and Samuel Alito often serves as cues to a decision's ideological support. As such, I included three additional terms aimed at discerning ideological leanings of individual decisions. The first indicates whether the decision was authored by a conservative justice, while the second measures the author's ideological extremity. To measure the justices' ideological preferences, I drew on Epstein, et al.'s (2007, updated 2022) Judicial Common Space (JCS) methodology, where scores greater than zero constitute greater ideological conservativism (Figure 4.5). Owing to the scaling procedure, where scores closer to -1 and +1 constitute greater ideological extremity, I subsequently measured the justices' ideological extremity as the absolute value of their corresponding JCS score. Including both measures provides the capacity to view opinion authorship as a reflection of dichotomous ideological preferences, as well as perceptions of partisan extremism. However, given that authorship is often a function of seniority in majority coalitions rather than a definitive signal of the decision's ideological leaning, I was sure to directly consider case dispositions. To do so, I drew on the Spaeth, et al. Supreme Court database's directional leanings of each case, which employs a comprehensive framework for deriving *conservative* versus *liberal* positions.

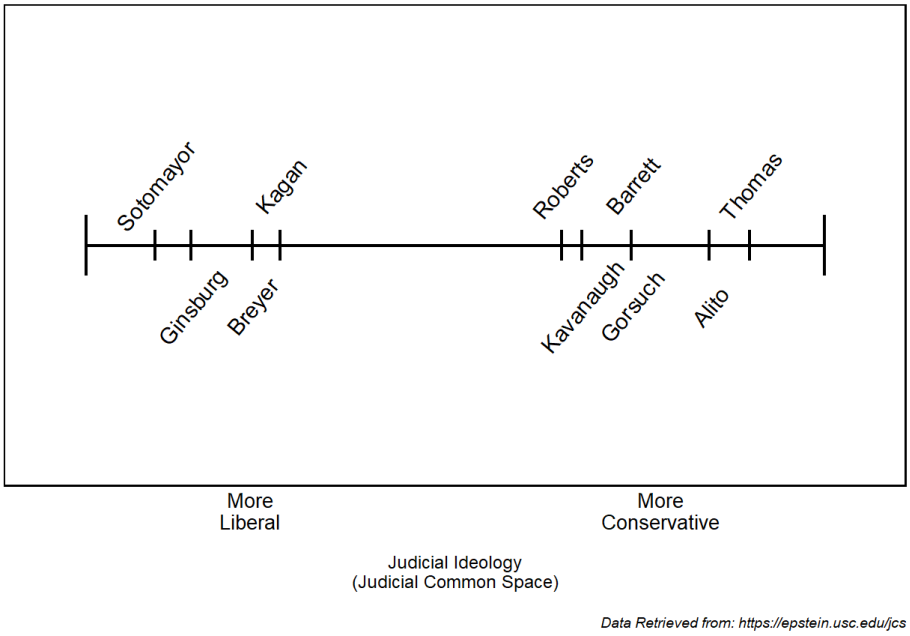



Figure 4.7: Judicial Common Space Scores (Epstein, et al. 2007, Updated 2022)

### 4.7.2 Results

I again provide two sets of results from my multinomial framework in Tables 4.2-4.3, which disseminates media posts contingent on whether they were provided in the 48-hour observation period coinciding with the decision being referenced in their coverage. Notwithstanding the presence of a statistically significant effect on negative frames resulting from conservative opinion authorship among the restricted observations in Table 4.3, both models relay markedly similar inferences. While a considerable portion of media tweets are categorically neutral recitations of the Court's holdings, a comprehensive analysis of the corresponding predicted probabilities demonstrates how decisions to relay support or opposition are guided considerably by ideological congruity and the same indicators motivating market-based incentives to engage in positional framing. However, these effects do not extend equally to liberal and conservative media actors. That is, while ideology can significantly mediate support or opposition rhetoric among conservative media depending on their congruity with the Court's decisions – as well as who authors majority opinions, liberal media actors demonstrate marginal variation. Instead, liberal media appear predisposed to relay negative frames, and decisions that favor liberal positions do little to influence these behaviors. While I preface these specific results as a reflection of trends in the justices' contemporary decision-making, my findings nonetheless raise questions concerning how ideologically motivated media actors view the Court.

Table 4.2: Multinomial Logistic Regression of Variation in Positional Framing Behaviors (All Tweets - 2018 to 2021 Terms)

| Group | Variable | Negative Frame | | | Positive Frame | | |
|---|---|---|---|---|---|---|---|
| | | Odds Ratio | SE | Sig. | Odds Ratio | SE | Sig. |
| Media Ideology | Media Conservatism (Network IRT) | 0.762 | (0.04) | *** | 1.188 | (0.06) | ** |
| Ideological Congruence | Conservative Decision | 1.636 | (0.20) | *** | 0.366 | (0.05) | *** |
| | Conservative Author | 2.222 | (1.98) | | 46.510 | (37.96) | *** |
| | Author Conservatism (JCS) | 0.846 | (0.70) | | 0.062 | (0.04) | *** |
| | Author Extremity (JCS) | 1.061 | (0.87) | | 70.430 | (48.21) | *** |
| Latent Case Salience* | Government Party | 0.528 | (0.06) | *** | 1.943 | (0.29) | *** |
| | Salient Issue | 1.541 | (0.146) | *** | 3.262 | (0.45) | *** |
| | Minority Coalition Size | 1.301 | (0.06) | *** | 0.962 | (0.05) | |
| | Constant | 0.014 | (0.01) | *** | <0.001 | (<0.01) | *** |

* p <0.05, ** p <0.01, *** p <0.001 with Two-Tailed Test
DV = Categorical Sentiment Classification of Media Tweet
Observations = 9,693
$R^2$ = 0.060
AIC = 8,278.32
* Indicators used to predict the propensity of positional framing (Table 4.1)

Table 4.3: Multinomial Logistic Regression of Variation in Positional Framing Behaviors (Tweets Released During Corresponding Observation Period - 2018 to 2021 Terms)

| Group | Variable | Negative Frame | | | Positive Frame | | |
|---|---|---|---|---|---|---|---|
| | | Odds Ratio | SE | Sig. | Odds Ratio | SE | Sig. |
| Media Ideology | Media Conservatism (Network IRT) | 0.755 | (0.05) | *** | 1.215 | (0.09) | * |
| Ideological Congruence | Conservative Decision | 1.439 | (0.19) | ** | 0.391 | (0.06) | *** |
| | Conservative Author | 6.790 | (7.53) | * | 41.070 | (37.63) | *** |
| | Author Conservatism (JCS) | 0.464 | (0.46) | | 0.070 | (0.05) | *** |
| | Author Extremity (JCS) | 1.956 | (1.96) | | 47.555 | (36.00) | *** |
| Latent Case Salience* | Government Party | 0.448 | (0.05) | *** | 1.624 | (0.26) | *** |
| | Salient Issue | 1.557 | (0.16) | *** | 3.746 | (0.59) | *** |
| | Minority Coalition Size | 1.348 | (0.07) | *** | 1.005 | (0.06) | |
| | Constant | 0.006 | (<0.01) | *** | <0.001 | (<0.01) | *** |

* p <0.05, ** p <0.01, *** p <0.001 with Two-Tailed Test
DV = Categorical Sentiment Classification of Media Tweet
Observations = 6,569
R2 = 0.078
AIC = 8,278.32
* Indicators used to predict the propensity of positional framing (Table 4.1)

The core theoretical framework and associated hypotheses underpinning my analysis centered on the influence of ideological congruence as a notable predictor of positional framing behaviors. In essence, viewing media actors as entities with predisposed ideological beliefs demonstrates considerable variation in how Supreme Court decisions are framed online. While the actual breakdown of decisions between the 2018 and 2021 terms demonstrates that conservative and liberal justices have effectively split opinion authorship,[60] there is a growing sense that decisions are increasingly coinciding with the policy preferences of the conservative bloc. This is perhaps unsurprising considering that the Court's conservatives have gained a greater foothold with a 6-3 supermajority following the appointments of Justices Brett Kavanaugh and Amy Coney Barrett in 2018 and 2020, respectively. Nonetheless, recent terms have seen conservative positions prevail in several notable rulings – e.g., *Brnovich*, *Carson*, and, most notably, *Dobbs*, and these trends appear to have instigated sharp divides among the public (Pew Research Center 2022). Recognizing that media outlets often shape a narrative to frame their perceptions of the Court's rulings, my results point to the prevalence of rhetorical behaviors being the result of ideological congruence. Notwithstanding character restrictions or embedding of links to comprehensive coverage on the outlets' respective websites,[61] media actors appear affluent at relaying framed positions to their audiences through strategic rhetoric. I find sharp divides between liberal and conservative media actors, most notably in response to conservative decisions (Figure 4.8).

[60] Not including *per curium* decisions, conservative justices authored 126 opinions in the dataset, while liberals authored 114.

[61] *See* Chapter 3.4 (Figure 3.2). Also, *see* Sheffer and Shultz (2010).

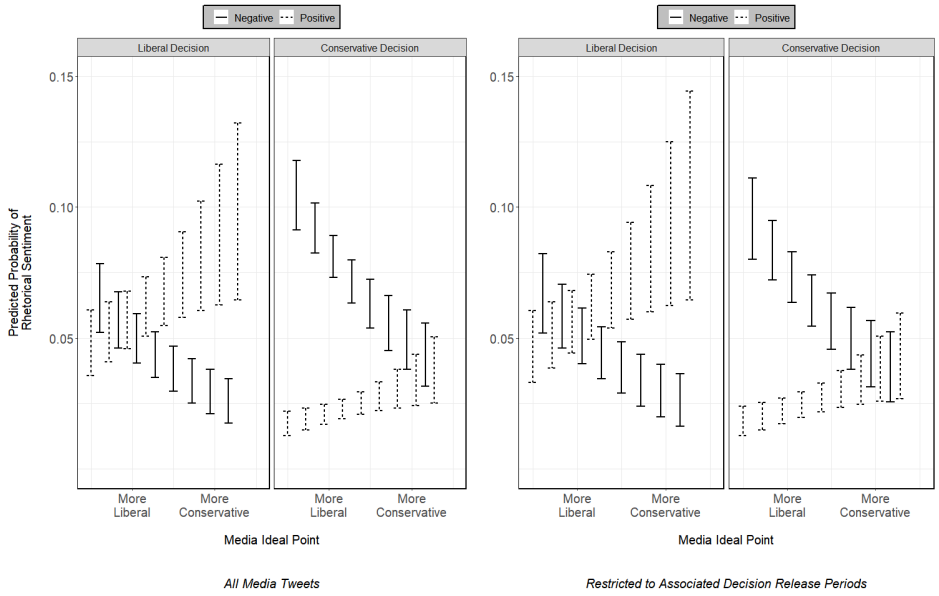



Figure 4.8: Predicted Probabilities for Variation in Positional Framing Behaviors by User Ideology & Case Ideological Disposition

While I do observe mixed results concerning liberal decisions, I expect that this is largely the result of rather significant imbalances in coverage of liberal versus conservative decisions. To illustrate, the four most discussed decisions coded as comporting the liberal position were *Department of Homeland Security vs. Regents of the University of California* (2020),[62] *Bostock*, *June Medical*, and *Biden v. Texas* (2022). Combined, these decisions only garnered 115 posts from conservative media users. Alternatively, Dobbs alone received 508. The point is that there exists a rather significant imbalance, especially as it pertains to cases that might be considered the "landmarks" observed between the 2018 and 2021 terms. Even cases like *Bostock* and *DHS*, which represented significant developments in the law and were championed by liberal advocates, appear to be completely overshadowed by conservative rulings in *Dobbs*, *Kennedy*, *Carson*, and *Brnovich*, among others. It is entirely plausible that this imbalance is impacting proper inferences for liberal decisions. Nonetheless, as it pertains to conservative decisions, which again represent a considerable portion of the notable cases observed in these terms, I find considerable separation between liberal and conservative media users.

[62] i.e., the Court's ruling on the Deferred Action for Childhood Arrivals (DACA) program for undocumented immigrants.

In a similar vein, the notion of "landmarks" raises another important consideration for strategic media behaviors. Namely, whether conditions of latent salience purport to instigate variation in media behaviors, as well as when ideology is introduced as an additional layer. While I find that the presence of

government parties, which I defined as institutions or actors of government, do appear to generally produce greater rates of positive framing among media users, it is important to remember that this relationship was not observed as statistically significant as a motivator of positional framing more generally (Table 4.1). Alternatively, viewing latent salience through the lens of the issue areas underlying each decision reveals considerable influence on positional framing behaviors (Figure 4.9).

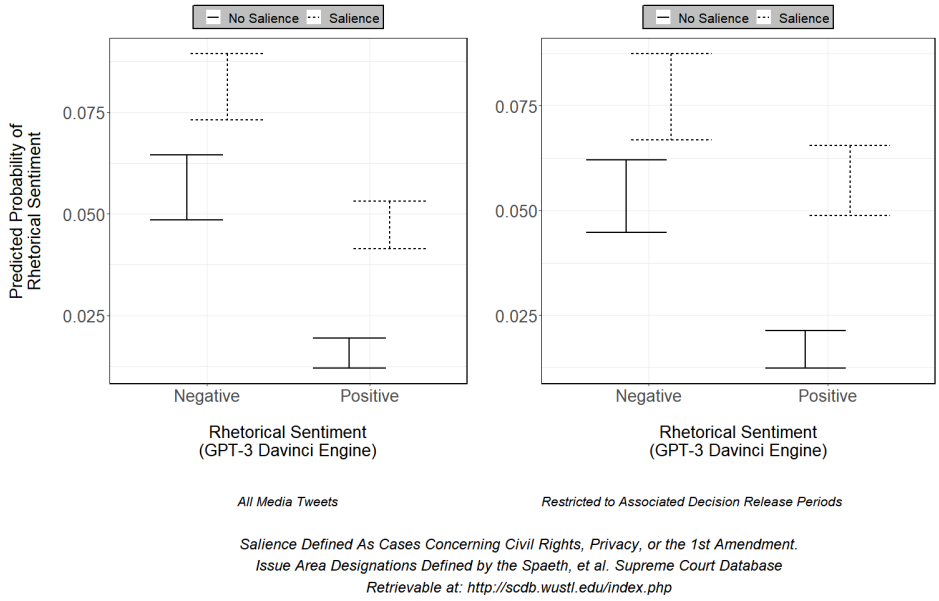



Figure 4.9: Predicted Probabilities of Variation in Positional Framing by Conditions of Latent Case Salience

As it relates to influences of ideology, incorporating media ideal points does little to disparage the relationships across outlets and models (Figure 4.10). Notwithstanding marginal differences across model subsets among salient decisions concerning *Moderate* and *Conservative* media users,[63] the relationship remains fairly consistent. In general, conditions of latent salience appear to exacerbate positional framing behaviors to the extent that positive framing associated with salient decisions is often indiscriminate from negative framing of those lacking perceived salience. The lack of such a definitive trend among conservative media users again appears to underscore the demonstrable effect of recent landmarks tending to favor the Court's conservative bloc. Liberal media, alternatively, not only appears to consistently approach framing the Court's decisions through a negative frame throughout the 2018 to 2021 terms, but the proclivity of salient decisions being evident in recent landmarks appears to exacerbate these expectations.

[63] Note: I define Conservative, Moderate, and Liberal media users using a categorical structure to assess predicted probabilities, where *Conservative* equals users with an ideal point of $\approx$ 0.86, *Moderate* equals $\approx$-0.08, and *Liberal equals* $\approx$ -1.01.

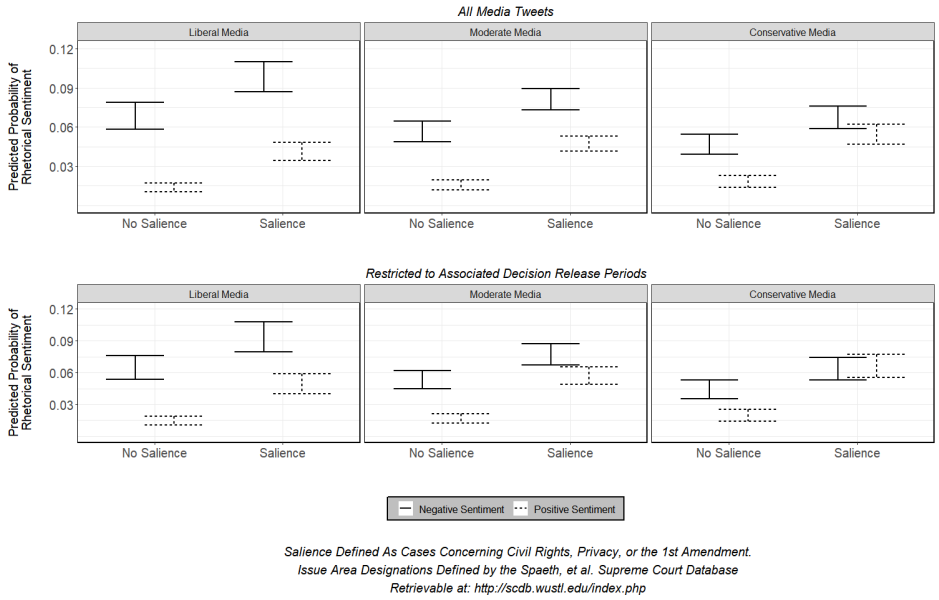



Figure 4.10: Predicted Probabilities of Variation in Positional Framing by Latent Case Salience and Media Ideology

Apart from conditions of latent salience, I was also interested in whether alternative case-specific factors served as mediators of positional framing behaviors. In particular, conditions that serve as potential signals of political influences in the Court's decision-making. To model these circumstances, I began by again introducing a general measure of minority coalition sizes. The expectation is that the Court's proclivity to shirk unanimity in its decision-making, by definition, signals dissent among the justices. Notwithstanding the ideological preferences of individual media actors, I find considerable evidence that negative framing significantly increases as a response to broader dissent on the bench (Figure 4.11).

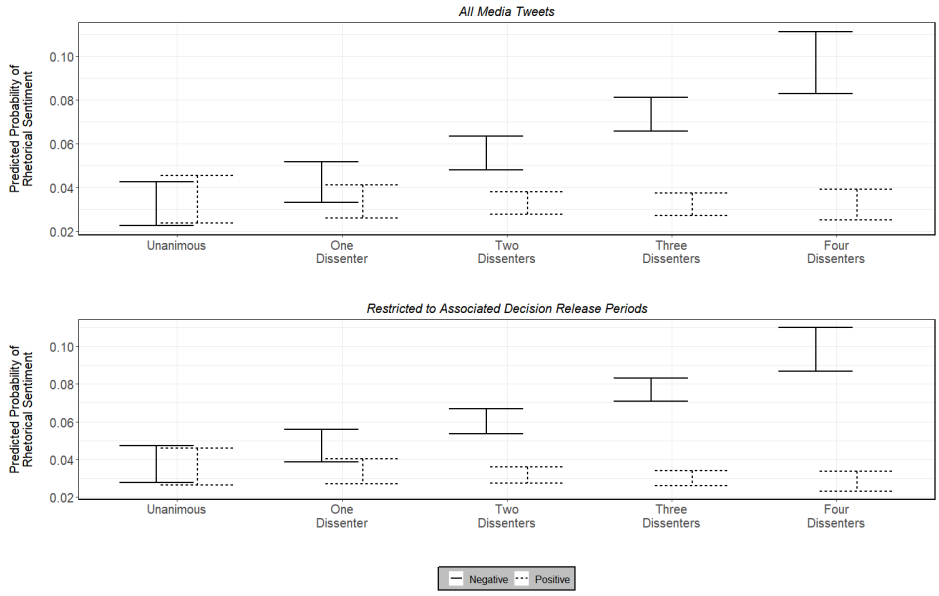



Figure 4.11: Predicted Probabilities of Variation in Positional Framing by Minority Coalition Sizes

Regardless of the level of dissent, expected rates of positive framing remain virtually unchanged. However, it is important to also consider variation in these behaviors reflective of the dispositions observed in individual decisions. Doing so yields two interesting notions (Figure 4.12). First, while predicted probabilities appear to vary minimally across models and sizes of minority coalitions, the trends nonetheless remain fairly consistent. The expected effect on positive framing appears to remain statistically unchanged for all potential coalition sizes, while the effect on negative framing appears to grow exponentially with the addition of other dissenting justices. Second, and perhaps more importantly, the expected effect on negativity observed among conservative decisions is significantly greater than liberal decisions, and generally so beginning with a quorum of three dissenters.

