

TO ASSIGN OR NOT TO ASSIGN? MAJORITY OPINION ASSIGNMENT IN THE  
REHNQUIST AND ROBERTS COURTS

by

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(Under the Direction of Christina Boyd)

ABSTRACT

Majority opinion assignment trends within the United States Supreme Court have demonstrated the decision-making behavior of the Chief Justice, though Associate Justices also have the ability to determine the author of majority opinions. This research observes opinion assignment trends in the Rehnquist and Roberts Courts, and distinguishes between the decision-making behavior of Chief Justices and Associate Justices when acting as majority opinion assigner. In using data from the Supreme Court Database from 1986 to 2018, I observe judicial behavior by looking at justice ideology, size of the majority, legal salience, and subject matter importance. The results imply that the Chief Justice is influenced by a combination of these factors while opinion assigner, while Associate Justices are most motivated by ideology. Analyzing majority opinion assignment behavior of both Chief Justices and Associate Justices demonstrates a higher understanding of the differences in decision-making within modern Justices on the United States Supreme Court.

INDEX WORDS: Judicial Politics, Supreme Court, Rehnquist Court, Roberts Court, Opinion Assignment, Chief Justice, Associate Justice

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## CHAPTER 1

### INTRODUCTION

In July of 2014, Justice Samuel Alito was chosen by Chief Justice Roberts to write the majority opinions for two hotly contested decisions handed down by the Supreme Court, *Harris v. Quinn* and *Burwell v. Hobby Lobby* (Nather & Gerstein, 2014). While both of these decisions fell along partisan lines, and Alito was expected to write majority opinions that clearly conveyed a conservative ideology of the Court, “neither opinion delivered the kind of knockout some conservatives sought—and about which liberals fretted” (Nather & Gerstein, 2014). Chief Justice Roberts likely chose Associate Justice Alito to author these opinions because he felt that Alito would best demonstrate the Court’s conservative decisions, though Alito wrote these opinions in a way that depicted a more moderate Court. After the opinions were released, critics saw “indications [that] he reined in his language in order to cobble together a majority” (Nather & Gerstein, 2014, para. 4). Roberts’ actions as opinion assigner, combined with Alito’s decisions as majority opinion author, convey the expectations of opinion assignment within the Supreme Court. The ability of a Supreme Court opinion assigner to choose an opinion author that will best represent the majority is a difficult task, and one that is often met with institutional as well as collegial constraints.

The majority opinions that hail from the few cases that the Supreme Court hears each year become precedent for future state and federal court cases; each word is scrutinized by lawyers, scholars, and the public alike in order to obtain a better understanding of the Court’s legal doctrine and decisions. Majority opinions passed down from the Supreme Court are the

only outlets that the judicial branch has to create law, so the wording and implications of these opinions has a significant impact on the functioning of law within the United States. Perhaps as important or even more important than the majority opinion writer is the majority opinion assigner, as he or she ultimately decides which justice will be writing the opinion of the Court, thus deciding how the opinion of the Court is conveyed. As Elliot Slotnick claims, “the designation of the majority opinion writer has critical significance for the kinds of public policy that ultimately emerge from the Court’s decisions” (Slotnick, 1979, p. 60). While the Chief Justice is the majority opinion assigner most of the time, there are many cases in which Associate Justices have this responsibility.

Recently, the Rehnquist and Roberts Courts have shown interesting, yet differing trends in opinion assignment. The Rehnquist Court has been said to have used opinion assignment as a tool to increase efficiency within Court proceedings (Maltzman et al., 2009), while scholars have yet to identify a specific trend in opinion assignment for the Roberts Court since the number of cases that this Court has heard only amounts to approximately half of those heard by previous Courts. Though the Rehnquist Court has been studied in various other ways by political scientists, I embrace the Rehnquist Court in tandem with the Roberts Court in order to observe opinion assignment trends within the modern Court. Using data from 1986 to 2018 from the Supreme Court Database, this research provides insight into how ideological, legal, and organizational factors drive opinion assignment behavior for the Chief Justice and Associate Justices.



Table 1: Percentage of Majority Opinions Assigned by Chief Justices

Chief Justice (years)	Total # of cases	# cases assigned	% cases assigned
Fuller (1888-1910)	4,986	4,725	94.7%
White (1910-1921)	2,547	2,450	96.2%
Taft (1921-1929)	1,618	1,587	98%
Hughes (1929-1940)	1,895	1,754	92.5%
Stone (1940-1946)	781	626	80.1%
Vinson (1946-1953)	812	573	70.5%
Warren (1953-1969)	2,205	1,889	85.6%
Burger (1969-1986)	2,809	2,384	84.8%
Rehnquist (1986-2005)	2,044	1,656	81%
Roberts (2005-)	1,096	934	85.2%

Table 1 details the trends in majority opinion assignment throughout the Supreme Court eras beginning in the late 1800s to the present-day Roberts Court. Most majority opinion assignment is done by Chief Justices, as Table 1 demonstrates, but as the eras progress into the modern Court, it is clear that majority opinion assignment responsibilities are increasingly relinquished to Associate Justices. In the early twentieth-century, Chief Justices were assigning up to 98% (Taft Court) of all majority opinions published by the Court, whereas Rehnquist and Roberts have assigned between 80-85% of all majority opinions. It is true that early Courts saw far fewer dissents than the modern Court sees, allowing Chief Justices to be in the majority coalition at a higher rate than what we see today; however, this shift toward Associate Justices as majority opinion assigners is a modern Supreme Court trend, and one that can currently be seen through Chief Justice Roberts' tenure on the Court. It is important to observe Robert's Court as it continues to operate, as he likely has many years as Chief Justice ahead of him. Little research has been done on the Roberts Court, but Table 1 shows the value of analyzing trends as they are ongoing.