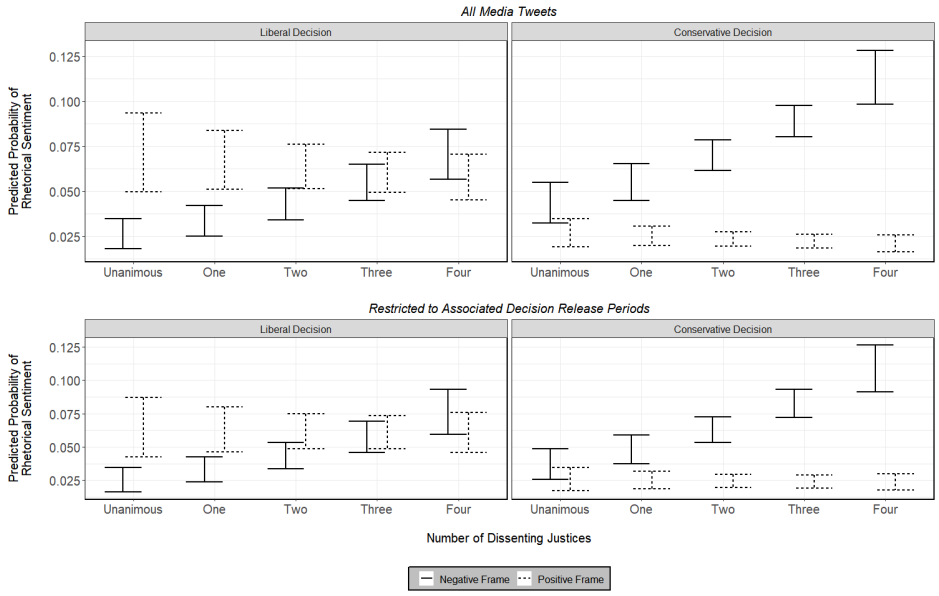



Figure 4.12: Predicted Probabilities of Variation in Positional Framing by Minority Coalition Sizes and Case Ideological Dispositions

There are several potential explanations for this phenomenon, but the most apparent is also the most intuitive. As I have discussed previously, the contemporary Court is defined by a dependable three-justice liberal minority. I mention the Court's liberal minority, rather than the conservative majority, largely because of the apocryphal dependence of three of the conservative justices to always fall in line with the conservative position. While the conservatives can theoretically dictate the outcome of any case, the proclivity of Justices Kavanaugh, Gorsuch, and especially Chief Justice Roberts to deviate in exceptional moments has led some observers to remark that the contemporary Court is better described as a "3-3-3" Court (Isgur 2021; Lat and Shemtob 2023). Chief Justice Roberts has been well documented as someone potentially willing to skirt conservative positions for the sake of maintaining the Court's legitimacy (Biskupic 2019).[64] Likewise, Justice Kavanaugh has joined the Chief alongside the Court's liberals in exceptional circumstances, including in decisions like *California v. Texas* (2021) – the most recent challenge to the Affordable Care Act, while Gorsuch has repeatedly joined the liberals in cases defending Native American sovereignty.

[64] As reported in Joan Biskupic's extensive biography of the Chief Justice, Roberts was reported to have maneuvered behind the scenes to effectively save the Affordable Care Act in *National Federation of Independent Business v. Sebelius* (2012), going so far as to reportedly change his vote following the Court's final conference vote.

Yet, these sentiments are rarely shared for Justices Alito and Thomas, whose minimal deviations from conservative positions – even if it means being the lone dissenter – serve as easily discernible cues as to the Court's position, especially so for salient cases. The same could arguably be said for any of the liberal jus-

tices. That is, with a theoretical supermajority, non-unanimous cases without any dissents from the liberals mean that at least two conservative justices broke ranks. While Figures 4.11 and 4.12 demonstrated considerable variation in media behaviors as a response to greater dissent among the justices, can these behaviors also be the result of who authors opinions? While we can infer the ideological preference of decisions by assessing dispositions (*see* Figure 4.8), the apparent ease of assuming the same preferences by referencing opinion authors is potentially indicative of achieving the same results. An analysis of the resulting predicted probabilities across varying opinion authors appears to reinforce this premise, at least in part (Figures 4.13-4.14).

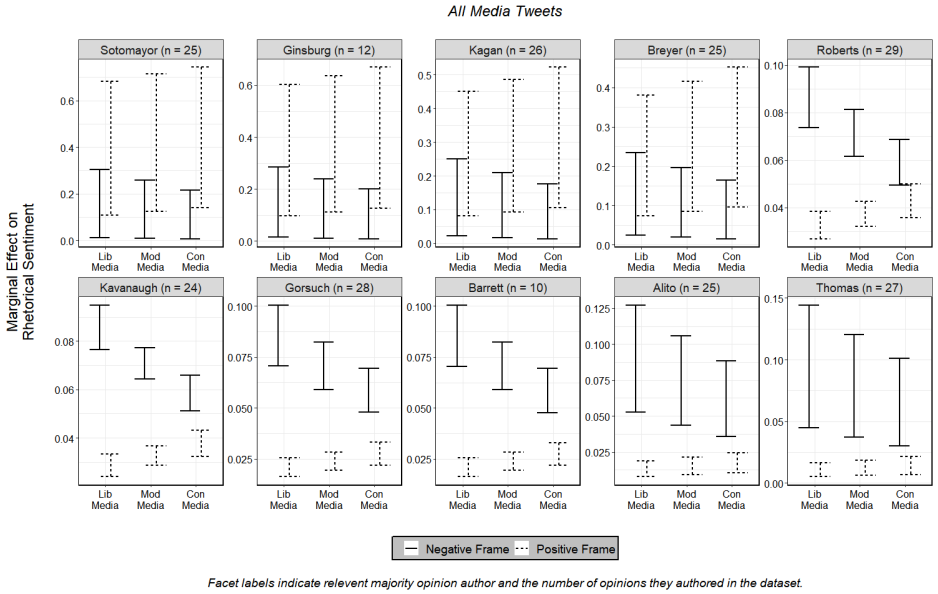



Figure 4.13: Predicted Probabilities of Variation in Positional Framing by Majority Opinion Authorship and Media Ideology (All Tweets)

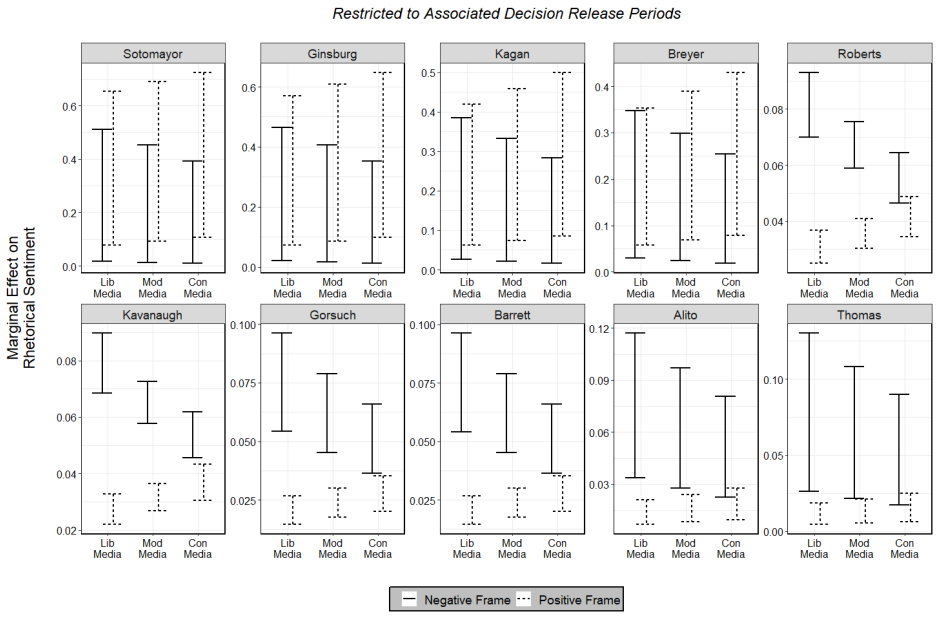



Figure 4.14: Predicted Probabilities of Variation in Positional Framing by Majority Opinion Authorship and Media Ideology (Restricted to Associated Decision Period)

As mentioned above, the current population of the Court effectively dictates a conservative supermajority, and before the death of Justice Ginsburg in 2020 the majority was nonetheless still 5-4. Meaning that any decision authored by one of the Court's liberals is the result of at least one conservative defection. While this may mean little for cases with pure legal salience (Bailey, Kamoie, and Maltzman 2005), the prospect of this happening in politically salient cases is cause for attention. As such, the potential for any of the liberal justices serving as a majority opinion author should serve as a pointed clue as to the decision's ideological leaning. Yet, variational trends in positional framing in response to authorship by any member of the liberal bloc are effectively unchanged across media partisanships. Looking again at majority opinions between the 2018 to 2021 terms, this is most likely the result of few substantive decisions being authored by liberal justices. Although Justices Breyer, Ginsburg, Kagan, and Sotomayor authored 21 cases labeled as *salient* (31 percent), only *June Medical* and *Chiafalo v. Washington* (2020) garnered significant media attention. In essence, while liberal authorship could easily lead normative observers to conclude a decision's ideological preference based solely on the Court's contemporary population, the comparative lack of significant decisions appears to stunt any significant variation in media framing behaviors.

Alternatively, while trends are again similar across each of the Court's six conservatives, the expected effect of their authorship on framing behaviors appears to be linked considerably to the partisanships of the media actors providing coverage. I observe an explicit negative correlation where media conservatism appears to increase expectations of support and vice versa for media liberalism. However, it is important to note that the expected variation across the Court's conservatives is often considerably less than those we might find when liberals author. Nonetheless, this dynamic appears to again reinforce the prevalence of ideological considerations in positional framing behaviors. Irrespective of the means used to observe variation across cases, I routinely observe the ideological predispositions of media outlets serving as reliant predictors of media frames.

## 4.8 Discussion

The power of mass media to frame news is an institution unparalleled in American politics, and these effects are only further exacerbated with respect to the Supreme Court. Owing in large part to the considerable information gap separating the justices from the public at large, media actors serve as reliable intermediaries to introduce decision-making and other notable events to the public discourse. Yet, recent scholarship has pointed to the inclination of these actors to strategically frame decisions in ways that reinforce predisposed partisanships (Baird and Gangl 2006; Linos and Twist 2016; Spill and Oxley 2003; Strother 2017). Although the contemporary media landscape does not preclude neutral recitations of decisions in terms that passive observers can easily comprehend, ideological variation among actors often means that the Court can face media scrutiny as a response to controversial rulings. This framework underpins much of our understanding concerning Supreme Court news, and for good reason. However, it is largely restricted to print mediums, where media actors effectively have a license to provide comprehensive coverage and commentary. Restricting this freedom in an environment like social media, where comprehensive commentaries are theoretically restricted by strict character limitations and a considerable saturation of media presence online, it becomes possible that the capacity to engage in conventional framing behaviors may be likewise unfeasible.

This chapter tested that presumption in a social media environment like Twitter and ultimately found it to be unsubstantiated. Using a pre-trained deep learning model for social media coverage of Supreme Court news from a sam-

ple of 81 media users, I was able to apply a sentiment classification procedure to discern the underlying positive, negative, or neutral features of individual posts. While a considerable portion of media posts might be understood as categorically neutral recitations of the Court's holdings between the 2018 and 2021 terms, providing coverage in a social media environment does not preclude the capacity to engage in positional framing behaviors. If anything, posts to social media are akin to banner headlines, and one could easily surmise that seasoned media actors are adept at using short-handed, yet emotionally engaging descriptors to hook audiences.

I began by developing a theoretical framework that approached strategic media framing as an extension of the pre-existing literature. I specifically chose to view media behaviors through the lens of positional framing, wherein media actors choose to relay definitive positions of support or opposition in their coverage. To model these behaviors, I drew on indicators of market-based incentives to entice and instigate engagement with media content, which demonstrated how conditions of issue area salience and controversy in the Court's decision-making significantly motivate positional framing.

With a conceptual understanding of why media actors engage in positional framing, I subsequently developed an extended analysis to discern what conditions motivate support and opposition frameworks. I specifically chose to view media actors and institutions as possessing predisposed social and political preferences that, like individuals, are used to weigh congruence with the Court's decision-making. With the knowledge that media actors have historically engaged in strategic framing through traditional mediums (Baird and Gangl 2006; Linos and Twist 2016; Spill and Oxley 2003; Strother 2017) and that a social media environment would theoretically present a minimal obstruction to continue those behaviors online, I hypothesized that ideology would serve as a primary mediator. Indeed, an analysis of these behaviors reveals considerable emphasis being placed on conditions of predisposed partisanships, wherein media actors appear to strategically approach positional framing as a reflection of ideological congruity with the Court's decision-making. Furthermore, while supplemental influences might be found in other, largely case-specific conditions like variation in latent salience, majority opinion authors, or coalition sizes, they appear to largely comport to expectations associated directly with ideology. In effect, the strategic nature of positional framing online appears to coincide with our predisposed understanding of these behaviors in traditional print. That is, positional framing behaviors predominantly arose in response to cases with the capacity

to inflict some pronounced effect on the public discourse (Graber 2002), and, once outlets decided to engage, support or opposition was guided considerably by ideological congruence.

However, it is important to acknowledge the potential limitations of the second exploratory analysis. It would be inappropriate to assert that the findings concerning divergent behaviors among liberal and conservative media actors are indicative of broader trends. Namely, the assertion that liberal opposition and conservative support are generalizable trends in media behaviors towards the Court is likely to be unfounded. Instead, it is important to view these findings through two important lenses. First, as I noted extensively, variation in positional framing behaviors observed between the 2018 and 2021 terms correlate considerably with how we might expect liberals and conservatives to respond to broader trends in the justices' contemporary decision-making behaviors. While variation in opinion authorship reflected parity among liberals and conservatives, there is little doubt that the most notable decisions during these terms tended to reflect the preferred positions of the Conservative bloc. Given this substantive imbalance, as well as the greater volumes of coverage associated with these cases, it is unsurprising that variation in positional framing among liberal media was insignificantly affected during instances when the Court assumed liberal positions.

Yet, while my discrete results require a contextual lens, the substantive inferences drawn from this chapter represent emerging behaviors that warrant future analyses. Conceptually, my results point to indicative trends of partisan media behaviors in times of considerable ideological entrenchment, both generally in American political discourse and directly as it pertains to the Supreme Court. Normative assessments of the Court depict an ideologically divided institution that nonetheless offers a conservative supermajority with the capacity to reshape American jurisprudence. Time will tell whether these perceptions actually manifest in the future, but the Court appears to be at a crossroads where both specific and institutional support among those disenfranchised by its predictable rulings in generational cases are understandably faltering (Glick 2023).

To this point, I have developed a theoretical framework for understanding the immersion of Supreme Court news in social media landscapes (Chapter 3) and how media actors engage in positional framing behaviors. At the core of these analyses is an understanding that the role of media actors in American pol-

itics is unparalleled, and the considerable information gap and learning curve needed to fully comprehend the Court's complex jurisprudence offers these actors wide latitude to shape the national agenda (*see* McCombs and Valenzuela 2020). Yet, while we might recognize that coverage on social media is widespread and prone to contradictory perspectives depending on the source of that information, it stands to question whether this news environment instigates any residual effects on public discourse. In the next chapter, I aim to answer this question by leveraging the data employed in this chapter to subsequently analyze broader populations of users engaging with Supreme Court news coverage online.

# Chapter 5

# Public Discourse in Response to Supreme Court News on Social Media

## 5.1 Chapter Overview

What are the residual effects of Supreme Court news on public discourse? Prior literature has consciously approached these questions in the past and acknowledged a multifaceted framework guiding strategic media behaviors. While print and digital coverage has historically been sporadic and reduced to notable decision-making that presents a pronounced social or political impact on society (Davis 1994; Graber 2002; Johnson and Socker 2012; LaRowe and Hoekstra, 2015; Spill and Oxley 2003; Vining and Marcin 2014; Zilis 2015), media outlets nonetheless serve as the primary linkage between the public and the Court. This dependence provides media outlets with a broad license to disseminate Supreme Court news coherently to consumers, though prior research has observed these organizations using their platforms to engage in positional (i.e., non-neutral) framing behaviors that reinforce ideological positions (Baird and Gangl 2006; Linos and Twist 2016; Spill and Oxley 2003; Strother 2017). As a result, members of the public often formulate support and opposition to the Court's decision-making as a direct result of the information and perspectives they consume.

However, prior attempts to examine the dynamic linking strategic media behaviors and public discourse have understandably faced empirical obstacles. Chief among them is the sporadic nature of Supreme Court news. As a result

of limited and inconsistent coverage, the public's awareness of the Court's decisions and behaviors is often misconstrued to be only those given sufficient attention by popular media. It is perhaps unsurprising then that much of these studies devoted to constructing theoretical frameworks to explain the public's support or opposition are often built from surveys drawing on a small contingent of salient legal issues – e.g., abortion, same-sex marriage, and others that accompany public intrigue and notoriety from media outlets (Gibson and Caldeira 2009; Gibson, Caldeira, and Spence 2003; Gibson and Nelson 2014). Yet, viewing this dynamic solely through the lens of traditional mediums neglects a considerable portion of observable data. Instead, a critical analysis through the lens of social media provides a practical alternative to explore the multifaceted conditions motivating media coverage of the Court online, as well as how strategic behaviors influence support and opposition structures among a broad demographic of users.

This chapter builds on those preceding by leveraging machine learning, data mining, and ideal point estimation strategies to provide a critical examination of how strategic media behaviors online elicit support and opposition behaviors from social media users. Prior literature has noted how members of the media scarcely interact with users who respond to their tweets (Molyneux and Mourao 2019), yet their posts will often nonetheless receive considerable online engagement. A collection of research has investigated other public engagement metrics of Twitter posts – e.g., quantitative and qualitative assessments of retweets and likes (Kwak, et al. 2010), but little research has been devoted to exploring user replies, let alone those directed at media actors covering and commenting on the Supreme Court.

I begin by offering a brief review of my findings in Chapters 3 and 4, which considered a theoretical framework for understanding the development of Supreme Court news online, as well as the nature of framing behaviors among media users. Next, I translate these data and resulting inferences to discuss the potential spillover effects on public discourse. Owing in large part to the considerable information gap separating the Court from the public at large, I contend that the media's role as the "main frame" of Supreme Court news (Linos and Twist 2016) yields considerable influence to shape public opinion. To test this premise, I build from the methodology introduced in Chapter 4 to scale Twitter users who posted direct replies (i.e., comments) to the coverage and commentary introduced in Chapter 4. This effort yields important findings concerning the homophylic nature of social media networks and the conditions

that reinforce confirmation biases. I find considerable support for ideologically motivated behaviors among users engaging with social media coverage of the Court's decision-making, though evidence of media framing significantly mediating these rhetorical behaviors is mixed. While media behaviors serve as a significant predictor of positional responses among commenting users, the lack of consistent conformity across partisans raises questions concerning whether positional framing relays a causal effect.

## 5.2 Supreme Court News Online

In Chapter 3, I introduced a theoretical framework for understanding the growth of Supreme Court news in social media environments like Twitter. Specifically, I built on the inferences of studies by McManus (1988), Hamilton (2004), and especially Vining and Marcin (2014) to frame the social media landscape as one that reduces the economic constraints of Supreme Court news. Through a critical analysis that drew upon a voluminous sample of media actors and institutions posting coverage and other commentaries to Twitter, as well as a direct cross-medium comparison of media heavyweights like *The New York Times*, *The Washington Post*, *The Wall Street Journal*, and *USA Today*, I observed notable differences among traditional print and digital coverage versus social media. Namely, the capacity for media actors to post greater volumes of coverage and across a broader variety of the Court's decision-making, as well as their ability to still pursue brand-building opportunities, provided sufficient evidence to demonstrate the considerable reduction in the editorial constraints and other oversight restrictions dominating the economic model of Supreme Court news (Vining and Marcin 2014).

Chapter 4 translated the inferences gathered in the preceding chapter to investigate the contextual substance of media coverage posted on social media. I specifically examined whether these media actors engaged in positional framing behaviors, wherein they employ rhetoric to structure coverage in ways that relay underlying support or opposition to the Court's decision-making. Prior studies have repeatedly pointed to media actors' proclivity to frame Supreme Court news (Baird and Gangl 2006; Linos and Twist 2016; Spill and Oxley 2003; Strother 2017), though the literature has yet to examine these behaviors in a social media environment. While social media theoretically reduces many of the economic constraints associated with covering the Court, the tendency for these platforms to adopt strict character limitations introduces potential limitations for positional framing that are simply not as prevalent through traditional

mediums. However, while a considerable portion of posts are indeed neutral recitations of the Court's rulings, decisions by media actors to shirk neutrality are guided in large part by market-based incentives, as well as the issue salience and potential controversies associated with individual decisions. Furthermore, a discrete analysis of the 2018 to 2021 terms revealed that variance in positional framing – i.e., support or opposition – is tied considerably to conditions of ideological congruence between media actors and broader trends in the justices' decision-making.

## 5.3 Theorizing the Impact of Supreme Court News Online

Prior literature has frequently noted how strategic framing by media outlets influences the public's perceptions and opinions of the Court (Baird and Gangl 2006; Hitt and Searles 2018; Nicholson and Howard 2003; Spill and Oxley 2003). This is a reasonable contention considering how media outlets serve as the primary force in bringing Supreme Court news into the public discourse. However, studying this framework through the lens of social media requires additional considerations. Most importantly whether the causal linkage between conventional coverage (i.e., print and digital media) and the effect it has on framing public opinion translates to social media platforms. Unlike printed coverage, average users on social media can consume content from media users while also directly replying to their posts. Granted, while the capacity to comment on digital publications has become increasingly common among media outlets,[65] it by no means exists to the same extent as it does on social media – whose framework is structured to encourage user engagement and interactions. However, a conceptual understanding of how media outlets provide coverage on social media would reveal that it is not entirely dissimilar from conventional coverage. Much like the process of printing news articles or posting them to a media outlet's website, prior literature has noted that content dissemination on social media platforms is facilitated for a *networked audience* (Marwick and Boyd 2011). In essence, the target audience is always imaginary, and content authors – especially those who report on the Court – post to social media platforms in the hopes of reaching a broad audience. At its core, social media platforms like Twitter facilitate an asymmetric social structure (Porter 2009) where friendship or follower networks do not necessitate a 1:1 relationship – i.e., users are not always required to mutually consent to view the other's content. This social structure is similar to the real world when we consider that media outlets do not need to provide consent for readers to consume their content, nor are they often inclined to

[65] e.g., posting directly to a public comment section on an outlet's website.

respond to public commentary. Instead, both in the real world and on social media, media actors publish their coverage of the Court, and their networked audiences subsequently consume and translate that information into sophisticated opinions. However, as I found in Chapter 4, the information relayed to the public does not necessitate neutrality. In many instances, this information is structured using strategic rhetoric that relays a media actor's positional frame.

With a critical understanding that the behaviors underpinning interactions with media content online are similar to those with traditional print and digital content, I develop a theoretical framework to explain what conditions motivate their responses. These comments are not the same as unprompted original posts to the Twitter platform, nor are they retweets (i.e., reposts or forwards of original content). Instead, they are direct responses posted to the content offered by a media user. Perhaps the most intuitive benefit of this observation strategy is that it effectively mimics treatment effects. The core of our understanding concerning the effects of media framing on support and opposition to the Court's decision-making is ostensibly rooted in roundabout measures of the dynamic. In essence, we are considerably reliant upon observation strategies that incorporate survey analysis – e.g., directly asking individuals whether reading framed coverage, either generally or by tasking respondents to read manufactured examples, influences their perceptions (Linos and Twist 2016; Hitt and Searles 2018). Yet, while a survey approach forces engagement from respondents, responses on Twitter provide a direct measure of media effects via unprompted user engagement. That is, because individuals are taking it upon themselves to engage with media content, we can assume they have consumed and digested the media actor's content, weighed any potential positional frames against their own predisposed beliefs, and taken it upon themselves to engage. In effect, it provides a direct linkage between media content and individual perceptions that, when scrutinized through the lenses of ideology and other unique case factors, can be used to model the effects of media coverage on perceptions of the Supreme Court.

As it relates to the discrete factors mediating this dynamic, I develop a theoretical framework complimentary to the preceding chapter by considering three formative components. The first draws on the motivations for average users to relay non-neutral – i.e., positional – responses to media coverage of Supreme Court news. As I noted in Chapter 4, the underlying motivations found in market-based incentives drive media actors to provide enticing coverage that promotes engagement with readers. Yet, these incentives theoretically apply

to all news, not just the Supreme Court,[66] and nonetheless does not explain why positional framing fails to emerge in every circumstance. Instead, a critical understanding of this dynamic required viewing positional framing behaviors as the result of generalizable, market-based incentives, as well as the reality that substantive variance in the Court's decision-making predicates different levels of media engagement. In effect, because media actors view politically salient cases as those most likely to draw public attention (Bailey, Kamoie, and Maltzman 2005; Graber 2002), conditions of issue salience and potential controversy tended to correspond with expanded media attention and significantly influenced the prevalence of positional frames. As such, extending this framework to observe public discourse requires acknowledging the cyclical nature of this dynamic. Specifically, I expect that *positional responses to media coverage of Supreme Court news will emerge as a reflection of issue salience and perceptions of controversy in the Court's decision-making*. Recognizing that media actors engage in positional framing behaviors based on preconceptions of public interest in the Court's decision-making, I expect the same predictors extend to responding users.

[66] i.e., media behaviors inherently prescribe the development of enticing narratives to engage readers. This expectation is not unique to coverage of Supreme Court news.

The second component considers how the predisposed beliefs of ideologically motivated social media users raise important notions concerning variation in positional response behaviors. Namely, a considerable volume of literature has observed survey respondents routinely framing discrete-level support and opposition as a reflection of the congruence between themselves and the social or political ramifications of the Court's decision-making (Caldeira and Gibson 1992; Gibson and Caldeira 1992; Gibson, Caldeira, and Baird 1998). As a result, I expect that *positional responses to media coverage on social media will reflect the commenting user's ideological preferences*. I draw this assumption from the same theoretical expectations developed in Chapter 4, wherein ideological congruity between media actors and the Court's decision-making served as the most important predictor of variance in positional frames. To measure the relative ideological preferences of Twitter users, I incorporate the same scaling procedure using expectation maximization (EM) and a network item response theory model (Network IRT) introduced in Chapter 4 (Barberá 2015; Imai, Lo, and Olmsted 2016). This strategy provides a practical avenue to estimate the latent ideological preferences of Twitter users and media actors in the same common space. However, just as it was in Chapter 4, the value of ideological congruence could reasonably be reflective of two alternative meanings. That is, whether positional responses are the result of a tit-for-tat strategy, wherein users respond reflective of their congruence with the Court's discrete decisions,

or if they are more the result of congruence with broader trends in the justices' decision-making behaviors.

Nonetheless, regardless of how ideological congruence is best represented in this dynamic, it is important to recognize that users are not directly responding to the Court's decisions. Unlike media actors in Chapter 4, user responses are structured and instigated by media coverage, not the justices' decisions themselves. As a result, the final component necessitates considering the effects of positional framing behaviors. While a considerable portion of media posts observed in Chapter 4 relayed categorically neutral recitations of the Court's holdings, the potential for positional framing is not lost in a social media environment. In many respects, the prevalence and variance observed in positional framing behaviors are reflective of several non-mutually exclusive conditions, including perceptions of political influences or controversy, conditions of issue salience, and most notably as a result of ideological congruity between media actors and broader trends in the Court's decision-making. As it relates to the potential influence of these behaviors, prior studies have noted how negative framing of the justices' decisions in conventional media settings can be used to explain trends of opposition to the Court (Baird and Gangl 2006; Hitt and Searles 2018; Nicholson and Howard 2003; Spill and Oxley 2003). Given that media actors serve as the main frame for Supreme Court news, it would be entirely reasonable to expect positional framing to relay substantive influences on social media discourse. Specifically, I expect that *positional framing of Supreme Court news will facilitate greater rates of positional responses among social media users*. That is, if a media actor provides positionally framed (i.e., non-neutral) coverage, a responding user will be less inclined to offer a neutral response because the perspective provided by the media actor either reinforces or contradicts the user's sincere ideological beliefs.

In a similar vein, it is important to consider variation among users reflective of their sources of media information. Prior research has illustrated how the social networks that users construct on these platforms are commonly homophilic (Barberá 2015; Conover, Gonçalves, et al. 2011; Conover, Ratkiewicz, et al. 2011; Myers, et al. 2014). That is, just as we might expect people to form associations with other like-minded individuals in the real world, the capacity for social media users to determine who they will follow is a costly behavior that serves as a signal of the following user's ideological preferences, as well as the user they are following. Constructing homophilic social networks increases a user's capacity to engage in confirmation biases by providing greater exposure

to content that reaffirms their predisposed ideological positions. From this, it would be reasonable to expect stricter conformity among users who share similar ideological preferences to the media actors with whom they are engaging. Specifically, I expect that *greater ideological congruence between media actors and commenting users will produce reciprocal rhetorical behaviors*. In essence, the role of media actors to frame Supreme Court news serves as a domineering presence in formulating support and opposition structures (Linos and Twist 2016). Considering that media "sell stories, not the events themselves" (Shoemaker 1991, p. 27), these behaviors can facilitate positions that confirm or oppose a user's predisposed beliefs. As such, because it is important to view user responses as a reflection of the coverage they are consuming, it would be reasonable to expect individuals subscribing to media actors whose partisanships they are predisposed to support will be more likely to reciprocate media positions of the Court's decision-making.

## 5.4 Research Design

To examine social media discourse coinciding with decision-making by the Supreme Court, I draw on a collection of comments posted to Twitter in response to media coverage and other commentaries introduced in Chapter 4.[67] This observation strategy provides a dynamic link that unifies the contextual focus of the responding tweet and the original media coverage. In essence, it is assumed that the collection of comments posted in direct response to a media user's coverage concerns the same decision addressed in the coverage itself. Selecting a sample of prominent media outlets and affiliated journalists was done conscientiously and aimed to provide sufficient ideological variation, as well as variation among the conventional media heavyweights (*The New York Times*, *The Washington Post*, among others) and newer or non-print outlets.[68] As a result, I was able to obtain approximately 10,100 original tweets from 81 media outlets, journalists, and other pundits. From these tweets, I was able to collect and analyze a sample of approximately 64,200 responding tweets posted by 33,856 unique users.[69]

[67] *See* Chapter 4.5 for a review of the data collection process.

[68] For a comprehensive overview of the selection process for media actors employed in this dissertation, *see* Chapter 3.4.

[69] I provide a comprehensive list of the media outlets and affiliated journalists included in this analysis in the appendix materials (Table A.1)

With these data collected, I subsequently introduced methodologies to measure the underlying rhetorical sentiments (i.e., attitudes and tones) reflected within the tweets, as well as the ideological preferences of the media elites and users. These tasks were accomplished by incorporating pre-trained deep learning for sentiment classification tasks using OpenAI's Generative Pre-Trained Transformer 3 (GPT-3), as well as a Network Item Response Theory (Network

IRT) framework using expectation maximization (EM) to estimate ideal points. I provide a summary of these methodologies in Chapter 4.5, as well as an extended discussion in the appendix materials (Appendix A2-A3). The only departure from the methodology employed in Chapter 4 is that this chapter employs GPT-3's *Curie* engine, rather than *Davinci*.[70] I provide the distribution of categorical classifications observed among commenting users disaggregated by the rhetorical sentiment (i.e., frame) observed in the media post they responded to (Figure 5.1), as well as the distribution of their ideal points in Figure 5.2 using the same Network IRT common space introduced in Chapter 4.5 – where the y-axis represents the political interest of the commenting users ($\beta_i$), rather than their propensity to be followed ($\alpha_j$).[71]

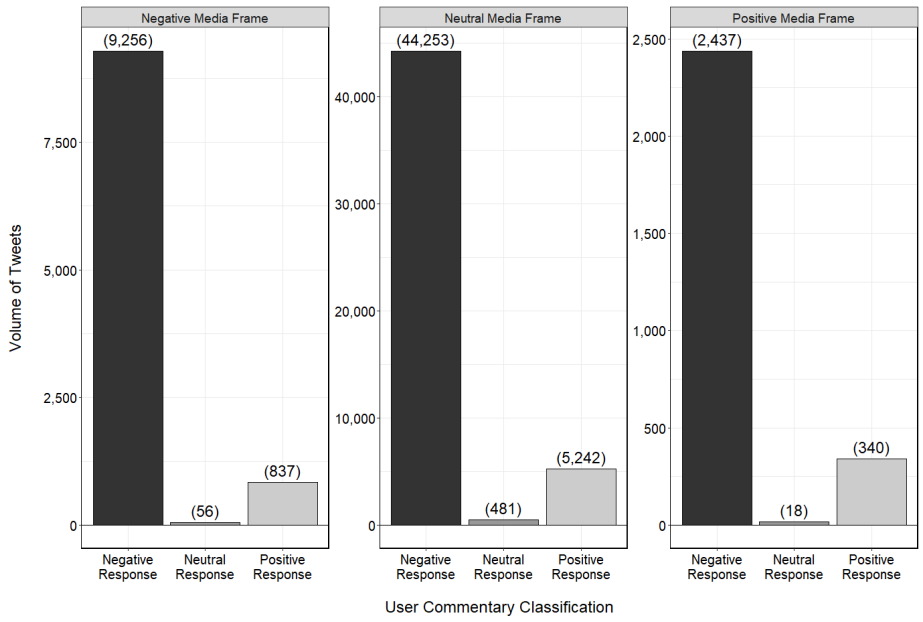



Figure 5.1: Distribution of GPT-3 Sentiment Classifications (*Curie* Engine)

[70] The transition from *Davinci* (Chapter 4) to *Curie* (Chapter 5) was motivated by a desire to mitigate the financial burden associated with employing GPT-3. *Curie* nonetheless remains an exceptionally capable classification tool with the primary trade-off being a reduction from 175 billion parameters (*Davinci*) to 13 billion (*see* Ornstein, Blasingame, and Truscott 2022).

[71] *See* Figure 4.4

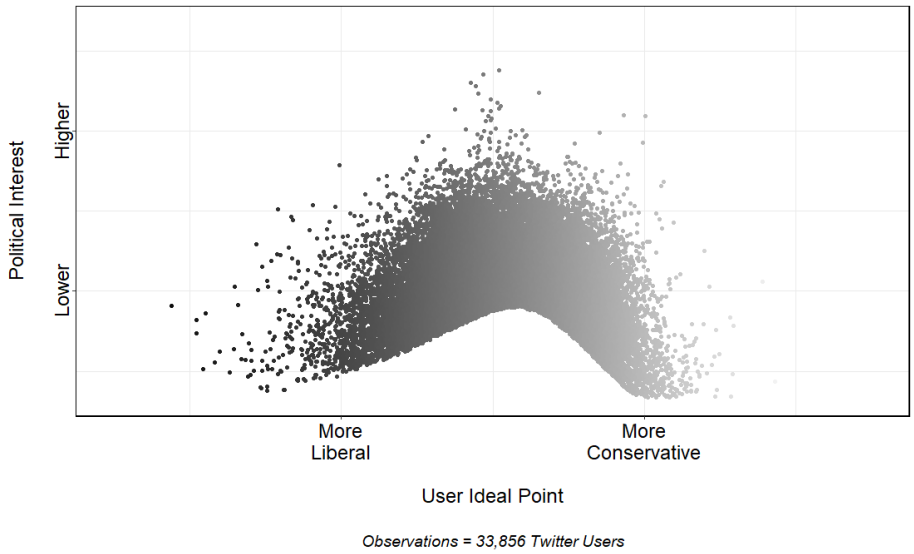



Figure 5.2: Ideological Common Space of Commenting Users on Twitter (Network IRT)

### 5.4.1 Positional Framing and Residual Effects on Public Discourse

Using the sentiment classification procedure, I observe the rhetorical behaviors from a sample of tweets posted in response to coverage of decision-making by the Supreme Court between the 2018 and 2021 terms by elite media actors and commenting users. This accounts for 184 decisions across 90 observation periods,[72] where case-specific matches were derived by assuming topical similarity to the media tweets the users were responding to. As such, the difference from the prior chapter can be understood as the observation strategy shifting from coverage and other commentaries of Supreme Court news to comments posted in direct response to those same media content. To analyze the conditions mediating user-level responses, I again employed two analyses that considered the propensity to relay positional (i.e., non-neutral) response using a binomial logit design, as well as variation in support and opposition using multinomial logistic regression. The first models the dependent variable as a dichotomous term indicating whether users relayed a positional response, while the second models variance among positive and negative (i.e., support or opposition) rhetoric.

[72] i.e., 90 unique observation periods of 48 hours following the release of a decision by the Court.

As noted in the previous section, I structure my theoretical frameworks of positional response behaviors as a reflection of ideological congruence and the effects of media framing. Yet, while both modeling strategies aim to discern alternative structures of the dependent variable – i.e., the propensity of posi-

tional responses versus variation in support and opposition, it is necessary to view the primary independent variables as conjoined influencers at both stages of the dynamic. Although my findings in the prior chapter provide notable inferences concerning the importance of ideological congruence, the dynamic observed in Chapter 4 is effectively unidimensional, whereby media actors were constructing frames in direct response to the Court's decisions. Translating the unit of measurement to user commentary means that the Court's decisions are no longer the sole point of reference. Instead, positional responses could theoretically be the result of ideological congruence with the Court's decisions,[73] a media actor's framing of that decision, or potentially both. Even more, the propensity for users to provide positional responses could be the result of perceiving a decision's underlying importance, and the decision to relay ostensibly positive or negative sentiments (support or opposition) could just as well be influenced by whether they view the decision as consequential.[74] The point is that definitive distinctions between conditions that solely motivate positional rhetoric versus those that instigate variance in those behaviors are not as neatly discernible for commenting users as it was for media actors. As such, I chose to incorporate a collection of independent variables and additional controls that speak to the core theoretical frameworks while also demonstrating that these conditions are not mutually exclusive to either configuration of the dependent variable.