Table 2: Roberts as Majority Opinion Assigner (934 cases of 1,096)

Writer	9-0 (368 cases)	8-1 (59 cases)	7-2 (99 cases)	6-3 (83 cases)	5-4 (131 cases)
Roberts	29	12	7	10	21
Stevens	7	3	7	3	2
Kagan	24	7	6	2	2
O'Connor	2	0	0	0	0
Alito	30	5	9	7	26
Scalia	27	7	10	4	17
Gorsuch	3	0	1	1	6
Kennedy	13	3	7	11	21
Souter	13	4	5	1	1
Sotomayor	29	6	4	6	1
Thomas	43	1	10	7	20
Ginsburg	42	5	10	10	4
Breyer	30	3	15	13	4
Kavanaugh	3	0	1	1	1

Table 2 shows the number of times that Chief Justice Roberts has assigned majority opinions to each Associate Justice throughout his Supreme Court tenure. The decision-making narrative that Roberts is communicating is one of equity, yet also one that is driven by ideology as the decisions become more contentious. As an opinion assigner, Roberts looks to ideological allies when assigning 5-4 decisions, and saves many 9-0 and 8-1 decisions for justices who do not share his same ideological holdings. Though future research should be conducted that observes who Roberts is assigning to and why, this descriptive table demonstrates that Roberts is fascinating as an opinion assigner and that his decision-making trends should be analyzed while he still occupies his Chief Justice position.

## CHAPTER 2

### A BRIEF NOTE ON THE OPINION ASSIGNMENT PROCESS

As Benesh et al. (1999) contend, “the rule governing the assignment of opinions for the Court is unequivocal.” If the Chief Justice votes within the majority coalition, he or she takes on the role of assigning the majority opinion; for example, in 9-0 vote coalitions, the Chief Justice will typically always assign the majority opinion. If the Chief Justice is not within the majority coalition, the most senior Associate Justice is given the responsibility of opinion assignment. In vote coalitions other than 9-0 outcomes, Associate Justices may have the opportunity to assign the opinion, and potentially write the opinion. This is not as clear cut as it may seem, as the conference vote that each justice gives initially may change once a majority opinion is written. In general, the Chief Justice assigns most of the opinions, and also writes a good number of the opinions; however, there are many instances in which the Chief Justice does not assign the majority opinion, and even more occurrences where the Chief Justice does not write the majority opinion.

The opinion assignment process is difficult to generalize. However, there exists an equal assignment norm within the Supreme Court, in which the Chief Justice is “expected to distribute the opportunity evenly among the Associate Justices” (Benesh et al., 1999, p. 377). Though this may initially drive a Chief Justice’s motives in opinion assignment, it does not inhibit him from acting strategically and considering other factors (Benesh et al., 1999). While this norm may bind the Chief Justice, as he is assumed to uphold proper Court proceedings, this norm is not commonplace for Associate Justices. Associate Justices are not likely to have the same

organizational concerns of equal opinion distribution as the Chief Justice. As such, they have freedom to assign opinions to colleagues that share their ideological preferences (Maltzman et al., 2009). While Chief Justices and Associate Justices may have different motivations in their opinion assignment behaviors, each resulting opinion ultimately determines a major important aspect of a Supreme Court case and is part of the collegial game that each justice plays while on the bench.

Table 3: Majority Opinion Assignment in Associate Justices and Chief Justices

Justice	Total # cases assigned by Justice	9-0 (%)	8-1 (%)	7-2 (%)	6-3 (%)	5-4 (%)
Brennan	103	0 (0%)	5 (5%)	13 (12%)	29 (28%)	38 (37%)
Kennedy	49	1 (2%)	0 (0%)	2 (4%)	6 (12%)	27 (55%)
Stevens	191	3 (1.5%)	3 (1.5%)	14 (7%)	52 (27%)	103 (54%)
White	35	4 (11%)	1 (3%)	6 (17%)	11 (31%)	10 (29%)
CJ Rehnquist	1,656	702 (43%)	141 (9%)	200 (12%)	191 (11%)	253 (15%)
CJ Roberts	934	368 (39%)	59 (6%)	99 (11%)	83 (8%)	131 (14%)

Discussion of current opinion assignment protocol elicits mention of the small number of cases that are actually assigned by Associate Justices. Table 3 demonstrates the number of majority opinions assigned by the Associate Justices that assigned the most majority opinions in the Rehnquist and Roberts Courts, as compared to Rehnquist and Roberts themselves. It is clear that Rehnquist and Roberts assign a vast majority of majority opinions, though many of these majority opinions are 9-0 or 8-1 decisions. Although Associate Justices rarely have the opportunity to assign majority opinions, and the total number of majority opinions that they assign is quite small in comparison to Chief Justices, Associate Justices assign 5-4 and 6-3 decisions at a much higher percentage than Chief Justices. If scholars disregard analysis of majority opinions assigned by Associate Justices purely because the number of observations is small, the subfield misses out on analysis of contentious decisions and the decision-making that follows. Regardless of the small number of observations, these instances in which Associate

Justices act as majority opinion assigner are integral to understanding of judicial decision-making in polarizing or hotly contested decisions.

## CHAPTER 3

### EXISTING SCHOLARSHIP

Early scholarship by Rohde and Danelski on opinion assignment focused more on the assignee rather than the assigner. Beginning in the 1970s, political scientists such as Elliot Slotnick and Saul Brenner began to take special notice of opinion assignment trends in the Supreme Court, specifically within the Taft, Warren, and Burger Courts. Prior research had focused on the ideological preferences of the assigning Justice, and the data utilized in such research was incomplete and small in size (Slotnick, 1979). Slotnick and Brenner changed the way that research was conducted on opinion assignment by widening the dataset to the entire universe of cases within a specific Court and considering variables other than ideology as a predictor of assigner decision-making. Due to data limitations, Slotnick and Brenner were unable to include the assignment behaviors of Associate Justices in their piece, though both expressed the necessity of including this type of data in the future. The main consensus of their early research was that variables other than ideology should be considered when observing opinion assignment trends by the Chief Justice; while Slotnick narrows in on case importance, Brenner considers issue specialization as potential predictors of majority opinion assignment. The most striking caveat of early observations completed on opinion assignment is that this research did not consider the potential for justices other than the Chief Justice to assign the majority opinion. Data constraints certainly contributed to this limitation, though the notion that the Chief Justice is not the only option for opinion assigner would later contradict the early research done by Slotnick and Brenner.

The next wave of research perpetuates the role of the Chief Justice as the sole majority opinion assigner, though it also considered a greater number of variables as predictors of how a justice may be chosen as the author. In Maltzman and Wahlbeck's 1996 research on assignment trends in the Rehnquist Courts, the authors find that Rehnquist considered the organizational needs of the Court when making opinion assignment decisions. The inclusion of more variables than had been considered previously allowed these leading political scientists to observe more than just ideology, case importance, and issue specialization. The operationalization of multiple variables continued in this wave of research, as Brenner and Hagle found empirical evidence of a "freshman effect" in their 1996 research. The consideration of variables other than ideology demonstrated the complex nature of the Supreme Court, and illuminated the difficulty of observing the opinion assignment process. The publication of Supreme Court data (SCDB, Washington University) through multiple databases in recent years has alleviated early limitations and allowed further investigation into the closed-door processes of the Supreme Court.

Though it is true that the Chief Justice acts as majority opinion assigner in a vast majority of cases, it is still worthwhile to consider those occurrences in which he does not assign the majority opinion. In 2001, Brenner finally began to consider when the Chief Justice might relinquish his assignment powers when he is in the majority, or how Associate Justices assign the opinion when the Chief Justice is not a member of the majority. He includes "other assigning justices" in his research during a time in which the Court saw the Chief Justice begin to assign fewer opinions. Though this piece still focused on the number of opinions assigned to new Associate Justices, Brenner included an important aspect of the opinion assignment process in his research and influenced other political scientists to do the same.

There has been a limited amount of research on the decision-making of the assigning justice. This is especially true of the Roberts Court, of course, since the Court is still relatively young in its tenure. However, the literature on opinion assignment in the Rehnquist Court is also nearly nonexistent. The seminal piece that has been completed on the Rehnquist Court in terms of opinion assignment is Maltzman and Wahlbeck's 1996 piece, "May It Please the Chief? Opinion Assignments in the Rehnquist Court," in which they find that Chief Justice Rehnquist utilized majority opinion assignment as a way to manage the Court's organization needs, not as a way to further his own policy preferences. In footnote 6 of this piece (Maltzman & Wahlbeck, 1996), the authors discuss assumptions made when considering the Chief Justice as the opinion assigner and debunk the notion that the initial justice that an opinion is assigned to is the justice who writes the final majority opinion. This realization demonstrates that there are cases in which the way that an opinion author writes a majority opinion can change the coalition of the majority, especially if the Chief Justice is a member of the majority and therefore acts as the majority opinion assigner. While this piece discusses Chief Justice Rehnquist's opinion assignment trends, it does not seek to observe the opinion assignment trends of any other Justices on the Rehnquist Court.

Slightly more updated observations on opinion assignment are communicated in Maltzman, Spriggs, and Wahlbeck's 2000 book, *Crafting Law on the Supreme Court*; however, other than this seminal research, little has been done to update the analyses completed here. More importantly, almost no research has been completed regarding the opinion assignment trends of any Justice other than the Chief Justice. Maltzman, Spriggs, and Wahlbeck do include Associate Justices as opinion assigners in their book, though they do not distinguish differences between the Chief Justice and the Associate Justice in their opinion assignment behavior. While



this difference between Chief Justice and Associate Justice as opinion assigner may not have been visible in early Courts, the modern Supreme Court witnesses the Chief Justice either relinquish his majority opinion assignment powers completely, or vote with the minority coalition, thus stepping away from the entire assignment process. A more in-depth analysis of opinion assignment trends by justices other than the Chief Justice is more reflective of the modern Supreme Court. This provides insight into decision-making beyond that of the Chief Justice, which suggests how the Chief Justice and Associate Justices may be influenced by different factors when serving as opinion assigners.

The most recent research done on opinion assignment within the Supreme Court also focuses on the behavior of the Chief Justice, while employing a separation-of-powers model to predict such behavior. Siyu Li's 2019 piece, "A Separation-of-Powers Model of U.S. Chief Justice Opinion Assignment" finds that the Chief Justice is less motivated by ideological pursuits when assigning the majority opinion when there exist institutional constraints, though these constraints only affect ideological consideration in statutory cases. This piece connects the Supreme Court to other American institutions by including non-judicial factors in the opinion assignment process. However, this piece still does not contemplate the instances in which the Chief Justice is not the opinion assigner, as it replicates and expands upon the study completed by Maltzman and Wahlbeck in 2004.

## CHAPTER 4

### RESEARCH QUESTION

While opinion assignment on the Supreme Court may seem to follow a simple method and pattern, the decision-making by the opinion assigner is the final determinant of the content of the majority opinion. Whomever assigns the majority opinion essentially decides what the opinion will say, as it can be assumed that each justice knows and understands his or her fellow justice's preferences. In considering the collegial relationships between justices on the Supreme Court, one must ponder how each opinion assigner makes decisions. Maltzman, Spriggs, and Wahlbeck conclude that there are two goals in opinion assignment: strategic pursuit of policy preferences and the desire to satisfy the Court's organizational needs (Maltzman et al., 2000).

This research project allows higher understanding of the opinion assignment trends during the Rehnquist and Roberts Courts, and asks the following questions: In what circumstances will an opinion assigner decide to assign a majority opinion to one justice rather than another? What impact does the vote coalition of the decision, the ideological preferences of other Associate Justices, and the case's legal salience and subject matter have on the behavior of the opinion assigner? In analyzing trends of opinion assignment within both the Rehnquist and Roberts Courts, the behavior and strategies of both Chief Justices and Associate Justices is observed and analyzed.

## CHAPTER 5

### THEORY AND HYPOTHESES

Because much of the existing literature deals only with the Chief Justice as the majority opinion assigner, the hypotheses stemming from existing theory generally focus on the behaviors of the Chief Justice rather than the Associate Justices. Of consideration in these hypotheses is the status of the assigner (Chief or Associate), ideological distance between assigner and author, size of majority coalition, legal salience and subject matter importance. Hypotheses 1-3 detail the expectations of the Chief Justice's behavior when acting as an opinion assigner; Hypothesis 4 predicts the behavior of Associate Justices when given the opportunity to assign majority opinions; and Hypotheses 5-7 consider when an opinion assigner might assign the majority opinion to themselves.