[73] Both generally, as well as it relates to broader themes in the justices' decision-making (*see* Chapter 4).

[74] i.e., just as positional framing by media actors was significantly motivated by case salience, the same expectations could extend to commenting users. If a decision lacks definitive political salience, the incentive to relay positional responses could reasonably diminish.

I began by incorporating two discrete terms measuring the ideology of the responding user and the media actor whose content they interacted with using the Network IRT common space. The prior chapter pointed extensively to divergent behaviors among liberal and conservative media actors, and the generalizability of those ideological differences could reasonably extend to average users. Considering the ideologies of both media actors and commenting users offers a distinctive benefit by providing an avenue to observe how positional responses emerge as a reflection of ideological dichotomy (i.e., liberal *or* conservative), as well as ideological extremity. It stands to reason that ideologically extreme users subscribe to stricter partisanships and would thus be more inclined to offer positional responses when decisions appear to support or oppose their predisposed beliefs. The same assumptions can be drawn from interactions with media actors that subscribe to stricter partisanships, wherein positional frames would be more likely to emerge that reinforce or contradict a user's predisposed beliefs. Finally, given that conservative media were more likely to relay supportive frames than liberal media between the 2018 and 2021 terms, I expect similar variation in behaviors will extend to ideologically moti-

vated users.

Looking next toward media effects, I begin by including the rhetorical sentiment employed by media actors to frame the Court's decision, which served as the primary dependent variable in Chapter 4. Even if individuals would otherwise not be swayed by the partisanship of individual media actors, it should be recognized that these Twitter posts might be the first, and, in many cases, potentially the only frame of reference. As such, the strategic decisions of media actors to frame decisions could serve as an important tool for mediating positional responses. However, it would be inappropriate to assume by itself that individual users choosing to engage with media content is indicative of those users' ideological preferences. The homophilic nature of social media networks provides sufficient means to construct digital echo chambers (Barberá 2015; Conover, Gonçalves, et al. 2011; Conover, Ratkiewicz, et al. 2011; Myers, et al. 2014). Recent studies have even attributed a direct linkage between the desire for social media users to consume and share information that reinforces confirmation biases (Modgil, et al. 2021). However, inter-ideological interactions are not uncommon on social media platforms – especially in political discourse. With this comes a necessity to model other conditions that better illustrate the relationship between media actors and those engaging with their content. To achieve this, I incorporated two additional variables. The first draws directly on the congruence shared between the posting media actor and the responding user, which I measure as the inverse of the ideological distance separating both parties.[75] This approach offers a direct measure of ideological concordance, which should lead to greater reciprocation among commenting users. That is, responses should ideally mimic frames given that greater congruence is indicative of commenting users' predispositions to already support the media actor's perspectives. Especially in response positional frames, it would be reasonable to expect commentary from like-minded users will facilitate an echo chamber that reciprocates the rhetorical sentiments observed in the coverage itself.

In a similar vein, owing to the asymmetric structure of Twitter – which does not necessitate one-to-one social networks (Porter 2009),[76] the second variable is a dichotomous term that provides an additional measure of network associations by considering whether responding users follow the media accounts whose content they are engaging.[77] Apart from Twitter's asymmetric structure, the inclusion of this variable serves to discern whether including media accounts in their social network, which served as the primary metric for estimating ideal points, serves as an indicator of how susceptible users are to media framing.

[75] i.e., the absolute value of the ideal points separating the posting and responding users $|\theta_i - \Phi_j|$. I subsequently calculated the inverse of the resulting distance, which provides a measure of congruity where distances closer to zero denote greater ideological congruence. Variance in ideological congruence ranges from ≈ -4.106 to ≈ -0.0003.

[76] i.e., Notwithstanding users who employ certain privacy settings, Twitter does not necessitate individual users to follow one another to engage with content. Meaning that individual users are seldom required to follow media accounts to engage with their content.

[77] *Note*: Approximately 52 percent of responding users followed the media accounts they were observed responding to.

Prior literature has routinely observed political preferences mediating an individual's sources of information consumption, both within the United States and abroad (Dahlgren 2020; Luskin 1990; Prior 2007). I expect users who share ideological alignments with the media accounts they follow to be even more predisposed to reciprocate media positions that support their predisposed beliefs. Yet, if social networks serve as a costly indicator of partisanship (Barberá 2015), then it would be important to consider how users behave in response to coverage by media actors to who they otherwise do not subscribe.

Although observing positional response behaviors in this context is predicated on interactions between ideologically motivated users and media actors, it is important to consider that individuals routinely formulate support and opposition structures toward the Court's discrete decision-making as a result of potential social or political ramifications. That is, while it is reasonable to expect that ideological congruence and media framing serve as the primary mechanism to structure public discourse in response to Supreme Court news online, it is necessary to consider how variation in the Court's decisions – both from a perspective of outcomes and the underlying case facts – mediates positional responses.

I accomplish this by incorporating data from the Spaeth, et al. Supreme Court database, which was originally discussed in Chapter 4 and provides an extended assortment of case-specific variables unique to each of the Court's decisions. As noted in Chapter 4, the Court has continued to capture national headlines in recent years for reviewing cases concerning generational political issues, including abortion and other privacy concerns, competing interpretations of the intersection between the establishment and free-exercise clauses of the first amendment, and of course civil rights. With this in mind, I begin by incorporating a set of dichotomous terms aimed at discerning latent case salience. These include terms denoting whether the case concerned a salient issue area, as well as whether litigation concerned a government party – which includes the United States and federal or state executive actors and agencies.[78] I specifically define salient issue areas as those concerning *The First Amendment*, *Civil Rights*, or *Privacy*, and draw this expectation from the conceptual understanding that public attentiveness and interest in any decision by the Court is often deterministic of the decision's latent salience (Brenner and Arrington 2002; Clark, Lax, and Rice 2015; Collins and Cooper 2011; Epstein and Segal 2000; LaRowe and Hoekstra 2014; Sill, Metzgar, and Rouse 2013). Furthermore, these issue areas theoretically represent both the least legally complex and

[78] e.g., Presidents Donald Trump or Joe Biden (*Federal Executive Actor*), Governor John Carney (*State Executive Actor*), the Environmental Protection Agency or Internal Revenue Service (*Federal Agency*), and the Washington State Department of Licensing or Montana Department of Revenue (*State Executive Agency*).

most sensationalized aspects of the Court's decision-making. Prior research has often noted a growing tendency among media outlets to over-sensationalize the Court's decision-making that are "relatively easy to grasp and [present] emotionally stirring stor[ies]" (Graber 2002, p. 313). Coverage concerning salient decision-making, which can be expected to sympathize and mobilize broader audiences, should instigate more coverage online that will translate into greater rates of positional rhetoric because responding users approach media coverage as a framework for constructing and facilitating their own opinions. As such, I expect a heightened degree of public interest and a divergent set of perspectives in the resulting discourse to accompany cases including these major government actors and institutions.

Apart from notable facts associated with each case, I was also sure to measure ideological variation in the decisions themselves. These included two dichotomous terms indicating the ideological alignment of the decision's majority opinion author and Spaeth, et al.'s *decision direction* indicator,[79] a discrete term measuring the ideological extremity of the opinion author using the absolute value of their corresponding judicial common space score (Epstein, et al. 2007),[80] and finally, a discrete term denoting the size of the decision's minority coalition. This approach offers distinct benefits. First, it provides a means to discern how commenting users approach perceptions of ideologically driven decision-making by referencing the partisanship of the majority author and the resulting decision on a binomial (*liberal or conservative*) scale. In a similar vein, measuring JCS scores as an absolute value, as opposed to the bounded scale,[81] indicates the degree of the partisanship potentially guiding the majority opinion itself. Finally, while the public might frame their support or opposition as a response to the justice who wrote the majority opinion, this approach also provides a mechanism to discern how perceptions of congruence or conflict among the justices in the resulting majority and minority coalitions illicit different responses. As I showed in Chapter 4, media users become increasingly more likely to employ negative framing in response to greater dissent among the justices, and it is entirely plausible that the same conditions motivating positional frames translate to their readers.

[79] *Decision Direction* (Spaeth, et al.) discerns the ideological directionality of decisions through a comprehensive of assessing the liberal and conservative positions the Court could assume for any case.

[80] Where scores greater than zero denote greater ideological extremity.

[81] i.e., $\{x \in R : -1 \leq x \leq 1\}$, where -1 represents the most *liberal* position and +1 represents the most *conservative*.

## 5.5 Results

Similar to Chapter 4, I provide two sets of results from my multinomial framework in Tables 5.1-5.2 to properly model media coverage posted within and beyond associated decision release periods. While a considerable portion of media tweets are categorically neutral recitations of the Court's holdings, public dis-

course emerging as a direct response to these coverage and other commentaries are decidedly otherwise. As expected, average Twitter users are unlikely to employ neutral rhetoric. However, apart from greater rates of dissent among the justices, conditions of latent case salience do not motivate the propensity or variation in positional responses to the same extent as positional framing by media actors.[82] As it pertains to general measures of ideology, I again find that these conditions serve as major predictors of rhetorical behaviors. Although conservative users are less likely to relay positional responses, we can expect that their propensities for negative positions is lesser when they do. Alternatively, engagement with conservative media not only significantly increased the use of positional responses, but also corresponded with heightened negativity – although an analysis of the resulting predicted probabilities reveals that this was guided in large part by the stricter conformity of opposition by liberal users during the 2018 to 2021 terms, rather than a generalizable trend applicable to all users. Finally, my results question whether positional media framing represents a causal effect on positional responses. While I observe ideological variation among those responding to media coverage of Supreme Court news, conformity to positional frames is not consistent across user ideologies. In large part, reciprocal responses can be explained by confirmation biases, wherein like-minded users are already more likely to agree with media actors' positional frames. The significant effect is likely to result from there being consistently greater populations of like-minded users responding to media content, not that there is a causal effect where positional frames influence all users.

[82] *see* Figure 4.7, Tables 4.1 and 4.2.

Table 5.1: Multinomial Logistic Regression of Positional Responses (All Commentary Tweets)

| | Binomial Logit | | | Multinomial Logit | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Positional Response | | | Negative Response | | | Positive Response | | |
| Variable | Odds Ratios | SE | Sig. | Odds Ratios | SE | Sig. | Odds Ratios | SE | Sig. |
| Media Conservatism† | 1.257 | (0.08) | ** | 1.281 | (0.08) | *** | 1.075 | (0.07) | |
| User Conservatism† | 0.786 | (0.09) | * | 0.766 | (0.08) | * | 0.963 | (0.11) | |
| Ideological Congruence† | 0.930 | (0.11) | | 0.938 | (0.11) | | 0.893 | (0.11) | |
| User Follows Media | 0.850 | (0.07) | | 0.844 | (0.07) | | 0.898 | (0.08) | |
| Negative Media Frame | 1.537 | (0.22) | | 1.570 | (0.22) | ** | 1.267 | (0.18) | |
| Positive Media Frame | 1.420 | (0.34) | | 1.388 | (0.33) | | 1.673 | (0.41) | * |
| Salient Issue | 1.097 | (0.11) | | 1.118 | (0.11) | | 0.944 | (0.10) | |
| Government Party | 0.843 | (0.11) | | 0.834 | (0.11) | | 0.919 | (0.13) | |
| Minority Coalition Size | 1.130 | (0.05) | * | 1.136 | (0.05) | ** | 1.100 | (0.05) | |
| Conservative Author (JCS) | 1.138 | (0.18) | | 1.161 | (0.19) | | 0.995 | (0.16) | |
| Author Extremity (JCS) | 1.916 | (0.75) | | 1.869 | (0.73) | | 2.254 | (0.92) | * |
| Conservative Decision | 1.194 | (0.15) | | 1.232 | (0.16) | | 0.962 | (0.13) | |
| Constant | 41.490 | (13.98) | *** | 35.33 | (11.918) | *** | 6.023 | (2.11) | *** |
| McFadden R2 | 0.014 | | | | | 0.011 | | | |
| AIC | 6,291.156 | | | | | 47,248.35 | | | |

* p <0.05, ** p <0.01, *** p <0.001 with Two-Tailed Test
Observations = 62,880
† Measures of ideology derived using the Network IRT model (Barbera 2015; Imai, Lo, and Olmsted 2016)

Table 5.2: Multinomial Logistic Regression of Positional Responses (Decision Period Exclusively)

| | Binomial Logit | | | Multinomial Logit | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Positional Response | | | Negative Response | | | Positive Response | | |
| Variable | Odds Ratios | SE | Sig. | Odds Ratios | SE | Sig. | Odds Ratios | SE | Sig. |
| Media Conservatism† | 1.158 | (0.09) | | 1.183 | (0.09) | * | 0.983 | (0.07) | |
| User Conservatism† | 0.772 | (0.10) | | 0.750 | (0.10) | * | 0.981 | (0.13) | |
| Ideological Congruence† | 0.913 | (0.12) | | 0.919 | (0.12) | | 0.891 | (0.12) | |
| User Follows Media | 0.933 | (0.10) | | 0.929 | (0.10) | | 0.961 | (0.11) | |
| Negative Media Frame | 1.562 | (0.27) | * | 1.598 | (0.27) | ** | 1.277 | (0.22) | |
| Positive Media Frame | 1.532 | (0.42) | | 1.495 | (0.41) | | 1.804 | (0.50) | * |
| Salient Issue | 1.076 | (0.13) | | 1.101 | (0.13) | | 0.910 | (0.11) | |
| Government Party | 0.767 | (0.11) | | 0.758 | (0.11) | | 0.834 | (0.13) | |
| Minority Coalition Size | 1.081 | (0.06) | | 1.080 | (0.06) | | 1.091 | (0.06) | |
| Conservative Author (JCS) | 1.438 | (0.27) | | 1.513 | (0.29) | * | 1.063 | (0.21) | |
| Author Extremity (JCS) | 1.738 | (0.74) | | 1.697 | (0.72) | | 2.003 | (0.88) | |
| Conservative Decision | 1.131 | (0.17) | | 1.168 | (0.18) | | 0.911 | (0.14) | |
| Constant | 41.490 | (13.98) | *** | 35.33 | (11.918) | *** | 6.023 | (2.11) | *** |
| McFadden R2 | 0.015 | | | | | 0.015 | | | |
| AIC | 4,372.70 | | | | | 33,604.37 | | | |

* p <0.05, ** p <0.01, *** p <0.001 with Two-Tailed Test
Observations = 43,710
† Measures of ideology derived using the Network IRT model (Barbera 2015; Imai, Lo, and Olmsted 2016)

Looking first at the propensity to relay positional responses, I observe an interesting divergence in behaviors across the different subsets of the data. While the unrestricted dataset (Table 5.1) demonstrates greater cohesion with motivations for media actors to engage in positional frames, these effects do not translate to the restricted observations coinciding with the release of decisions themselves (Table 5.2). This represents a notable departure from my findings in Chapter 4, where conditions of case salience consistently served as predictors of positional framing regardless of observation restrictions. Yet, while the lack of these conditions served to indicate that media actors would not engage in positional frames, a critical analysis of the corresponding predicted probabilities reveals how these expectations do not extend to commenting users. Instead, while there is marginal, yet insignificant variation among liberals and conservatives, both in general and in response to media actors with alternative ideological preferences (Figures 5.3-5.4), commenting users are very likely to offer positional responses in most instances. This is perhaps unsurprising given that users consume media coverage as a frame of reference to weigh their congruence with the Court's decision-making.

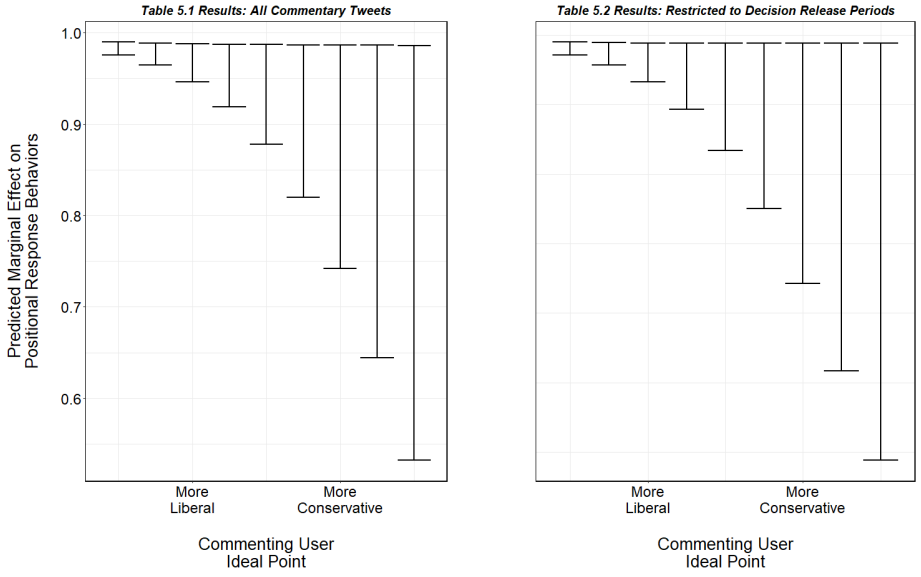



Figure 5.3: Predicted Marginal Effect of Responding User Ideology on Positional Response Behaviors

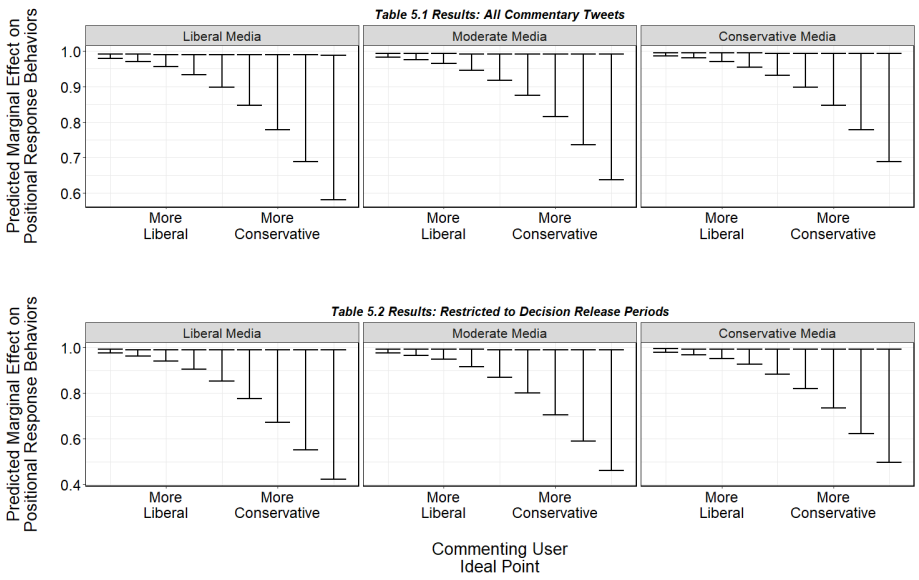



Figure 5.4: Predicted Marginal Effect of Media and Responding User Ideologies on Positional Response Behaviors

With this in mind, the core theoretical framework underpinning this analysis is rooted in the expectation that ideology serves as the primary mediator of support and opposition responses to Supreme Court news, although this could be confounded by media framing behaviors. That is, just as media actors weigh the substance of the Court's decision-making through the lens of predisposed beliefs, support and opposition structures among the public have historically demonstrated similar trends (Caldeira and Gibson 1992; Gibson and Caldeira 1992; Gibson, Caldeira, and Baird 1998). However, owing in large part to a significant information gap, as well as the considerable learning curve associated with complex legal decisions, media coverage of the Court's decisions serve as the main, and often the only, frame for the public (Hitt and Searles 2018; Linos and Twist 2016; Spill and Oxley 2003). As a result, the public is generally both reliant and potentially susceptible to media framing, insofar as individuals can be swayed by first impression biases – regardless of whether it reinforces their predisposed beliefs. To that end, my results reveal notable, but potentially mixed insights. Drawing on perceptions of a commenting user's ideological and other unique characteristics, I observe a significant set of behaviors that reinforces the prior literature. *User Conservatism*, which considers the propensity for users to exhibit greater ideological characteristics in line with other conservatives, corresponds with significantly diminished propensities for negative rhetoric. However, this is likely less an indicator that conservatives are generally more supportive of the Court's decisions – or less likely to oppose –

as much as it is a reflection of trends in the justices' decision-making between the 2018 and 2021 terms.