#### Chief Justice as Opinion Assigner

When the Chief Justice acts as opinion assigner, his job is a complex mix of preferences, legal actors, and organizational considerations. The Chief Justice automatically has opinion assignment responsibilities when he is in the majority vote coalition, giving him more opportunities to assign the majority opinion than the Associate Justices enjoy. In doing so, the Chief Justice likely takes into account a multitude of factors when deciding to which Justice to assign a majority opinion. It is expected that the Chief Justice is more heavily influenced by ideology, majority coalition size, legal salience, and subject matter importance.

*Hypothesis 1a: For cases that have larger majority coalitions, the Chief Justice will be more likely to assign majority opinions to colleagues as the ideological distance between the justice and the Chief Justice increases.*

In keeping with equity norms on the Supreme Court, I predict that the Chief Justice will utilize unanimous, or almost unanimous, outcomes to assign majority opinions to justices who are not ideological allies. A unanimous court strongly implies that a decision does not fall along partisan lines, so this gives the Chief Justice the opportunity to delegate majority opinions to justices who likely do not share his ideological beliefs when a unanimous decision is made. The Chief Justice will allow ideological foes the chance to assign majority opinions on cases that are not ideologically bound.

*Hypothesis 1b: For cases that have smaller majority coalitions, the Chief Justice will be more likely to assign majority opinions to colleagues as the ideological distance between the justice and the Chief Justice decreases.*

Conversely, I predict that the Chief Justice will strategically assign majority opinions to justices that are ideologically proximate to him when the vote is close. A smaller majority coalition suggests that the decision is more contentious and more likely falls along ideological lines. If the Chief Justice is part of this small majority, it can be inferred that he is naturally ideologically closer to the other members of the majority. Still, he will utilize his opinion assignment opportunities in this contentious decisions to assign the majority opinion to a close ideological ally rather than other Justices who are further away in ideology. The closer a

colleague is to the Chief Justice's ideology, the better chance that Justice has to author a majority opinion when the Chief Justice acts as opinion assigner and when the majority vote coalition is small.

*Hypothesis 2a: For legally salient cases, the Chief Justice will be more likely to assign majority opinions to colleagues as the ideological distance between the justice and the Chief Justice decreases.*

In cases with high legal salience, which is defined here as whether a case is struck down as unconstitutional or alters existing legal precedent, the Chief Justice will want to assign the majority opinion to members of the Court with similar ideologies. Because the case has important legal ramifications, the Chief Justice will want the narrative to be driven by a justice who shares his ideological beliefs, thus giving ideologically proximate justices a greater chance of being assigned the majority opinion.

*Hypothesis 2b: For non-legally salient cases, the Chief Justice will be more likely to assign majority opinions to colleagues as the ideological distance between the justice and the Chief Justice increases.*

Again considering the equity norms, the Chief Justice will use these non-legally salient cases as opportunities to assign majority opinions to justices who do not share his ideological beliefs. If there are no salient legal issues in the case, the Chief Justice has less incentive to

attach his personal ideological spin on the majority opinion; therefore, he gives ideological foes the chance to author these legally unimportant opinions.

*Hypothesis 3a: For cases that are important in terms of subject matter, the Chief Justice will be more likely to assign majority opinions to colleagues as the ideological distance between the justice and the Chief Justice decreases.*

Similar to the idea of legal salience, the Chief Justice will want cases that display subject matter importance, defined here as cases dealing with constitutional law or civil liberties, to reflect his ideological views. When considering which justice to assign the opinion to, the Chief Justice will want these important issue area opinions to be narrated by justices whose ideology mirror his own.

*Hypothesis 3b: For cases that are not important in terms of subject matter, the Chief Justice will be more likely to assign majority opinions to colleagues as the ideological distance between the justice and the Chief Justice increases.*

Cases that involve issue areas that are not important are opportunities for the Chief Justice to allow ideological foes to author opinions. Because the case is not important in terms of subject matter, the Chief Justice will not be as desirous to have his ideology reflected in the majority opinion. These cases offer the Chief Justice the ability to please justices who do not share his ideology by giving them a majority opinion in a case with no subject matter importance.

### Associate Justice as Opinion Assigner

As opinion assigners, Associate Justices are likely to be less constrained by organizational needs than the Chief Justice, and more able to behave in a self-interested way and prioritize ideology. Associate Justices have less opportunities to assign majority opinions than the Chief Justice does, and do not feel the need to consider each institutional and case-based factor when making opinion assignment decisions. Associate Justices are not likely to exercise the norm of equity in their opinion assignment duties, since these opportunities are rare. It is likely that Associate Justices will be more influenced by ideology alone when acting as majority opinion assigner, and consider other factors, such as majority vote coalition, legal salience, and subject matter importance, to be less prudent in his or her decision-making.

*Hypothesis 4: Regardless of vote coalition, legal salience, or subject matter importance, the Associate Justice will be more likely to assign majority opinions to colleagues as the ideological distance between the justice and the Associate Justice decreases.*

For Associate Justices acting as majority opinion assigner, ideology will be the driving force behind their decision-making. Associate Justices act as the opinion assigner in far fewer cases than the Chief Justice, therefore, they will utilize these unique and rare opportunities to assign majority opinions to ideological allies. The norms of equity are of no importance to Associate Justices when they have the chance to assign the majority opinion. Majority opinion assignment is the only way for Associate Justices to control the narrative of the court, and they will consider first and foremost the ideology of the other justices when making these decisions. Associate Justices should automatically be ideologically closer to the other justices in the

majority, because it can be inferred that these opportunities to assign majority opinions are stemming from the fact that it is likely a close decision, and that the Chief Justice is not in the majority. Therefore, the Associate Justice will take ideology into consideration as the most important factor in opinion assignment in these decisions.

### Self-Assigning Behavior

Both Chief Justices and Associate Justices have the ability to self-assign majority opinions when he or she assumes the role of opinion assignment. Though the Chief Justice naturally has more opportunities to self-assign, since he has the greatest likelihood of being the majority opinion assigner, Associate Justices also grapple with this possibility when determining who should author the majority opinion. Ideology vanishes as a factor here, as the assigning Justice is aware of his or her own ideology, though the other case-based factors become even more prominent when considering self-assignment trends. It is expected that legal salience, subject matter importance, and Justice status (Chief or Associate), will be influential in a Justice's decision to self-assign the majority opinion to themselves.

*Hypothesis 5: For cases that are legally salient, the opinion assigner will be more likely to assign the majority opinion to themselves rather than to another justice.*

If a case is legally salient, the opinion assigner should want the opportunity to write the opinion themselves in an effort to exert influence. Cases that are legally salient often become landmark decisions, or at the very least, highly influential cases on the practice of law through the federal and state governments. If given the opportunity to assign the majority opinion in these



cases, Justices will likely want the chance to dictate how the majority opinion is written in these important cases.

*Hypothesis 6: For cases that have subject matter importance, the opinion assigner will be more likely to assign the majority opinion to themselves rather than to another justice.*

If a case is considered to have an important subject matter, the opinion assigner should be more willing to write the opinion. Similarly to the notion that Justices will want the opportunity to write the majority opinion themselves when the case displays legal salience, Justices will also demonstrate desire to author opinions that have subject matter importance. Though it can be said that most, if not all, cases that make it through the court system to the Supreme Court of the United States have some subject matter importance, not every case receives the same media coverage and acclaim. In being able to discern which cases have greater subject matter importance, opinion assigners have the ability to decide when to author the opinion themselves, and when to relinquish authorship to other colleagues.

*Hypothesis 7: The opinion assigner will be more likely to assign the opinion to themselves if the opinion assigner is the Chief Justice.*

Naturally, the Chief Justice has the most opportunity to assign the opinion to himself when he is in the majority, and it is expected that he does so more often than Associate Justices acting as majority opinion assigner. Considering the norm of equity that is typically followed by Chief Justices on the Supreme Court, it follows that the Chief Justice also equally assigns

majority opinions to himself. Since Associate Justices have fewer opportunities to assign the majority opinion, they will utilize those situations to assign opinions to colleagues rather than themselves. The Chief Justice has many opportunities to both assign opinions to colleagues and to himself, so it is expected that he will choose to self-assign majority opinions more often than Associate Justices.

## CHAPTER 6

### RESEARCH DESIGN AND DATA

#### Data and Variables

The Supreme Court Database (SCDB) provided by Washington University Law School publicizes court information from 1946 to 2018. From this database, I was able to separate both the Rehnquist and Roberts Courts by vote coalition, opinion assigner, and opinion writer. For the Rehnquist Court, there are 2,044 total cases in the database from 1986 to 2004, and for the Roberts Court, there are 1,096 cases from 2005 to 2018. While Chief Justices Rehnquist and Roberts assigned a vast majority of the opinions (1,656 and 934, respectively) during their Courts, every Associate Justice has a chance of majority opinion assignment when the Chief Justice is not in the majority.

Table 4: Frequency of Majority Opinion Assignment in Rehnquist & Roberts

Justice Name	Opinion Assigner (3,140)
Samuel A. Alito, Jr.	0
Harry A. Blackmun	28
William J. Brennan, Jr.	103
Stephen G. Breyer	0
Ruth Bader Ginsburg	7
Neil Gorsuch	0
Elena Kagan	0
Brett M. Kavanaugh	0
Anthony M. Kennedy	49
Thurgood Marshall	5
Sandra Day O'Connor	5
Lewis F. Powell, Jr.	0
William H. Rehnquist	1,656
John G. Roberts, Jr.	934
Antonin Scalia	20
Sonia Sotomayor	0
David H. Souter	0
John Paul Stevens	191
Clarence Thomas	10
Byron R. White	35

Table 4 shows an alphabetical listing of each Justice who has served on the Rehnquist and Roberts Courts, and the number of times that he or she has acted as majority opinion assigner. It is clear that both Chief Justices assigned a vast majority of the opinions during his respective Court, while other Justices, such as Stevens and Brennan, also assumed majority opinion assignment roles frequently. At the same time, other Justices rarely, or never, had the opportunity to assign a majority opinion throughout their tenure on the Court, such as Powell, Alito, and Breyer. This table demonstrates general trends in majority opinion assignment and displays how Chief Justices often utilize their majority opinion assignment roles, some Associate Justices seize as many assignment opportunities as possible, and other Associate Justices stay away from majority opinion assignment altogether.

The main dependent variable in consideration is who the opinion assigner chooses to author a majority opinion. This is coded as 1 if a justice is assigned an opinion, and 0 if the justice is eligible to be assigned the opinion, because he or she is in the majority, but is not assigned the opinion. Justices who are not eligible to be assigned the opinion due to their lack of presence in the majority coalition are excluded. The second dependent variable that is included is whether the assigning justice, whether it be the Chief Justice or an Associate Justice, assigns the opinion to themselves. This is coded as 1 if the opinion assigner assigns the opinion to themselves, and 0 if the opinion assigner assigns the opinion to another justice. With these dependent variables, I have generated three distinct models: one in which the Chief Justice is the opinion assigner, one in which the Associate Justice is the opinion assigner, and one which captures self-assignment trends for both the Chief Justice and Associate Justices.

There are three main independent variables included in this research: size of the majority coalition, legal salience, and subject matter importance. The size of the majority coalition is a dichotomous variable that compares cases with four or five justices in the majority to those with eight or nine justices in the majority. Legal salience has been defined as whether a case was struck down as unconstitutional or altered legal precedent; if a case is legally salient, it is coded as 1, whereas cases that are not legally salient are coded as 0. Subject matter importance is coded as 1 if it is a constitutional law or civil liberties case, and 0 if it does not involve these two issue areas. Another independent variable that is important for the self-assignment model is whether the Chief Justice is the opinion assigner; this is coded as 1, whereas cases in which the Associate Justice is the opinion assigner are coded as 0.

Absolute ideological distance is included in the Chief Justice and Associate Justice models, but is irrelevant in the self-assignment model. Ideological distance is measured by use of

Martin-Quinn scores and is the absolute ideological distance between the assigning justice and the opinion author. Because Martin-Quinn scores run from negative to positive, I use absolute distance to capture a more complete measure of ideology. In using absolute distance, a score of 0 means that the assigner and the author have identical ideological scores, whereas a very high score indicates that the justices are very far apart in terms of ideology.