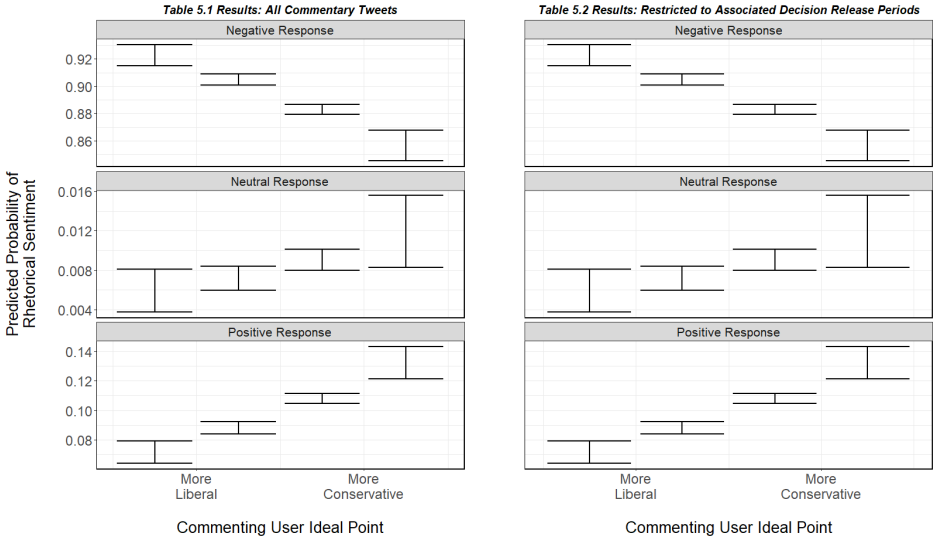



Figure 5.5: Predicted Probabilities of Variation in Positional Response Behaviors by Responding User Ideology

Even if the Court's current makeup is better characterized as a "3-3-3" Court (Isgur 2021; Lat and Shemtob 2023),[83] the emergence of a conservative supermajority following the death of Justice Ruth Bader Ginsburg, as well as the predictable string of rulings in cases like *Brnovich v. Arizona* (2021), *Carson v. Makin* (2022), and, most notably, *Dobbs v. Jackson* (2022), serves to compound the perception that the Court's conservative bloc is firmly in control. In essence, the Court's progression between the 2018 and 2021 terms is epitomized by a sharper deviation to the conservative right. This perception appears to motivate considerable distinctions among liberal and conservative-leaning media actors, as viewing framing behaviors through the lens of ideology and case dispositions demonstrated a significant propensity for liberal media actors to employ negative frames regardless of whether the case appeared to support their supposed ideological position (*see* Figure 4.12).[84] Notwithstanding the potential influences of strategic media behaviors, I again observe sharp divides between liberals and conservatives.

While liberal users are more likely to employ negative rhetoric in response to the Court's decisions between the 2018 and 2021 terms (Figure 5.5), this expectation does not present a significant difference from conservatives in circumstances where the Court assumes a liberal position in its rulings (Figure 5.6),

[83] i.e., where the ideological makeup denotes three reliable liberals (Justices Sotomayor, Kagan, and Breyer – now Jackson), three reliable conservatives (Justices Alito, Thomas, and Barrett), and three who are known to float allegiances reflective of the issue area or the potential for severe consequences to the Court's public image and legitimacy (Justices Roberts, Kavanaugh, and Gorsuch).

[84] Also *see* Figures 4.13-4.14, which illustrate similar behaviors reflective of specific justices authoring majority opinions.

nor when an ideologically aligned justice authors the majority opinion (Figure 5.7). In fact, the greatest statistical difference between liberal and conservative users emerges in circumstances of conservative position-taking and authorship.

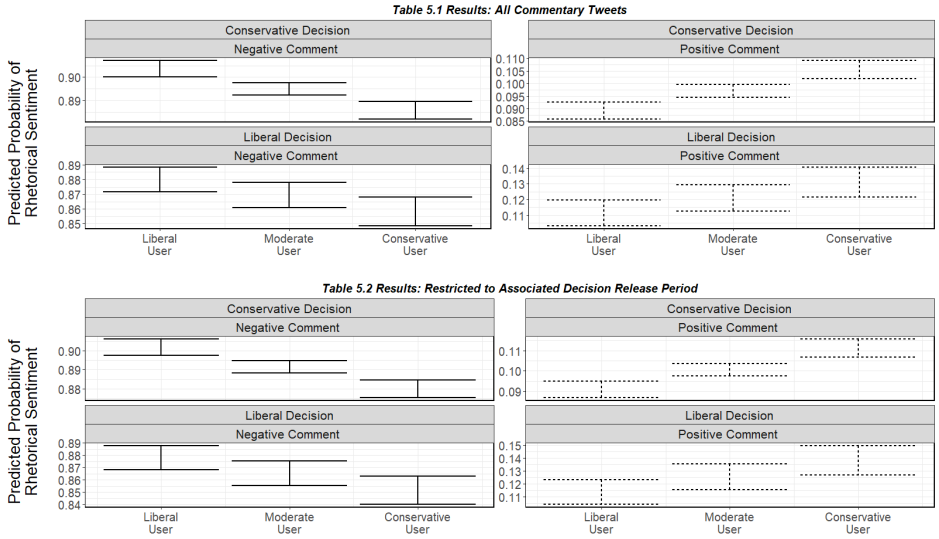



Figure 5.6: Predicted Probabilities of Variation in Positional Response Behaviors by Decision Direction

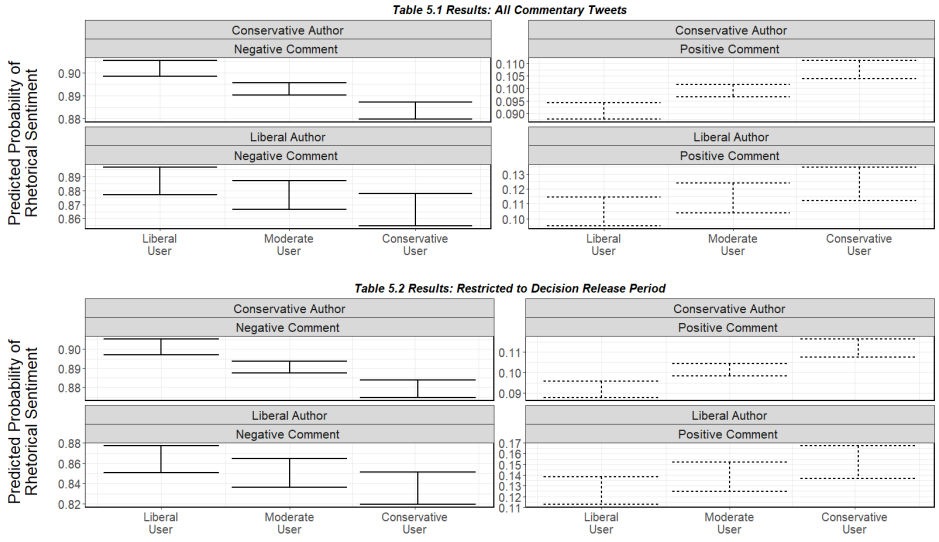



Figure 5.7: Predicted Probabilities of Variation in Positional Response Behaviors by Majority Opinion Authorship

Just as it was in Chapter 4.7, I suspect that this dynamic is motivated in large part by both the perception that the Court was firmly conservative during this

period, as well as the reality that apart from cases like *Department of Homeland Security v. UC Regents* (2020) and *Bostock v. Clayton County* (2021), much of the Court's more notable decisions observed between the 2018 and 2021 terms reflected conservative positions. Even then, both of those decisions were authored by one of the Court's conservatives.[85] Alternatively, it should also be recognized that there is a considerable imbalance among both media coverage and user responses concerning case focuses. While the balance between conservative and liberal opinion authorship is effectively split between the 2018 and 2021 terms, there is a discernible preference for media outlets to provide extensive coverage of both liberal and conservative-leaning decisions with conservative authors, if not those that assumed the conservative position outright. Just as Figure 4.1 demonstrated a clear preference for a select set of cases – most notably *Dobbs*, I find similar behaviors among responding users (Figure 5.8).[86]

[85] *DHS* was authored by Chief Justice Roberts, while *Bostock* was authored by Justice Gorsuch.

[86] *Note*: Figures 4.1 and 5.8 relay differing emphases concerning six cases. Greater Media Coverage: *American Legion v. American Humanist Association* (2019), *Flowers v. Mississippi* (2019), *Timbs v. Indiana* (2019); Greater User Responses: *Fulton v. City of Philadelphia* (2021), *Carson v. Makin* (2022), and *Kennedy v. Bremerton School District* (2022).

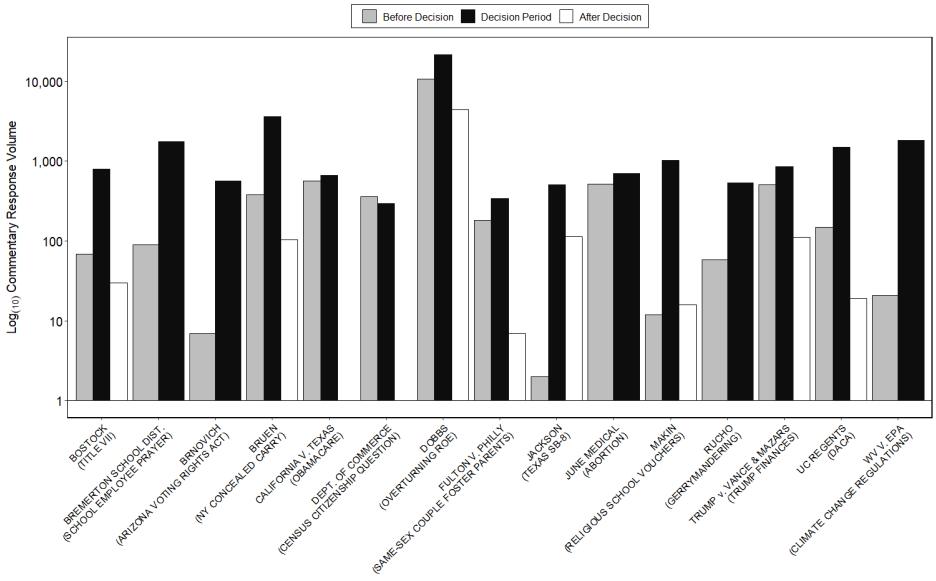



Figure 5.8: Top Fifteen Cases To Receive User Responses

However, to the extent that strategic media framing influences rhetorical behaviors among commenting users, I again observe an interesting set of dynamics that highlight the conditions motivating engagement with media content, as well as how commenting users express their positions. As I have noted, the public's dependence on media outlets to provide clear and intelligible insights into the Court's complex decision-making, aided by the growing preference among individuals to consume news that reinforces their predisposed ideological positions, provides outlets with the means to frame the decisions for a targeted audience of likeminded consumers. This dynamic is pivotal to filling the con-

siderable information gap separating the Court and the public, but it raises an important question. Namely, do positional framing behaviors instigate discourse posted as commentary, or does the coverage serve as a platform to reinforce policy preferences already held by the commenting users? A concurrent analysis of Tables 5.1-5.2 and the corresponding predicted probabilities reveals intuitive, yet mixed inferences. First, without considering user ideology, I observe a significant relationship between media framing and user commentary (Figure 5.9). While the propensity for negative comments far exceeds neutral or positive, strategic media behaviors nonetheless serve as significant predictors across positional response behaviors.

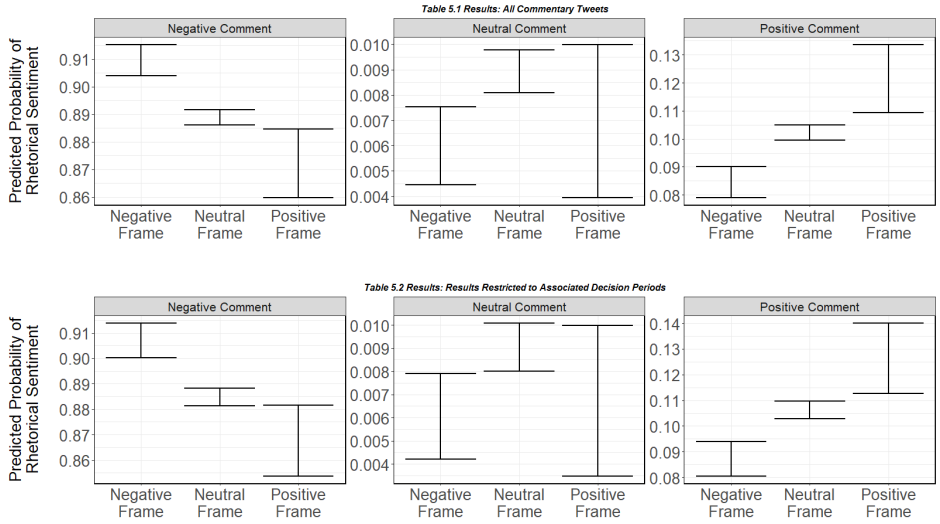



Figure 5.9: Predicted Probabilities of Variation in Positional Response Behaviors by Media Frame

This being considered, the inclusion of ideology as a layer of the dynamic appears to dissuade the proposition that media behaviors are driving user responses (Figure 5.10). Through this lens, I observe a set of fairly consistent behaviors separating liberal and conservative users, insofar as propensities for liberals to relay negative positions are significantly greater than conservatives regardless of media ideology or the frame used in their coverage. This result might not be entirely surprising given the significant relationship observed for diminished negativity reflective of greater conservatism among responding users, but it appears to be at odds with the inferences gathered from Figure 5.9.

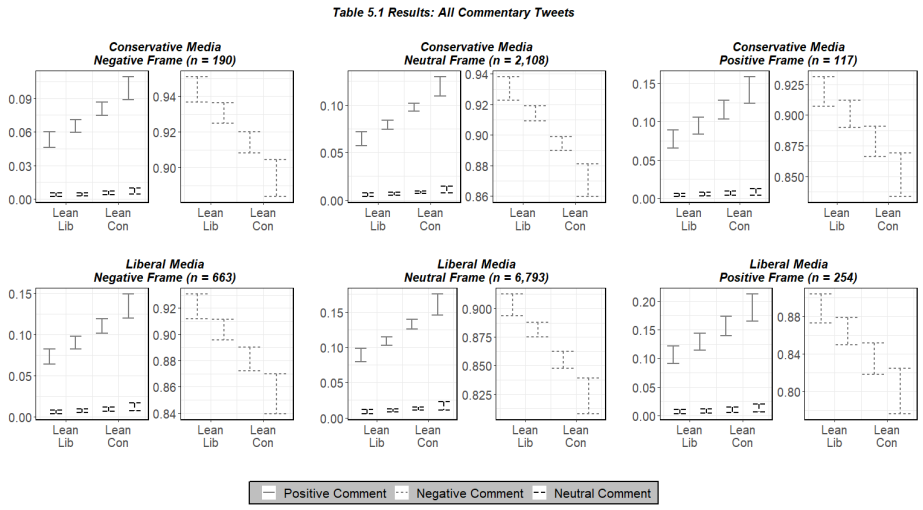



Figure 5.10: Predicted Probabilities of Variation in Positional Response Behaviors by Media Frame and Ideology

Yet, a critical analysis of the user population engaging with media coverage reveals notable inferences to better discern this dynamic. A common trend observed in studies of social networks is that they are routinely structured to mirror real-world interactions. That is, the network of associations constructed by social media users is habitually populated by users that share social or political alignments (Barberá 2015; Conover, Gonçalves, et al. 2011; Conover, Ratkiewicz, et al. 2011; Myers, et al. 2014). Confirmation of these observations is found in the ideal point common space itself, which illustrates discernible differences among conservative and liberal media users that, at least at face value, mirror normative assumptions.[87] The methodology underpinning the ideal point estimates is tailored to consider the clustering of alike users that constitute their social networks, which illustrates that the resulting liberal or conservative alignment of the outlets reflects the social preferences of those who follow them. In effect, the media actors' social networks serve as a mirror for their ideological preferences, as well as for the following users.

[87] e.g., *MSNBC* and *CNN* are positioned more liberally while *Fox News* and *The Washington Times* are positioned more conservatively, among others.

This dynamic led me to believe that the population of those who interact with coverage from these outlets would most likely be those who follow and share their ideological preferences. I find that not only does a user following the media actor they are engaging with constitute less than 55 percent of observations, but a user following their media target is not a consistent predictor of rhetorical behaviors across both sets of model results (Tables 5.1-5.2). In-

stead, I observe how social media coverage serves as a de facto public forum that instigates engagement from a broad demographic of users – though the discourse facilitated by these network spaces might be better characterized as Times Square than a town hall. I provide an illustration of the median observed ideal point observed among liberal and conservative commenting users reflective of the outlet whose coverage they engaged (Figure 5.11). Understanding that the population of followers retained by any outlet is likely to share their ideological beliefs, the preponderance of the average ideal point among the population of commenting users to be discernibly moderate is indicative of the broad demographic engaging with media coverage of the Court. Rather than simply facilitating an echo chamber, media outlets provide a framework where "politically motivated individuals provoke interaction by injecting partisan content into information streams whose primary audience consists of ideologically opposed users" (Conover, Ratkiewicz, et al. 2011, p. 89).

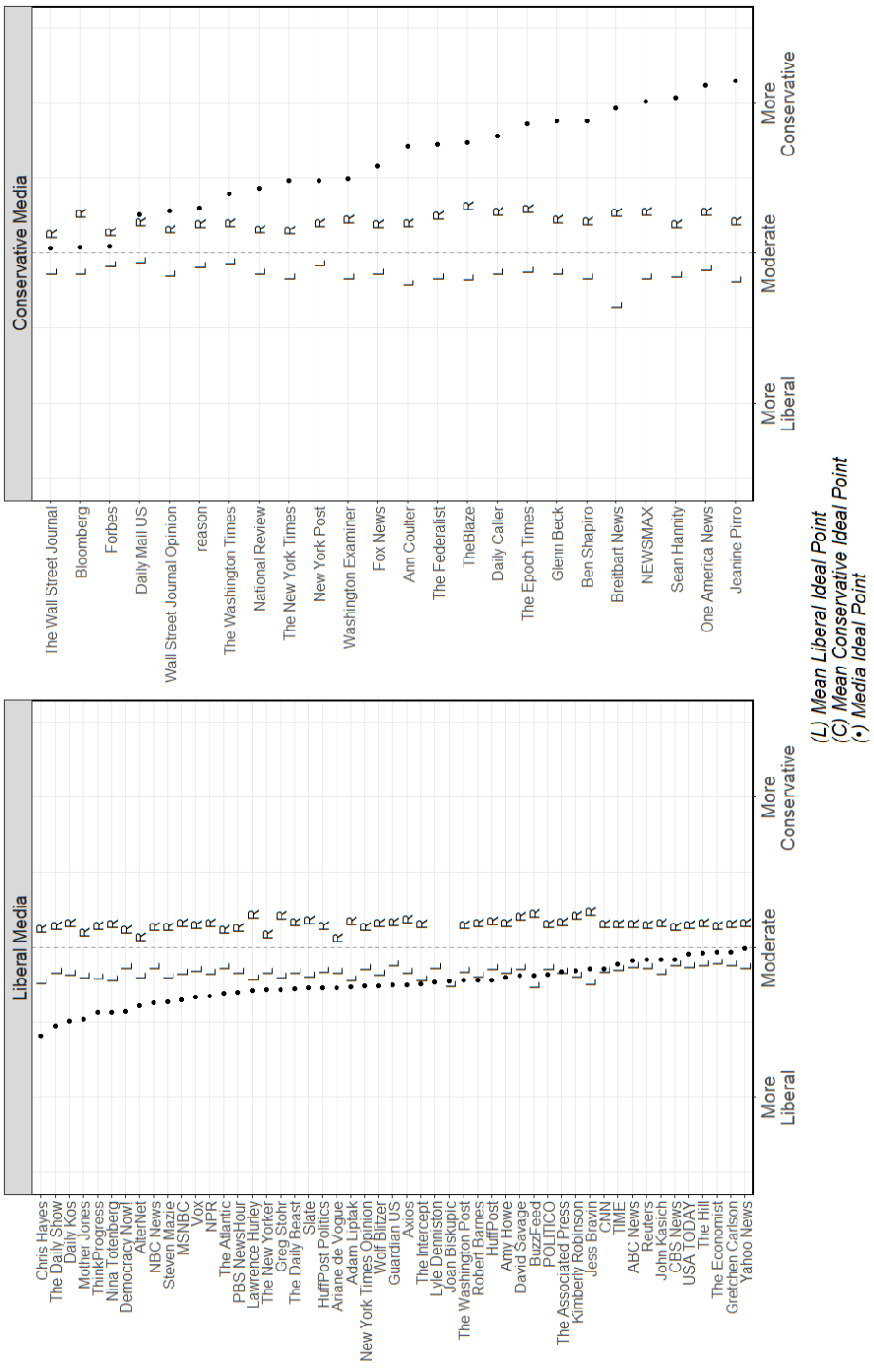



Figure 5.11: Media Ideal Points vs. Mean Observed Ideal Point For Commenting Users

This broad demographic of commenting users attracted to coverage of the Court is perhaps even more pronounced when considering how commenting users structure their rhetoric in response to strategic media behaviors. Especially among outlets that prolifically post coverage, I observe consistent rates of positional framing reflective of the perceived ideological leaning of the Court's decision-making, wherein positive frames become iteratively more likely as outlets reflect more conservative partisanships (Figure 5.12). Yet, the population of commenting users rarely reflects the positions provided by the media user. In many cases, it is often quite the opposite. Rather than serving as a tool to invariably guide public support or opposition, it appears that users choosing to engage with media coverage – positionally framed or otherwise – draw on their ideological preference and congruence with the Court's decisions to facilitate public discourse online. The significance observed for positive and negative frames in Tables 5.1 and 5.2 appears to be a reflection of confirmation biases, wherein users relay similar positions as the media actors because it supports their predisposed preferences, rather than media actors moderating that support or opposition.

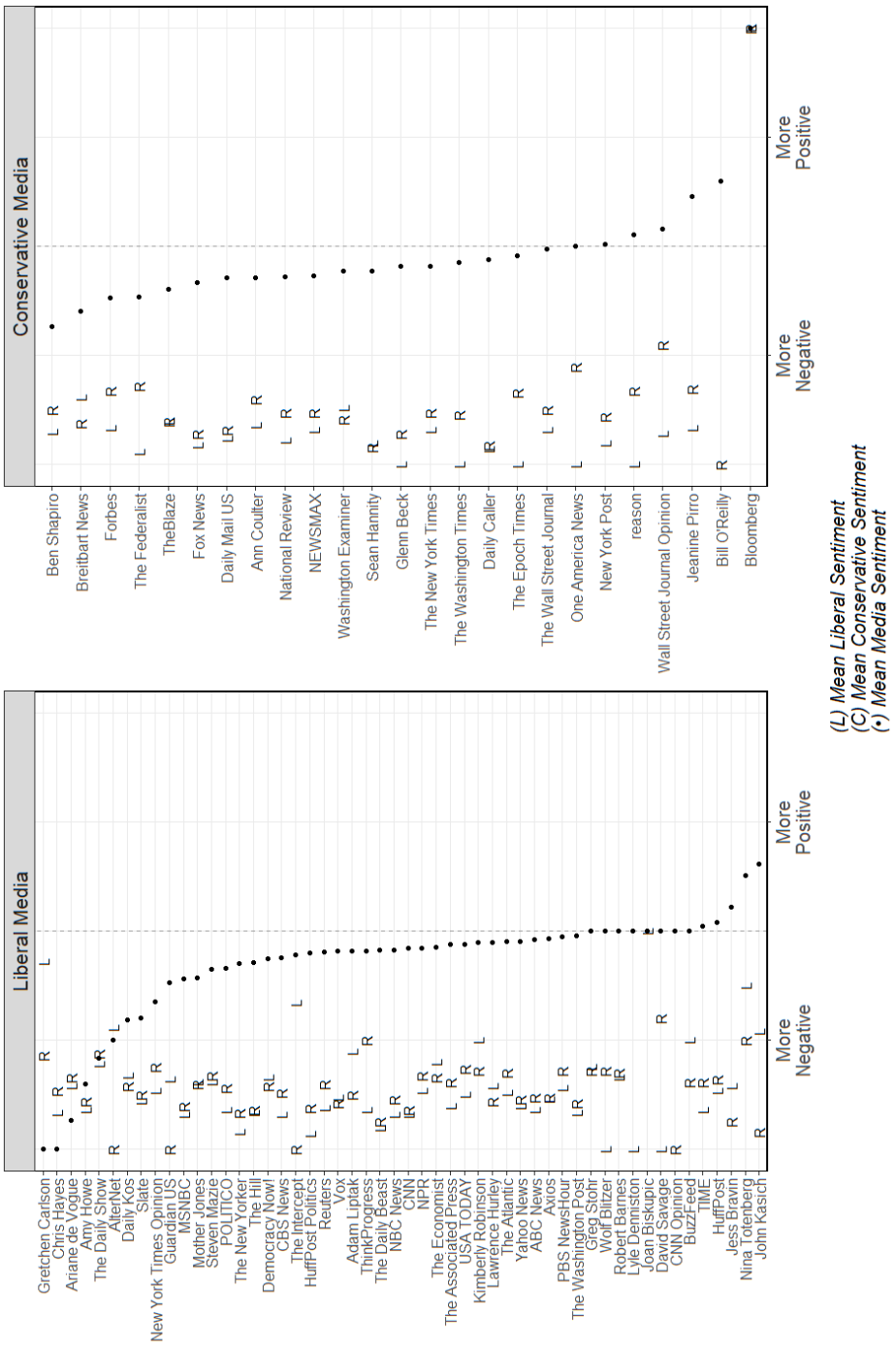



Figure 5.12: Average Media Sentiment vs. Average Sentiments From Commenting Users

## 5.6 Discussion

While I observed the proliferation of Supreme Court news in social media environments in prior chapters, including the conditions underpinning positional framing behaviors, a natural set of questions remained concerning whether these behaviors translate into public discourse. Prior literature has been keen to note that media outlets serve as the primary intermediary between the Court's decision-making and the public. They routinely observe media actors strategically framing Supreme Court news to bolster political biases (Baird and Gangl 2006; Linos and Twist 2016; Spill and Oxley 2003; Strother 2017). However, the effect of those behaviors on the resulting public discourse remains mixed.

To examine public discourse, I analyzed a collection of replies posted directly by average users to media coverage of Supreme Court news on Twitter. Using the same ideal point and sentiment classification strategies introduced in Chapter 4,[88] my results provide three notable insights concerning the proclivity of users to relay positional (i.e., non-neutral) responses, as well as variation in support and opposition rhetoric. First, while media actors are motivated in large part to engage in positional framing as a response to case salience and perceptions of dissenting among the justices exacerbating market-based incentives to provide enticing coverage, these same predictors do not fully extend to responding users. If anything, effects are mixed and largely contingent on whether comments were offered in response to coverage posted strictly within a decision's associated release period.

[88] *Note*: While both Chapters 4 and 5 employ pre-trained machine learning using OpenAI's GPT-3 to classify social media posts, Chapter 4 relies on GPT-3's *Davinci* Engine ( 175 billion parameters), while Chapter 5 relies on its *Curie* engine ( 13 billion parameters, but considerably more cost-effective for larger datasets).

Second, I observe considerable evidence of rhetorical behaviors being the response to conditions of ideology. Notwithstanding other factors, support and opposition among conservative users varied reflective of congruence with the Court's discrete decision-making. However, much as it was with liberal media actors in Chapter 4, liberal users rarely exhibited variance from negative positional responses, regardless of whether a majority opinion was authored by a liberal justice or if the Court assumed a liberal position. While these discrete results are predicated on behaviors toward the Court between the 2018 and 2021 terms, they nonetheless add to a growing literature raising questions concerning how the public perceives the justices during a period of stricter ideological entrenchment (e.g., Glick 2023). Especially as the Court continues to stir public opinion, the capacity to examine the residual effects of its decision-making is paramount to discerning how the public frames its support or opposition to its decision-making, as well as its political legitimacy more broadly. However, the

consistency observed among partisans across the dataset is indicative of these behaviors being firmly rooted in contemporary discourse.

Finally, the effects of positional media frames relay significant, yet potentially misleading inferences. While users were significantly more likely to reciprocate positional frames, it is unlikely that media behaviors relay a definitive causal effect. A critical analysis revealed how the ideological demographics of commenting users, even in response to media actors that subscribe to stricter partisanships, are considerably heterogeneous. This is surprising considering that social media networks – i.e., the network of associations (follower networks) that users develop on these platforms – is often observed to be homophilic (Barberá 2015; Conover, Gonçalves, et al. 2011; Conover, Ratkiewicz, et al. 2011; Myers, et al. 2014). That is, much like interactions in the real world, a person's online social network is habitually "homogeneous with respect to many sociodemographic, behavioral, and intrapersonal characteristics" (McPherson, et al. 2001). Yet, even as the network of followers subscribed to a media user might be considerably homophilic, the population of users who respond to media coverage represents a broad ideological demographic. Rather than merely facilitating an echo chamber that allows users to simply reciprocate the policy positions offered by media framing, commenting users across the ideological spectrum routinely voice support or opposition to coverage of the Court's decisions reflective of their predisposed preferences. In effect, the consistent trends of conservative positivity and liberal negativity observed between the 2018 and 2021 terms, regardless of the positional frame employed by ideologically motivated media actors, appear to serve as a greater predictor of user discourse than strategic media behaviors.

# Chapter 6

# Concluding Remarks

The primary goal of this dissertation was to highlight the emerging social media landscape for Supreme Court news, which offers a framework to ascertain how media actors perform their vital role as intermediaries between the Court and the public. To that end, my research answers three important questions: How do media actors cover Supreme Court news in a social media environment? When, and under what conditions, are media actors motivated to positionally frame that information? And, finally, what are the residual effects of these behaviors on public perceptions and discourse?

To understand how social media facilitates an environment for Supreme Court news, as well as how it compares to other traditional mediums like print and digital, Chapter Three provided two analyses rooted in an economic framework of news (Hamilton 2004; McManus 1988; Vining and Marcin 2014). First, I leveraged a voluminous sample of media actors on Twitter to discern the prevalence of Supreme Court news online. Using a descriptive approach to analyze these behaviors through the lens of the 2018 through 2021 terms, I identified a considerable network of coverage that exceeded traditional expectations. While coverage of the Court in conventional print is habitually framed as sporadic, over-sensationalized, and often reserved for decisions sure to relay a substantive impact on society (Graber 2002; Krewson, Lassen, and Owens 2018; Zilis 2015), I found that social media significantly reduces the economic costs of Supreme Court news. This in turn leads to more voluminous coverage - including across a broader array of the Court's decision-making, as well as provide media actors with the capacity to engage in brand-building behaviors. Alternatively, the second analysis incorporated an empirical approach to directly compare coverage behaviors across four outlets – *The New York Times*, *The Wall Street Journal*, *The Washington Post*, and *USA Today*. Doing so provided additional support

for the reduction in economic costs associated with covering Supreme Court news, which again demonstrated greater volumes of coverage online compared to print or digital, as well as a significantly diminished reliance on conditions of latent case salience as determinants of media attention. Overall, this chapter provides the first substantive exploration of Supreme Court news in a social media environment.

Having established a foundation for understanding Supreme Court news in a social media environment, Chapter Four turned to understanding how media actors relay information. Specifically, I sought to understand why, and under what conditions, media actors choose to engage in positional (i.e., non-neutral) framing. To accomplish this, I incorporated ideal point estimation and sentiment classification techniques to derive the rhetorical behaviors observed among the same sample of media actors introduced in Chapter Three. As for the proclivity to engage in these behaviors, I find that market-based incentives to provide enticing coverage to engage readers are exacerbated by conditions of issue salience and perceptions of dissent and controversy in the Court's discrete decisions. However, once a decision to positionally frame has been made, I observe considerable variation in positional framing among media actors reflective of the ideological congruence they share with the Court's broader decision-making behaviors. Analyzing these behaviors again through the lens of the 2018 to 2021 terms, I found that liberal media were significantly predisposed to relay opposition (i.e., negative) rhetorical frames, even in circumstances where the Court assumed their preferred positions. Overall, this chapter contributes to our broader understanding of ideologically motivatd media behaviors toward the Supreme Court in an environment that would otherwise incentives concise recitations of political news.

While discrete media behaviors observed in Chapter Four are emblematic of the justices' contemporary behaviors, they nonetheless represent a notable divergence from traditional expectations that could understandably produce a residual effect on public discourse. Given the considerable power that media actors retain as gatekeepers of Supreme Court news (Shoemaker 1991), Chapter Five analyzed how these behaviors influence a potentially susceptible public. Using similar empirical strategies as Chapter Four, I analyzed direct user engagement with media coverage of the Supreme Court. Doing so yielded important inferences concerning why users engage in positional response behaviors, as well as what conditions mediate support and opposition. Namely, I find that positional responses are discernibly more likely than not, even when media ac-

tors did not present a positional frame. Yet, unlike positional frames, these behaviors are not motivated by case salience. This was especially surprising given that media actors presumably engage in positional frames as a result of perceived public interest in the decisions they are covering. Nonetheless, as it was with positional framing behaviors in Chapter Four, I find that positional responses among commenting users are guided in large part by ideology, which includes a statistically significant expectation that users will reciprocate media frames. However, a critical analysis raised concerns about whether positional frames provide a causal effect. Instead, I find that positional responses are more emblematic of predisposed ideological preferences, and the significant effects observed with respect to positional media behaviors are the result of there being a greater propensity for like-minded users to engage with their content - not that their frames are influencing users across partisanships alike. Overall, this chapter provides novel contributions to understanding public discourse in response to political phenomena and strategic media behaviors in a social media environment, as well as gives greater leverage to perceptions that the Court's contemporary behaviors are instigating divergent behaviors among an ideologically motivated public.

Although this dissertation makes greater strides toward understanding the motivations and effects of Supreme Court news in a social media environment like Twitter, the limited scope of the observational data leaves much to be considered in future research. First and foremost, future studies should devote themselves to expanding the observational data, which includes collecting new data as it emerges, as well as to the extent that archival data provides. While this work employs data from four Supreme Court terms spanning October 2018 to July 2022 (2018 to 2021 terms), the Twitter API retains archival data beginning the earliest posts to the platform in March 2006. Likewise, while this research employed 89 media outlets, journalists, commentators, and other pundits,[89] Supreme Court news provides for extended analyses of more media actors.

Second, future research should commit itself to incorporate *original* – i.e., conventional and unprompted – posts from average social media users. While I touched briefly on this data in Chapter Two to demonstrate the expansive volume of discourse pertaining to the Supreme Court online (*See* Figure 2.1),[90] the sheer volume of online discourse provides an untapped well of observational data. While these posts negate our ability to draw direct associations with media influences like those observed in Chapter Five, they nonetheless represent a holistic view of public discourse on a scale that survey research simply could

[89] *Note*: While data was originally collected on 89 media users, the lack of case-specific coverage from some of them meant that only 82 are analyzed in Chapter 3, while 81 are analyzed in Chapters 4 and 5. For a full list of these media users, *see* Table A.1.

[90] Also *See* Figure 1.1.

not facilitate - especially as it pertains to understanding discrete responses to lesser salient decisions that would otherwise be relegated to obscurity.

Finally, as it pertains to drawing on both preceding points to expand the observational data, perhaps the most important goal for future research would be to apply the substantive inferences observed in each chapter to broader longitudinal analyses. Most notably, my findings paint a bleak picture of ideological entrenchment as a reflection of the contemporary Supreme Court. As I discuss extensively in Chapters Four and Five, my discrete results draw from behaviors observed throughout the 2018 to 2021 terms, which represent a unique period where the contemporary political climate has become unmistakably intertwined with the Supreme Court. From partisan politics plaguing appointments to the bench to controversial rulings on generational political questions, the public has come to increasingly perceive the Court's role as independent and neutral arbiters of the law as a fallacy. The result of these developmental trends, as my findings demonstrate, is strict ideological divergence in the public discourse, wherein liberals are effectively predisposed to dissent - regardless of the Court's discrete decision-making. In effect, behaviors in this period are emblematic of the final straw having already come to fruition, and the 'reservoir of goodwill' enjoyed by the Court in the past is no longer shared across partisanships alike. Yet, incorporating more observational data – both as it relates to greater volumes and alternative forms – provides the means to discern not only how these trends developed over time, but just as importantly how they structure behaviors in the future. As it stands, my results are emblematic of the period, but the consistency in behaviors observed across four successive terms is indicative of it being the new normal. While it remains to be seen whether media behaviors and public perceptions will return to those observed in earlier research, the fact remains that ideological congruence – specifically as it pertains to broader perceptions of trends in the justices' decision-making – is the status quo.

To date, I have taken steps to accomplish all of these future research goals. Beginning in February 2023, I undertook the process of retrieving data for all relevant chapters and expanded analysis, which includes approximately 10 million original tweets, 33,000 media tweets, and 600,000 comments posted in response to media coverage. Once these data are processed, their incorporation into this project should be seamless and provide a holistic view of these trends as they have longitudinally developed. This process, in coordination with more data in the future, offers a means to discern whether my discrete findings concerning strict ideological divergences among media actors and average users are

generalizable behaviors for the future.