Control variables present in all three models include freshman effect and end of term. The freshman effect is coded as 1 for the justice's first full or partial two terms on the court. End of term is codified here as the number of days from oral arguments to the end of the term. There are a few cases which have been dismissed from the data for measurement concerns. First, all cases without oral arguments are dropped from analysis. Second, the cases that have been decided the term after the oral arguments were held are not included. Lastly, the few odd cases which were decided in October of 2019 but were part of the 2018 term are excluded. These cases are excluded because they point to institutional or external factors that influence the functioning of the Court, and therefore impact decision-making.

### Research Design

All modeling is done with a logistic regression model. This model is most effective, considering that the dependent variable is dichotomous. The modeling uses robust standard errors clustered on case. This accounts for the fact that individual cases are not independent; for example, if the Chief Justice assigns the majority opinion to one justice, he cannot assign it to another. Each hypothesis is tested with a separate model; another way to test these relationships would be to interact each variable with ideology in the same model. This is much more complicated, and the use of separate models allows focus on comparisons between ideology and each variable individually.

## CHAPTER 7

### RESULTS

#### Chief Justice as Majority Opinion Assigner

Table 5: Chief Justice as Majority Opinion Assigner

	Large Majority Size (8 or 9)	Small Majority Size (4 or 5)	Legal Salience (1)	No Legal Salience (0)	Subject Matter Importance (1)	No Subject Matter Importance (0)
Ideological Distance	0.042*	0.030	-0.123**	0.019	-0.086*	0.066*
	(0.02)	(0.05)	(0.07)	(0.01)	(0.03)	(0.02)
Freshman	-0.078	-0.082	-0.532	-0.102	-0.475*	0.082
	(0.12)	(0.20)	(0.35)	(0.09)	(0.15)	(0.11)
End of Term	0.000	0.000	-0.000	0.000	0.000	0.000
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Constant	-2.195*	-1.442*	-1.494*	-1.953*	-1.657*	-2.092*
	(0.04)	(0.06)	(0.13)	(0.04)	(0.05)	(0.04)
Observations	11522	2071	1091	16693	6863	10921

\*\* p<0.10, \* p<0.05

Table 5 reports the results of the logistic regression for instances in which the Chief Justice is the opinion assigner. When the Chief Justice assumes this responsibility, he takes into account the ideology of his colleagues as it relates to other variables. As considered in Hypotheses 1a and 1b, the Chief Justice is influenced by ideological distance when the majority vote coalition is large, and shows preference to justices whose ideology is close to his when the majority is small. As expected in Hypothesis 1a, the results indicate that as the ideological distance between the Chief Justice and the potential opinion author increases, demonstrating ideological disagreement, the Chief Justice is more likely to assign a majority opinion to that justice when the majority vote coalition is large. However, for Hypothesis 1b, the results are not

statistically significant. When the coalition size is small, the results indicate that the Chief Justice is no more likely to assign the opinion to ideological allies than to foes. This lack of effect for Hypothesis 1b may be due to small coalition sizes already being composed of ideological allies, or perhaps the Chief Justice being very cognizant of the swing coalition member in the majority coalition and giving him or her opinion assignment priority.

Ideological distance also plays a large role in the Chief Justice's opinion assignment behavior when the case is legally salient. As described in Hypotheses 2a and 2b, the Chief Justice is more likely to assign opinions to justices that are ideologically proximate to him when the case is legally salient. As the results indicate, if the case is not legally salient, the Chief Justice does not take ideology into consideration. However, when legally salient, the ideological distance between the Chief Justice and the potential opinion author matters as expected, with more distance meaning less likelihood of opinion assignment.

The Chief Justice also takes ideology into account when case displays subject matter importance. Hypotheses 3a and 3b contend that the Chief Justice will consider ideological distance more when the case demonstrates an important subject matter, and the results confirm these expectations. When the Chief Justice is not ideologically proximate to a potential opinion author and the case does not have subject matter importance, the Chief Justice is more likely to give that justice an opportunity to write a majority opinion. For subject matter important cases, however, the closer the Chief Justice's ideology to the opinion assigner's, the more likely that justice is to write the majority opinion.

In considering ideology as it relates to majority vote coalition, legal salience, and subject matter importance, the Chief Justice changes his opinion assignment behavior. He gives justices who are not ideologically proximate to him chances to write a majority opinion when the



majority vote coalition is high, the case lacks legal salience, and when the case does not have subject matter importance. Conversely, the Chief Justice prefers to assign the majority opinion to justices who share his ideological beliefs when the case is legally salient and when the case has subject matter importance. The Chief Justice's ability to assign opinions based upon ideology is contingent upon factors such as majority vote coalition, legal salience, and subject matter importance.

Also worth mentioning in the Chief Justice analysis is the negative coefficient for the freshman effect when a case has subject matter importance. This makes sense, considering that a freshman justice would not have as many opportunities to write majority opinions when the case has subject matter importance.

#### Associate Justice as Majority Opinion Assigner

Table 6: Associate Justice as Majority Opinion Assigner

	Large Majority Size (8 or 9)	Small Majority Size (4 or 5)	Legal Salience (1)	No Legal Salience (0)	Subject Matter Importance (1)	No Subject Matter Importance (0)
Ideological Distance	-0.346*	-0.101**	-0.232*	-0.170*	-0.186*	-0.184*
	(0.16)	(0.05)	(0.08)	(0.04)	(0.05)	(0.06)
Freshman	-0.285	-0.195	-0.409	-0.025	-0.107	-0.115
	(0.79)	(0.32)	(0.53)	(0.24)	(0.31)	(0.31)
End of Term	0.000	0.000	0.001*	0.000	0.000	0.000
	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Constant	-1.354*	-1.235*	-1.183*	-1.231*	-1.233*	-1.200*
	(0.35)	(0.11)	(0.17)	(0.10)	(0.11)	(0.13)
Observations	292	1182	586	1932	1414	1104