At the heart of this dissertation, as well as any future analyses that expand on its inferences, is a recognition of social media's potential to serve as a well of observational data in studies of law and courts. While social media has enjoyed greater immersion in the social sciences more generally, it remains a largely untapped resource in judicial studies. With that, it is my hope that this project lends meaning to two important notions. Namely, studies of public behaviors toward the Supreme Court are essential to understanding how the Court's decision-making portends to inflict real consequences on American society. To the extent that we can analyze these behaviors, we can and should exercise all potential avenues - especially when alternatives can alleviate empirical hurdles and expand inferences. With this in mind, social media can provide the catalyst to achieve these goals. The ever-growing immersion of platforms like Twitter into the social and political fabrics of the world – let alone the United States – is emblematic of the role they will continue to play as sources of observable data for social scientists. Even as the methodologies and observation strategies employed in this dissertation are *platform agnostic* – i.e., they are theoretically applicable to all social media, not just Twitter – this project is indicative of social media's ability to answer traditional and emerging theories in political science, let alone studies of law and courts.

# Appendix A

# Appendix Materials

Below I provide comprehensive discussions on the computational and other methodological strategies employed in this dissertation, which include:

1. Data Collection & Mining on Twitter
2. Sentiment Classification Using the Generative Pre-Trained Transformer 3 (GPT-3)
3. Ideal Point Estimation using a Network Item Response Theory model with Expectation Maximization

*Note: All replication materials, including data and corresponding R code, will be made available via GitHub and the Harvard Dataverse*.

## A.1 Data Collection and Mining on Twitter

When any posts (i.e., *tweets*) are published to the Twitter platform, they are saved along with corresponding metadata to the company's local servers. Accessing this data requires some unique computational steps, but much of the intuition and procedures are the same regardless of the digital source you're engaging with. This section offers a thorough analysis and walkthrough of each procedural data collection step, including: 1) Gaining access to an Application Programming Interface (API); 2) Determining and setting viable query (i.e., request) parameters; and 3) Connecting to an API endpoint, Collecting Data, and Filtering (or Cleaning) Data.

### A.1.1 Application Programming Interfaces (APIs)

At their core, APIs are software intermediaries that allow two applications to communicate with each other and access data – i.e., they are akin to virtual middlemen. Each time a user makes a request through an application, an API is tasked with translating the request, pulling relevant data from the source or server of interest, and returning the response to the requesting user (Figure A.1). Far from being a process unique to social media, virtually every developer uses an API to share data with users. For example, users engaging with Amazon.com to search for Black Friday deals incorporates the use of an API to translate and filter search queries and return information to their devices. However, while interactions with APIs are often inconspicuous and free, collecting data from the Twitter API necessitates additional authentication requirements and other steps.

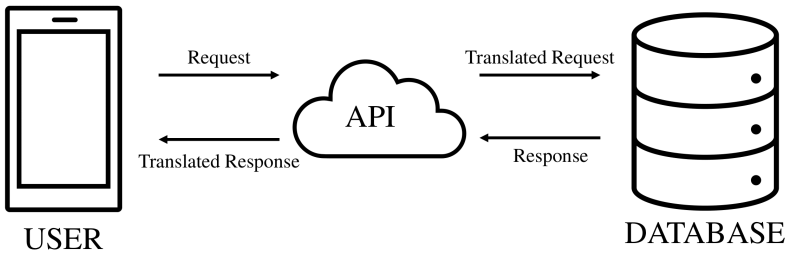



Figure A.1: Process of an Application Programming Interface (API)

The Twitter API allows programmers to access Twitter in advanced ways. As Laura O'Mahony (2021) notes, "*It can be used to analyze, learn from, and even interact with Tweets. It also allows interactions with direct messages, users, and other Twitter resources. Twitter's API also allows developers access to all kinds of user profile information, like user searches, block lists, real-time tweets, and more.*" However, the Twitter API is not actually singleton interface. There are various APIs developed by Twitter that allow different levels of access and necessitate different levels of authentication.

This work employs the Twitter API v2 for academic research, which was released in July 2020. The academic research track facilitated by this API version

is specifically geared towards professors, graduate students, and other academic researchers by offering free access to collect 10 million tweets per month and can be requested across the entirety of the Twitter archive (2006-present) with other expanded rate limit parameters and endpoints.[91,92] Gaining access to the Twitter API, like most social media APIs, requires developer authentication in the form of specialized access, consumer, and bearer tokens.[93] Once you have received tokens, you can begin to build your request queries.[94]

### A.1.2 Determining and Setting Viable Request Parameters

Viable request parameters require several conscious decisions from programmers. Namely, you must consider what you are trying to analyze, how big of a net to cast, and how to best filter the data collection process. Collecting tweets requires preconceptions about what keywords might be frequently used to signify that the post is related to the subject of interest. Unlike most elected officials who frequently operate a host of different accounts,[95] the Supreme Court does not maintain an active Twitter account. This means that conventional means for gauging direct responses on Twitter – e.g., direct replies or comments to the Court's posts, tagging the Court in an original tweet , etc. – are not feasible measurements. Instead, I opted to analyze tweets that directly mention identifiable keywords that could be related to the Court. These specifically included *SCOTUS* and *Supreme Court*, both as plain text strings and hashtags.[96] I was also most interested in news coverage and discourse that emerges in the immediate aftermath of the Court's decisions, rather than engaging in a longitudinal analysis that examines these trends over an indiscriminate time period. As such, I tasked the API with retrieving relevant posts from media actors (i.e., media outlets and institutions, journalists and commentators, pundits and other television personalities, etc.), as well as replies posted in direct response to their content within 48 hours of the Court releasing an opinion. I provide the list of media actors employed in this dissertation in Table A1.

[91] *Rate Limit* parameters are the capped rates that programmers can access an API. These often include various limitations like the total number of tweets that can be accessed, how often search requests can be made in a certain timeframe, and the rules dictating the character length of individual queries.

[92] *Endpoints* are unique URLs used to store specific data objects and are used by programmers to perform specific queries through the API. They are separated objects within a database that store relevant information for different types of requests. For example, accessing tweets based on a keyword query will have a different endpoint than a search for data on a specific user.

[93] API *tokens* are unique identifiers used to gain developer access to an application. They are generated and used to set environments for requests – i.e., each time a request is generated through the Twitter API, the tokens are used to satisfy the two-step authentication requirements. For more information on how to gain developer access to the Twitter API, please visit: https://developer.twitter.com/en

[94] As of February 2023, Twitter has announced the discontinuation of academic research track access with the eventual plan of a paid subscription to the API. While this abrupt move places the future of open access for academic research at risk, this data employed in this dissertation was collected prior to July 2022 and as such was fortuitously unaffected by this decision.

[95] For example, Senator Elizabeth Warren (D-MA) – or more specifically, her office – maintains at least two different accounts across the Twitter platform to disseminate information. These include @ewarren – her personal account, and @SenWarren – the account registered for her Senatorial office.

[96] i.e., *#SCOTUS* and *#SupremeCourt*.

Table A.1: List of 89 Media Outlets, Journalists, and Pundits

| | | | |
|---|---|---|---|
| ABC News | Daily Kos | Megyn Kelly | The Atlantic |
| Adam Liptak (New York Times) | Daily Mail US | Mother Jones | The Christian Science Monitor |
| AlterNet | David Savage (LA Times) | MSNBC | The Daily Beast |
| Amy Howe (SCOTUSBlog) | Democracy Now! | National Review | The Daily Show |
| Ann Coulter | Don Lemon (CNN) | NBC News | The Economist |
| Ariane de Vogue (CNN) | Forbes | New York Post | The Epoch Times |
| Axios | FOX News | New York Times Opinion | The Federalist |
| Ben Shapiro (Daily Wire) | Glenn Beck | NEWSMAX | The Hill |
| Bill O'Reilly | Greg Stohr (Bloomberg) | Nina Totenberg (NPR) | The Intercept |
| Bloomberg | Gretchen Carlson | NPR | The New York Times |
| Breitbart News | Guardian US | One America News | The New Yorker |
| Bret Baier (FOX News) | Huffington Post | PBS NewsHour | The Wall Street Journal |
| Brian Kilmeade (FOX News) | HuffPost Politics | POLITICO | The Washington Post |
| BuzzFeed | Jeanine Pirro (FOX News) | Rachel Maddow (MSNBC) | The Washington Times |
| BuzzFeed Politics | Jess Bravin (Wall Street Journal) | Reason | TheBlaze |
| CBS News | Joan Biskupic (CNN) | Reuters | Think Progress |
| Chris Christie | John Fritze (USA Today) | Robert Barnes (Washington Post) | TIME |
| Chris Hayes (MSNBC) | John Harwood (CNN) | Sean Hannity (FOX News) | USA Today |
| Chris Matthews (MSNBC) | John Kasich | Slate | Vox |
| CNN | Kimberley Robinson (Bloomberg) | Steven Mazie (The Economist) | Wall Street Journal Opinion |
| CNN Opinion | Lawrence Hurley (Reuters/NBC) | The American Spectator | Washington Examiner |
| Daily Caller | Lyle Denniston | The Associated Press | Wolf Blitzer (CNN) |
| | | | Yahoo News |

## A.1.3 Collecting and Cleaning Data

There are several different ways to operationalize requests through Twitter API endpoints, including R and Python, among others. Since it remains one of the most comfortable and familiar programming languages among social scientists, I conduct my data collection and analysis using R/RStudio. Below I review the procedural steps for executing search queries and assume that prior steps to attain developer access to the Twitter API has been obtained.

### Establish Authentication Environment

After installing and loading the necessary CRAN packages and libraries, the next step is to establish an environment using your API developer tokens. Basic access to the Twitter API v1 only requires four tokens: access, access secret, consumer, and consumer secret. However, access to the Academic Twitter product track using v2 requires an additional, specialized bearer token that satisfies OAuth 2.0 requirements.

### Creating Request Query, Connecting to an Endpoint, and Collecting Tweet Data

As mentioned previously, I am collecting tweets from media actors and associated responding users referencing the Supreme Court within 48-hours of a

decision being released. To do this, I built a search query that satisfied the following conditions:

- Original Content (i.e., no retweets)
- Posted within 48-hours of a Supreme Court decision between the 2018 and 2021 terms (October 2018 to July 2022)
- Includes the words *SCOTUS*, *Supreme Court*, or their hashtag equivalents.

However, I also wanted to be sure to minimize the number of potentially unnecessary posts. As such, I ensured that all tweets collected by the request were from users geo-tagged in the United States, as well as that every tweet was posted in English.

Each request response (i.e., returned tweet) is stored as individual data frame objects in R with individual columns of corresponding metadata, which include (but is not limited to):

- Text: The composition of the Twitter post, which can include the text, embedded hyperlinks, etc.
- Created_At (*Timestamp*): A date-time label indicating the time of publication to Twitter in Coordinated Universal Time (UTC) format.
- Public Metrics: Engagement metrics indicating the number of likes, replies, and retweets by users engaging with that posted content.
- Author_ID: Unique Twitter ID number assigned to posting user.
- Conservation_ID: Unique reference ID number assigned to the post.

**Cleaning and Filtering Tweet Data**

Once tweets have been collected, the next step is to conduct a thorough cleaning. While the search query will filter retrieved data to only those that match the defined parameters, there will likely exist a sizeable collection of unrelated tweets. For example, the most common data to fit this distinction were tweets related to state supreme courts, which matched the original search parameters for including *Supreme Court* – e.g., *Pennsylvania Supreme Court*, *Supreme Court of India*, etc. To sufficiently filter tweets, I engaged in multiple layers of robustness. This primarily included analyzing semantic annotations and manually inspecting the contextual substance of recovered tweets. For Chapter 5, which

included responses from non-media affiliated users, I added an additional layer of robustness by manually removing potential bot accounts. I review these concepts below.

*Semantic Annotations and Manual Review*

As I noted in Chapter 4, I engaged in a comprehensive analysis of the posts' associated entity annotations, which are unique semantic keywords prescribed to individual tweets from topical lists curated directly by Twitter. In short, adjacency feature matches within individual tweets (i.e., specific keywords, terminology, etc.) can be matched with curated lists related to specific topics that are subsequently stored as metadata. This process not only indicates whether tweets are specifically referencing the United States Supreme Court or its justices but also provides a corresponding probability distribution of the associated annotation's certainty. For this data, I was sure to omit tweets that did not either contain any of the justices' names or the terms used in the original search query, as well as if the probability associated with a Supreme Court-related annotation was less than 60 percent. Finally, I engaged in an extensive manual coding procedure to ascertain case-specific focuses.

*Bot Removal*

While discerning the authenticity of media actors was without challenge, the same could not easily be said about the average users engaging with their content (i.e., commenting users). Luckily, ancillary user information is contained within the metadata associated with each post stored to the Twitter API – including their username, verified status, follower and following (i.e., which users they follow and who follows them), and their short profile description (i.e., their autobiography). However, a potential concern that remains is the presence of inauthentic – i.e., *bot* – accounts. These are accounts controlled by software or automated programs through the API. While they are programmed to perform tasks that resemble those of everyday users — e.g., engaging and liking tweets or following other users — their purpose is to tweet and retweet content for specific goals on a large scale. As one might imagine, the inclusion of these fake accounts can be detrimental to gathering proper inferences of user populations, and as such should almost surely be removed. However, it becomes increasingly difficult for researchers and users alike to identify and remove bot accounts from user populations if programmers can structure them to efficiently mimic human behaviors online (Boshmaf, et al. 2011; Ferrara, et al. 2016; Freitas, et al.

2016).

Fortunately, there are several accepted procedures for bot removal, some of which are more technical than others. For example, Barberá (2015) developed conditions for removing inauthentic accounts for their analysis reflective of whether a user: 1) Has sent fewer than 100 tweets; 2) Have not sent a tweet in the past six months; 3) Have less than 25 followers; 4) Are located beyond a specific geographic region of interest; and 5) Follows less than three specified political users. Another alternative would be to use an automated approach. Martini, et al. (2021) explore this concept in greater detail and find varying degrees of support and accuracy for several different but accepted automated approaches. They find an exceptional degree of accuracy from Michael Kearney's *tweetbotornot* CRAN package,[97] which has been used in a collection of different works (e.g., Hindman and Barash 2018; Haunschild, et al. 2021). The tool is a special class of supervised machine learning models that assesses the probability of a Twitter account being a bot reflective of each account's user-level and tweet-level metadata.[98] Using a controlled set of testing data, upwards of 93.8 percent of inauthentic bot accounts were properly identified by Kearney's algorithm (Martini, et al. 2021).

[97] Retrievable at: https://github.com/mkearney/tweetbotornot.

[98] User-level metadata are characteristics like a user's population of followers, posts, etc., while tweet-level metadata considers a user's percentage of quoted versus pure retweets and the unicode structure of their posts, among other things.

At their core, both the technical and non-technical approaches are rooted in the same general principle of measuring a user's metadata to predict their status as a Twitter bot. However, the automated approach presents the added benefit of using a trained machine learning procedure that is likely more accurate at identifying inauthentic users rather than risk removing authentic users who only use their accounts infrequently. That being considered, there is an unfortunate downside to *tweetbotornot* that makes implementation difficult. Namely, the rate limit is capped well below the number of users in the main dataset. To overcome this issue, I removed any commenting user who did not meet the user and tweet-level metadata thresholds employed in Barberá (2015). A robustness check using *tweetbotornot* on a sample of the remaining user population did not reveal any with a "bot probability" in excess of a few percentage points.

## A.2 Pre-Trained Machine Learning for Natural Language Processing Tasks: *Sentiment Classification using GPT-3*

Consider the following Q&A, which presented basic civics questions pertaining to American political history:

> Q: Who was president of the United States in 1955?
> A: Dwight D. Eisenhower was president of the United States in 1955.
>
> Q: Which party did he belong to?
> A: He belonged to the Republican Party.
>
> Q: Can you summarize the Supreme Court's decision in Roe vs. Wade?
> A: In Roe vs. Wade, the Supreme Court ruled that a woman has a constitutional right to an abortion.

As one might expect, most American adults with a general understanding of American political history or civics would likely be able to answer the questions presented about Dwight Eisenhower and the Supreme Court's landmark decision in *Roe v. Wade* (1972). However, what is truly impressive about this brief Q&A is that the responses were not offered by an American adult, let alone a human being. These responses were returned by a deep learning model – i.e., an artificial intelligence. Specifically, the responses were returned by OpenAI's Generative Pre-Trained Transformer 3 (GPT-3), an autoregressive language model trained on a massive corpus of data that uses deep learning processes to perform text analysis, task completions, and provide human-like responses.

However, completing Q&A requests is not the only practical application of GPT-3. Instead, the broad range of parameters used to construct the model allows it to perform a wide variety of tasks, including sentiment classification that would be complimentary to a hand-coding by trained human researchers. The remainder of this section will focus on two topics: 1) An overview of GPT-3, including how it is constructed and operationalization requests; and 2) How to operationalize GPT-3 to classify tweets posted in response to decisions by the Supreme Court.

### A.2.1 Overview of the Generative Pre-Trained Transformer 3 (GPT-3)

As mentioned previously, the Generative Pre-Trained Transformer 3 (GPT-3) is an autoregressive language model that uses deep learning to processes and perform a wide range of tasks. It was released in 2020 as an improvement to its predecessor (GPT-2, released in 2019) and is facilitated by OpenAI, an artificial intelligence research laboratory based in San Francisco, California. The fundamental nature of GPT-3 and alike models is relatively simple: *Given a request query or task, operationalize and provide accurate outputs*.

The core function of GPT-3 can be defined as *next token* (or word) *prediction*, meaning that programmers should be able to provide it with a prompted question, request, or even an incomplete string, and expect GPT-3 to provide a correct response or successfully predict the next word in the string. For example, if I were to input "*It is emphatically the province and duty of the judicial department to say what the law…*", I would be looking for it to respond with "is", which is the concluding word in Chief Justice Marshall's famous declaration in *Marbury vs. Madison* (1803). That itself would be impressive, but even more would be to simply ask, "What did Chief Justice John Marshall declare about the duty of the judicial department in Marbury vs. Madison," and expect the model to return the correct passage. GPT-3 has the knowledge to do exactly that, but the underlying mechanics are not as simple as offering a question and returning an answer exactly as it was intended. Instead, we can view GPT-3 through its essential components: 1) Natural Language Processing (NLP), 2) Pre-Training, and 3) Deep Learning Transformers.

#### Natural Language Processing

At the core of GPT-3 is a structure dependent upon natural language processing (NLP), which "refers to the branch of computer science – and more specifically, the branch of artificial intelligence or AI – concerned with giving computers the ability to understand text and spoken words in much the same way human beings can" (IBM Cloud Education 2020). A complimentary analogy to NLP is to imagine learning a new language, which can be one of the most difficult undertakings that people can experience. Even languages with similar origins like English and Spanish present numerous cross-lingual challenges. Beyond the obvious issues of alphabetical pronunciation and sentence structure, native English speakers hoping to learn Spanish must also be aware of localisms and dialects that make it difficult to fully master the language. Perhaps most daunt-

ing is understanding the ambiguities found in all languages, such as homonyms, homophones, idioms, and metaphors. For example, a common Spanish idiom, *dormir a pierna suelta*, translates to English as literally meaning to "sleep with a loose leg." However, an English idiomatic equivalent would be "to sleep like a log," which native English speakers can recognize as meaning to sleep deeply. Without a deeper understanding of the words themselves, it is difficult to fully interpret their true meaning. Computers face the same predicament when processing written text. They are essentially like newborn children who need to be taught lexical meaning and association through persistent reinforcement.

NLP works by deconstructing text into fragments through a tokenization process that allows it to discern the grammatical structure and placement of text. Figure A.2 illustrates an example tokenization procedure, which specifically refers to the process of fragmenting strings of text into smaller semantic units or clauses. NLP processes can further disseminate text strings through a collection of further refinements like part-of-speech tagging and other methods.[99]

[99] *Part-of-speech* tagging refers to identifying words based on their grammatical usage as nouns, adjectives, verbs, etc., which better allows it to discern the meaning of text strings.