\*\* p<0.10, \* p<0.05

Table 6 shows the results when the Associate Justice has the opportunity to assign the majority opinion. When the Associate Justice acts in this role, he or she focuses mainly on the ideology of the potential opinion authors. The absolute ideological distance variable is

significant across the legal salience, subject matter importance, and majority vote coalition models for Associate Justices, especially when the majority vote coalition is made up of four or five justices. This makes sense, seeing that Associate Justices are more likely to be the opinion assigner when the majority has fewer justices in it, as this increases the likelihood that the Chief Justice is not in the majority. Regardless of legal salience, subject matter importance, and majority vote coalition, the Associate Justice is influenced by the ideology of his or her colleagues when behaving as the majority opinion assigner. Hypothesis 4 predicts that ideology will be the most important factor in an Associate Justice's opinion assignment behavior, and the results from statistical analysis agree. The further away a colleague's ideology is from the assigning Associate Justice, the less likely that Associate Justice will be to assign the opinion to him or her.

#### Self-Assignment

Table 7: Self-Assignment

	Self-Assignment
Legal Salience	0.040*
	(0.01)
Subject Matter Importance	0.015*
	(0.00)
Chief Justice	0.093*
	(0.02)
Freshman	-0.760*
	(0.09)
End of Term	-0.000
	(0.00)
Constant	-2.128*
	(0.02)
Observations	25731

\*\* p<0.10, \* p<0.05

Table 7 illustrates the instances in which opinion assigners have the chance to assign the majority opinion to themselves. When justices are the majority opinion assigner they

automatically have the potential to assign the opinion to themselves. However, they take into account different factors than when considering self-assignment versus giving the opinion to a colleague. The Chief Justice is highly likely to assign the case to himself if he is the opinion assigner. However, the Chief Justice obviously has more opportunities to self-assign than other justices do, since he is the default opinion assigner in cases where he is in the majority.

Hypothesis 7 holds true here, and accurately conveys the Chief Justice’s desire to author majority opinions by assigning these opinions to himself. Both legal salience and subject matter importance are taken into consideration when a justice has the ability to self-assign, and if a case is legally salient or has subject matter importance, a justice is more likely to assign that majority opinion to himself. Hypotheses 5 and 6 illustrate the effects of legal salience and subject matter importance and can be seen in Table 7 as having a significant impact on a justice’s decision to self-assign. Also of interest here is the freshman effect that occurs with self-assignment—a freshman justice on the Supreme Court is much less likely to self-assign the case to themselves. Though being a freshman justice on the Supreme Court has a negative effect on frequency of self-assignment, proximity to the end of term has no effect at all. This infers that self-assignment is not a way in which justices deal with the organizational aspects of the Court, and that as time constraints increase within the Court, justices still do use self-assignment to quickly publish opinions.

Table 8: Self-Assignment—Rehnquist versus Roberts

Chief Justice	9-0	8-1	7-2	6-3	5-4
Rehnquist	67 of 702 (9.5%)	16 of 141 (11.3%)	29 of 200 (14.5%)	32 of 191 (16.8%)	52 of 253 (20.5%)
Roberts	29 of 368 (7.8%)	12 of 59 (20.3%)	7 of 99 (7%)	10 of 83 (12%)	21 of 131 (16%)

Table 8 demonstrates the frequency at which Chief Justices self-assign majority opinions when given the opportunity, meaning that they are part of the majority coalition. In comparing the number of times that Chief Justices Rehnquist and Roberts have self-assigned majority opinions, it is clear that though they do utilize self-assignment more than Associate Justices, they do not self-assign more often than they assign majority opinions to colleagues. Chief Justices are twice as likely to self-assign the opinion if the majority vote coalition is small, indicating a contentious decision, though the likelihood of self-assignment is still low. While Hypothesis 7 is correct in predicting that Chief Justices self-assign opinions more often than Associate Justices, self-assignment is not happening at large volumes even with Chief Justices as the assigners. The Chief Justice may be more likely to self-assign majority opinions, but is not doing so often. Also, Chief Justice Roberts is following in Rehnquist's footsteps in terms of self-assignment, and is not necessarily assigning more or less opinions to himself than his predecessor. Both of these modern Chief Justices have utilized self-assignment in similar volumes when they have been part of the majority coalition and a candidate for opinion authorship.

## CHAPTER 8

### LIMITATIONS, IMPLICATIONS, AND CONCLUSION

Unspecifiable cases, though few, could skew the percentages obtained. For example, in 8-1 vote coalitions within the Rehnquist Court, when Rehnquist assigned the opinion and Blackmun write the opinion, only seven cases fit these requirements. Of the seven, 1 case ended in a conservative outcome, five ended in liberal outcomes, and one was unspecifiable. Though these numerical averages do not seem far off, the percentages show differently. 14.29% were conservative outcomes, 71.43% were liberal outcomes, and 14.29% were unspecifiable. The percentages show that the gap between liberal and conservative outcomes may not be as wide if the case could be categorized, as the unspecifiable case receives the same percentage of a certain justice's opinion outcome as the conservative outcome. If the percentage in each cell does not summate to 100%, this means that there existed unspecifiable cases which also took a part of each Justice's voting percentage.

Future research should include many more variables for a more complete comparison of the Rehnquist and Roberts Courts. A natural next study might consider the effects of gender and race on opinion assignment behavior, as this study accounts for neither of these variables. The codification of legal saliency and subject matter importance, while in alignment with other research on the Supreme Court, is potentially problematic. Measuring the legal and political saliency of a case or the importance of the issue area is difficult; by using only whether a case ruled unconstitutionality or altered legal precedent, or if a case fell into the subject matters of civil liberties or constitutional law, this research leaves out potentially important or salient cases

within other categories. While I contend that the measures of legal salience and subject matter importance used in this study are the most complete measurements that could be utilized at the present moment, measures of saliency within the Supreme Court should continue to be improved upon.