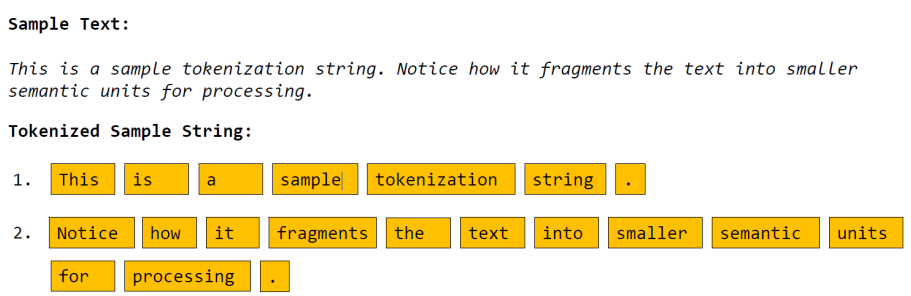



Figure A.2: Sample NLP Tokenization Process

### Pre-Training GPT-3 Using Unsupervised Learning

Whereas NLP might provide a machine with the tools to understand the meaning of text strings so that it may predict accurate responses, it does not alone provide it the ability to perform interpretation. In essence, while it may know *how* to read, that does not mean it inherently understands *what* it is reading. To overcome this obstacle, machine learning NLP algorithms are trained on a corpus of data to teach it to build associations between inputs and outputs. However, there are two general approaches to this teaching procedure: supervised and unsupervised learning.

The range of supervised machine learning models vary considerably, but the intuition effectively remains unchanged – i.e., training a machine to asso-

ciate potential outputs with certain inputs. In essence, supervised is akin to directly teaching NLPs how to process inputs and produce outputs within the constraints of the data used to train it. Given enough time and training data, this could sensibly produce desired results as sentences, paragraphs, etc., that mimic human interactions. However, the benefits of this process could easily be outweighed by the technical difficulties. As one might expect, this is a tedious process that necessitates extensive volumes of data to properly delineate desired outputs. That is, properly training a supervised learning model requires substantial sets of training data that are carefully labeled to teach it how to correctly interpret text and produce outputs. For example, to train a model to properly identify that Dwight Eisenhower was president in 1955, the machine would need to know that strings containing unique identifying tokens within the input string would eventually lead it to the correct answer. Yet, this effectively produces a domino effect, where creating a model capable of providing outputs on a broad range of topics necessitates more and more data. Even more, if the goal is to produce a model that can reflect human speech and decision-making, there are concerns that supervised learning does not actually mimic how human beings learn.

Instead, GPT-3, like its earlier predecessors (GPT-1 and GPT-2) and most new *large language models*, was trained using unsupervised learning. However, instead of a few hundred or thousand training parameters to reference in its decision-making, GPT-3's premier Davinci engine used in Chapter 4 is trained on a massive 175 billion parameters of data collected across the internet through 2019.[100] Each time a request is prompted, it begins with a set of random parameters and is subsequently tasked with combing through its 175 billion parameters to calculate which token(s) to generate as output for each run. Perhaps even more impressive, GPT-3 is a "meta-learner" (Romero 2021) – i.e., it has learned how to learn. This is because the model itself is trained using a next word language prediction structure that can adjust its pre-training parameters to correctly predict what word (or words) are supposed to follow from the initial inputs. Even more, additional "fine-tuning" – e.g., sample inputs and desired inputs – can be included in request queries to improve efficiency in GPT-3's processing. The result is a model that is incredibly accurate at providing correct outputs to various questions based on very basic query instructions.

[100] This equates to approximately 570 GB of data.

### Autoregressive Deep Learning Transformers

*Transformers* are a neural network model structure most famously introduced

by Vaswani, et al. (2017) and quickly lead to the production of several pre-trained, transformer-based language models – including GPT-3 and its predecessors. In essence, the transformer architecture can be viewed as the workhorse of the model. The process begins with a sample prompt that is tokenized and vectorized. Once that is complete, the vectorized prompt is fed through GPT-3's 96 concurrent layers of *transformer decoders*. Such a large depth of transformers is where GPT-3 illustrates its deep learning capabilities, which can be understood as an approach to machine learning algorithms that focus on using multiple concurrent layers to progressively extract greater detail and more precise outputs from inputs. A transformer decoder operationalizes an output by considering each vectorized token a time using an *attention mechanism*, which essentially instructs the machine on which portion of the input to focus on when predicting output tokens. The attention mechanism in GPT-3 is considered unidimensional or *autoregressive* because it only considers prior text in the input when predicting outputs, rather than the every vectorized token. Taken together, Figure A.3 illustrates the process from prompt input to output.

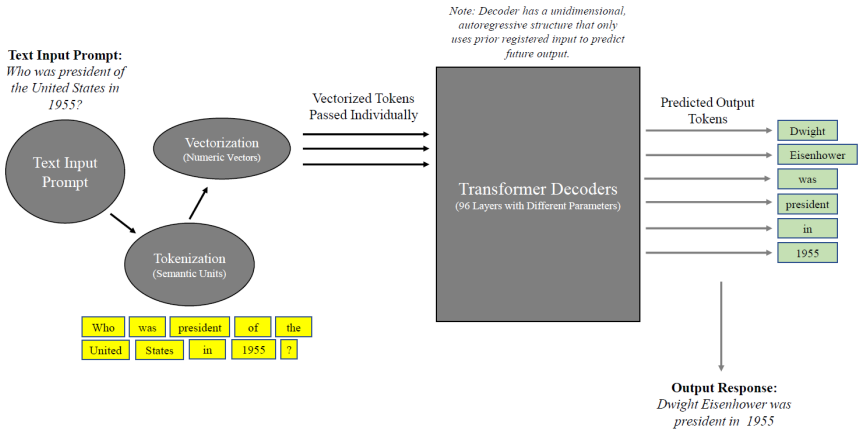



Figure A.3: GPT-3 Prompt Output Generation Process

To this point, I have summarized the fundamental components of GPT-3, including how the machine applies an autoregressive deep learning approach to construct classification outputs and how it compares to less-technical alternatives. With these considered, I turned to tasking GPT-3 with classifying posts to Twitter by media actors and average users engaging with their content using its *Davinci* (Chapter 4) and *Curie* engines (Chapter 5).[101] While there is a collection of potential avenues to employ GPT-3, a Python environment appears to be the most user-friendly. Luckily, RStudio comes pre-built with the ability

[101] As noted in Chapter 5, the purpose of transitioning from *Davinci* to *Curie* was a conscientious choice to mitigate financial costs.

to establish a python environment through the reticulate package. Employing GPT-3 to classify text data – i.e., the tweet data – required four steps:

1. Gaining an authentication token through OpenAI to establish an environment for the GPT-3 API
2. Determining the proper endpoint and query parameters
3. Fine tuning the GPT-3 model
4. Sending classification requests as a loop that classifies the tweet and returns probabilities of the different sentiment classes – i.e., Positive, Negative, or Neutral

While I employed different engines for Chapters 4 and 5, both employed the same fine-tuning prompt – which was developed in coordination with Dr. Joseph Ornstein (University of Georgia):

```
preamble = Decide whether a Tweet's sentiment is positive, neutral, or
negative.

    I love you, RBG!
    Sentiment: Positive

    congrats on destroying the Supreme Court's reputation for a gener-
    ation.
    Sentiment: Negative

    Breaking news: Supreme Court rules in favor of Trump administra-
    tion.
    Sentiment: Neutral

    Very pleased with today's Supreme Court decision.
    Sentiment: Positive

    scotus will hand down its decision this morning.
    Sentiment: Neutral

  postamble = "Sentiment:"
```

## A.3 Deriving Ideal Points of Social Media

Social networks on Twitter consider the network of followers that a user constructs on the platform. Prior research has investigated this phenomenon extensively, and the revelations find noticeable parallels in the real world. From

one Twitter user we can construct a similar web of connectivity that illustrates who they are on the platform based solely on who they follow. Even more, if we can construct presumptions about certain users that they might follow, we can construct a latent representation of that user's ideology without the need for them to self-identify.

Tweets posted by users in response to decision-making by the Supreme Court are going to be motivated, at least in part, by a user's predisposed ideological beliefs. Especially when decisions consider complex social and political questions that might be more partisan in nature than legalistic, users might turn to Twitter to express their opinions as a reflection of their latent ideologies. However, the ideology of users – or individuals in general – is almost always an unobserved concept. Some might choose to self-identify themselves as liberal or conservative, but even those labels don't illustrate the full picture. For example, the 2020 primary election cycle in Georgia saw two candidates, Senator Kelly Loeffler and Representative Doug Collins, seemingly in a battle to win the state's Republican nomination for Senate by trying to prove to voters that they were the more conservative choice. At face value, we can infer that both are conservative because they clearly self-identify as such, but how can we definitively say who is more conservative? It is here that spatial models of ideology provide a potential alternative.

Spatial models of ideology consider a variety of estimation techniques with the goal of representing individuals in a common space. For this work, I will expand this intuition by applying a spatial model to Twitter users who tweet in response to decisions by the Supreme Court. Specifically, I build on prior work by Barberá (2015) to estimate a latent representation of a user's ideology reflective of their social network – i.e., who they choose to follow on the platform. To analyze this, I will first provide an overview of the underlying assumptions in this modeling approach, which are broadly derived from studies of human ecology and the homophilic nature of Twitter social networks. Second, I will introduce Barberá's (2015) original framework. Finally, I will discuss the incorporation of expectation maximization as an alternative to Markov-Chain Monte Carlo (MCMC) or similar approaches first introduced by Imai, Lo, and Olmsted (2016).

## General Assumptions in Spatial Models of Politics

Spatial models of politics are found across subsets of political science and have

grown in popularity in recent decades as computing technologies have automated most of the statistical work found in different estimation approaches. These models aim to estimate a numeric representation of an individual's position in a policy space – called an *ideal point* – based on varying dimensions of ideology. At their core, most ideal point models illustrate a latent – i.e., unobserved – representation of an individual's ideological preferences based on their prior decision-making. For example, in perhaps the most famous spatial model in political science, Poole and Rosenthal (1985, 2001) demonstrate how their NOMINATE (Nominal, Three-Step Estimation) methodology can scale members of the United States Congress onto a liberal-conservative space using their prior voting positions on legislation.[102] More recent works like that of Martin and Quinn (2002), Giles, Hettinger, and Peppers (2001), Bailey (2007), and Bonica (2015) have continued to expand the limits of ideal point estimation using different actors and behaviors that indicate latent ideologies.[103]

[102] Also *see* Poole (2005).

[103] Also *see* Clark and Lauderdale (2010) and Clinton, Jackman, and Rivers (2004).

However, while many of these different spatial models consider alternative behaviors and different actors, many of the underlying assumptions are collectively born from those originally evolving from works like Downs (1957) and Black (1958). For one, it is assumed that actors are positioned in a policy space that, while not observable, exists and is their most preferred position. Second, it is assumed that observed behaviors – e.g., casting votes in a legislature (Poole and Rosenthal 1985, 2001), contributing money to a political campaign (Bonica 2015), or voting on a Supreme Court case (Martin and Quinn 2002) – are a costly signal and a function of ideological distance. Meaning that an individual choosing between a range of possible alternatives will make their choice based on which alternative is closest to their ideal point because it is most ideologically congruent with their true preferences.

In their original work, Barberá (2015) amends these assumptions to consider the latent ideology of Twitter users. However, rather than measuring an observed behavior like legislative voting, they consider the choice for users to follow other political users. They begin by assuming that Twitter users follow political accounts that they perceive to be ideologically similar to their own, which reinforces key assumptions about the homophilic nature of human ecology (e.g., McPherson, et al. 2001) and the desire for selective exposure.[104] Their second assumption is that decisions to follow other users contain information about attention allocation. Specifically, the asymmetric structure of Twitter allows for users to theoretically follow a wide array of politically-oriented users – e.g., politicians, commentators, pundits, journalists, etc., but users cannot

[104] *Selective exposure* refers to the preference for information and interactions that reinforce an individual's preconceived views while avoiding views or opinions that challenge those preconceptions.

be attentive to every single tweet posted to the platform. Instead, users make a conscious decision to follow those they feel would best reflect the information and perspectives they most prefer.

It should also be noted that these assumptions do not derail the potential of users following accounts that are not in line with their latent ideologies,[105] nor does it mean that users will never interact with others who do not share their preferences. Instead, the theory assumes that there is a difference between choosing who to follow versus everyday interactions on the platform. While users might be more likely to interact with a heterogenous groups of users on non-political topics (Barberá, Jost, Nagler, and Tucker 2015; Conover, Ratkiewicz, et al. 2011), a user's personal social network will be more politically homogeneous. Meaning that because a Twitter user has the freedom to determine who they will follow on the platform, they are more likely to follow common trends in human ecology by filtering the political content feeds that they will receive to be more homophilic. As a result, the core of political elites that a user follows with be better aligned with their ideological preferences and measuring that can reveal insight into their underlying ideologies.

[105] For example, it does not denote the possibility of a staunch conservative following President Joe Biden's account (POTUS). In fact, Barberá (2015) attempts to control for those confounding behaviors of users by including parameters in their estimation technique that consider whether some elite political accounts are more likely to be followed than others simply because they are prominent political figures, rather than being a true indication of a user's ideology.

**Barberá's Framework**

Barberá's (2015) modeling strategy relies on a two-stage Hamiltonian Monte Carlo approach and a Metropolis-Hastings sampling algorithm to estimate the ideal points of Twitter users in an unbounded common space. Their model focuses on estimating two latent variables, $\theta_i$ and $\Phi_j$, where $\theta_i$ represents a user's latent ideology and $\Phi_j$ represents a political elite's. Since both variables are unobserved, the model depends on the adjacency matrix to estimate the probability that a user$_i$ follows an elite user$_j$. In essence, the greater separation between the user and the political elite ($\theta_i$ - $\Phi_j$), the less likely it is that a user$_i$ would follow that user$_j$. This can be represented as:

$$P(y_{ij} = 1) = \text{logit}^{-1}(\alpha_j + \beta_i - \gamma(\theta_i - \Phi_j)^2) \quad \text{(A.1)}$$

Where:

$P(y_{ij} = 1)$ = The probability that a user$_i$ follows an elite political user$_j$.

$\alpha_j$ = The popularity of political elite user$_j$.[106]

$\beta_i$ = The political interest of user$_i$, measured as the number of political elites a user$_i$ follows.

[106] $\alpha_j$ adjusts for the consideration that some political elites on Twitter, simply because they are prominent elites, will have more Twitter followers than others (ex: POTUS, BarackObama, etc.). Including this term allows for the model to consider whether a user follows an account because it is truly reflective of their ideology, or if it is alternatively more a reflection of the elite's prestige.

$\gamma$ = A normalizing constant greater than zero that will model the importance of political ideology

Barberá (2015) subsequently employs a likelihood function:

$$p(y|\theta, \Phi, \alpha, \beta, \gamma) = \prod_{i=1}^{n}\prod_{j=1}^{m} \text{logit}^{-1}(\pi_{ij})^{y_{ij}}(1 - \text{logit}^{-1}(\pi_{ij}))^{1-y_{ij}} \quad \text{(A.2)}$$

Where:

$$(\pi_{ij}) = \ldots\alpha_j + \beta_i - \gamma\left(\theta i - \Phi j\right)^2$$

However, Barberá (2015) notes that measuring so many parameters render traditional estimation approaches like Maximum Likelihood Estimation intractable, and instead relies on a two-stage estimation procedure. First, he employs a Hamiltonian Monte Carlo approach to compute the posterior distributions for elite$_j$ parameters with a random sample of Y. With those parameters estimated, he subsequently executes a second stage that uses a parallelized Metropolis-Hastings approach for the rest of the user$_i$ parameters.

### Improving Computational Efficiency with Network IRT (Imai, Lo, and Olmsted 2016)

Owing in large part to the significant computational costs associated with ideal point estimation techniques that rely on MCMC or similar approaches for maximum likelihood estimation, Imai, Lo, and Olmsted (2016) introduce a practical set of alternatives using expectation maximization (EM).[107] At their core, EM algorithms "either exactly or approximately maximize the posterior distribution under various ideal point models" (Imai, Lo, and Olmsted 2016, p. 632). In effect, it not only produces ideal point estimates that are virtually indistinguishable from computationally burdensome MCMC approaches but substantially reduces computational time. Indeed, the framework of their article follows a consistent pattern of introducing a seminal procedure in the literature, introducing their corresponding EM framework as an alternative, and comparing the estimates and computational costs. For example, NOMINATE (Poole and Rosenthal 1985, 2001; Poole 2005) – perhaps the most recognizable scaling technique in contemporary political science – requires considerable time and advanced computational resources to achieve convergence. Yet, Imai, Lo, and Olmsted (2016) were able to replicate NOMINATE with $\rho$ greater than 90 percent in approximately 35 minutes.[108] Apart from NOMINATE, they intro-

[107] *emIRT* (CRAN) available on GitHub at: https://github.com/kosukeimai/emIRT

[108] *see* Imai, Lo, and Olmsted 2016, Figure 2 (p. 637).

duced practical EM alternatives to several Bayesian ideal point models - most importantly for my circumstances, Barberá's Twitter ideal point model. While I will direct interested readers to Imai, Lo, and Olmsted's (2016) article for a substantive discussion on the underlying calculus, I will provide a general discussion below concerning the intuitive benefits and potential shortcomings of their Network IRT framework.

As noted previously, Barberá (2015) understood that a conventional maximum likelihood approach for such a large network of Twitter users would be intractable.[109] Instead, they chose to employ a two-stage procedure reinforced by parallelization to reduce computational time to approximately 18 hours. However, attempts to replicate even a sample of 10,000 users using MCMC with **RStan** required 6.5 days for 500 posterior draws. In essence, while Barberá's two-stage procedure is clearly more efficient than traditional MCMC, the computational resources and accompanying programming skill is likely out of reach for most researchers. Instead, Imai, Lo, and Olmsted's (2016) Network IRT framework only requires a functional understanding of the *R* programming language and was able to replicate the same 10,000 user sample in 35 minutes – all while achieving $\rho$ of 99 percent for elite user ideal points and 98 percent for user ideal points.[110]

[109] Barberá's (2015) original dataset included 318 political elites ($j$) and 301,537 users ($i$).

[110] *see* Imai, Lo, and Olmsted (2016), Figure 14 (652).

While it is clear that the Network IRT framework provides several advantages, I should also note that there are a small collection of potential shortcomings. Most notably, EM does not provide a full illustration of the posterior – i.e., it does not provide a full depiction of standard errors or confidence intervals. Granted, the authors do provide for a bootstrapping procedure that can provide these estimates, though it diminishes some of the computational efficiency that makes the framework a desirable alternative. However, the fact remains that notwithstanding the full array of estimates apart from the ideal points, Imai, Lo, and Olmsted (2016) were able to retrieve estimates with considerable $\rho$ to pre-existing measures that require computationally burdensome procedures.

Another prospective shortcoming is that the procedure does not fully solve problems arising from exceedingly voluminous datasets. Of course, the underlying purpose of the EM framework is to reduce the computational costs associated with estimating latent ideal points from large datasets. The dataset for my work incorporates 635 political and media elites and corresponds with approximately 720,000 users who engaged with media coverage of the Court's decision-making and followed at least 5 elites. Without employing paralleliza-

tion, the procedure only required 259 minutes (4.5 Hours) of computational time to achieve convergence.

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