A significant limitation in this research is the mode of measurement, the use of three separate logistic regression models rather than one that includes interactive terms. The reason this choice was made is because of parsimony—interactive terms are much more complex to model and analyze. With simple definitions for size of majority coalition, legal salience, and subject matter importance, the use of separate logistic regressions allowed for direct comparison of the influence of ideology on the independent variables one by one. In the future, models which include interactive terms may be able to better capture the influence of ideology and legal salience on the size of the majority coalition, for example, and demonstrate a higher understanding of decision-making in majority opinion assignment.

Majority opinions passed down from the Supreme Court are a foundational aspect of United States government. The Supreme Court of the United States sets an example to the states when deciding cases, and especially when writing opinions. Because Supreme Court proceedings are not currently televised or streamed on mass media, the opinions of a case are often all that the public is able to take away from these proceedings. The very language that is written in these cases becomes part of history, as lawyers scrutinize each word, and political scientists try to understand the original intent of the justices that sat on the bench at the time of decision. Supreme Court opinions stand the test of time, and the way that they are written has a lasting effect on the future of the law in the United States. Though the Roberts Court is still ongoing, it is important to begin research in order to better understand trends within the current Court.

Obviously, the Chief Justice acts as the majority opinion assigner in most cases. At the same time, Associate Justices are consistently given opportunities to exercise power through majority opinion assignment in situations when the Chief Justice is not a member of the majority. These instances, while few in comparison to the large numbers of opinions assigned by the Chief Justice, provide interesting insight into the collegiality of the modern Supreme Court. At this point, not much research has been conducted on the opinion assignment behavior of any other justices than the Chief Justice, though this was certainly a popular trend on the Rehnquist Court and is increasingly utilized more often in the Roberts Court. Analysis of these trends reflects the institutionalization of the modern Court and codifies the venues of judicial power available to all justices on the Supreme Court, not just the Chief Justice.

## REFERENCES

- Benesh, Sara C., Reginald S. Sheehan, and Harold J. Spaeth. "EQUITY IN SUPREME COURT OPINION ASSIGNMENT." *Jurimetrics* 39, no. 4 (1999): 377-89.
- Brenner, Saul. "Issue Specialization as a Variable in Opinion Assignment on the U. S. Supreme Court." *The Journal of Politics* 46, no. 4 (1984): 1217-225.
- Brenner, Saul. "Majority Opinion Assignment in Salient Cases on the U.S. Supreme Court: Are New Associate Justices Assigned Fewer Opinions?" *The Justice System Journal* 22, no. 2 (2001): 209-21.
- Brenner, Saul. "Reassigning the Majority Opinion On the United States Supreme Court." *The Justice System Journal* 11, no. 2 (1986): 186-95.
- Brenner, Saul. "Strategic Choice and Opinion Assignment on the U. S. Supreme Court: A Reexamination." *The Western Political Quarterly* 35, no. 2 (1982): 204-11.
- Brenner, Saul, and Harold J. Spaeth. "Issue Specialization in Majority Opinion Assignment on the Burger Court." *The Western Political Quarterly* 39, no. 3 (1986): 520-27.
- Brenner, Saul, and Timothy M. Hagle. "Opinion Writing and Acclimation Effect." *Political Behavior* 18, no. 3 (1996): 235-61.
- Danelski, David Joseph, and Artemus Ward. 2016. *The Chief Justice : Appointment and Influence*. Ann Arbor : University of Michigan Press, [2016].
- Epstein, Lee. "Lee Epstein: Research." Washington University in Saint Louis. Accessed April 19, 2019. <http://epstein.wustl.edu/research/JCS.html>.
- Epstein, Lee, Andrew D. Martin, Jeffrey A. Segal, and Chad Westerland. "The Judicial Common Space." *Journal of Law, Economics, & Organization* 23, no. 2 (2007): 303-25.
- Lax, J. R., and C. M. Cameron. "Bargaining and Opinion Assignment on the US Supreme Court." *Journal of Law, Economics, and Organization* 23, no. 2 (January 2007): 276-302.
- Maltzman, Forrest, and Paul J. Wahlbeck. "A Conditional Model of Opinion Assignment on the Supreme Court." *Political Research Quarterly* 57, no. 4 (2004): 551-63.
- Maltzman, Forrest, and Paul J. Wahlbeck. "May It Please the Chief? Opinion Assignments in the Rehnquist Court." *American Journal of Political Science* 40, no. 2 (1996): 421-43.



- Maltzman, Forrest, James F. Spriggs, and Paul J. Wahlbeck. *Crafting Law on the Supreme Court: The Collegial Game*. Cambridge, Mass.: Cambridge Univ. Press, 2000.
- Nather, David, and Josh Gerstein. "Alito's Moment." POLITICO, July 2, 2014.  
<https://www.politico.com/story/2014/07/samuel-alitos-moment-108470>.
- Richard A. Posner, "Judges' Writing Styles (And Do They Matter?)," 62 *University of Chicago Law Review* 1420 (1995).
- Sill, Kaitlyn L., Joseph Daniel Ura, and Stacia L. Haynie. "Strategic Passing and Opinion Assignment on the Burger Court." *The Justice System Journal* 31, no. 2 (2010): 164-79.
- Siyu, Li (2019): A Separation-of-Powers Model of U.S. Chief Justice Opinion Assignment, *Justice System Journal*, DOI: 10.1080/0098261X.2019.1707137.
- Slotnick, Elliot E. "Judicial Career Patterns and Majority Opinion Assignment on the Supreme Court." *The Journal of Politics* 41, no. 2 (1979): 640-48.
- Slotnick, Elliot E. "Who Speaks for the Court? Majority Opinion Assignment from Taft to Burger." *American Journal of Political Science* 23, no. 1 (1979): 60-77.
- "Supreme Court Procedures." United States Courts. Accessed April 17, 2019.  
<https://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/supreme-1>.
- "The Supreme Court Database." The Supreme Court Database. <http://scdb.wustl.edu/>.
- Wahlbeck, Paul J. "Strategy and Constraints on Supreme Court Opinion Assignment." *University of Pennsylvania Law Review* 154, no. 6 (2006): 1729-755.
- Wood, Sandra L., Linda Camp Keith, Drew Noble Lanier, and Ayo Ogundele. "Opinion Assignment and the Chief Justice: 1888-1940." *Social Science Quarterly* 81, no. 3 (2000): 798-809.