Public Support for Judicial Philosophies: Evidence from a Conjoint Experiment

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Abstract

We examine whether the public evaluates Supreme Court nominees on the basis of judicial philosophies when presented with a description of those philosophies. Employing a conjoint experiment, we find that the public will evaluate nominees’ judicial philosophies as well as the nominees’ partisanship, ideology, and qualifications. We also discover significant differences between Republicans and Democrats. These results have important implications for the future of judicial nominations, framing, and public support for the judiciary.
How does the public evaluate Supreme Court nominees? The literature argues people consider party, ideology, and legal qualifications. But are they also capable of considering judicial philosophy? We believe they are. Our data show that when presented with information about judicial philosophies, the public uses that information to evaluate nominees.

The day after Chief Justice John Roberts swore in Justice Neil Gorsuch, Roberts made the following remark:

> It is very difficult, I think, for a member of the public to look at what goes on in the confirmation hearings these days, which is a very sharp conflict in political terms between Democrats and Republicans, and not think that the person who comes out of that process must similarly share that same sort of partisan view of public issues and public life.”\(^1\)

His fear, of course, was that the public will view the Supreme Court wholly through the lens of partisanship or ideology. And who could blame them if they did? After Senate Democrats killed the filibuster for lower court nominations, Republicans followed suit for Supreme Court nominations, giving the appearance that elites simply put ideologically simpatico nominees on the Court and that they need only care about the ideology and perceived partisanship of those nominees.

Still, we wonder: what do the American people consider when evaluating these nominees? Despite excellent scholarship on how the public evaluates Supreme Court nominees (Chen and Bryan 2018; Rogowski and Stone N.d.; Sen 2017; Collins and Ringhand 2016; Hoekstra and LaRowe 2013; Bartels and Johnston 2011; Kastellec, Lax and Phillips 2010), we still know nothing about how nominees’ perceived judicial philosophies influence the public’s evaluation of them. This is surprising since, as we show below, much of the media’s discussion over Supreme Court confirmations focuses on judicial philosophy.

Employing a cutting edge conjoint experiment, we examine whether the public responds to characterizations of Supreme Court nominees’ judicial philosophies. The data

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\(^1\)https://www.youtube.com/watch?v=TuZEKIRgDEg
reveal that while partisanship and ideology strongly influence their public support, nomi-
zees’ judicial philosophies also matter. The public supports nominees who are described as “originalists” (i.e., those who look to the intent of the framers to reach conclusions about the constitution’s meaning) and oppose nominees who purport to apply a living constitution approach (i.e., those who look to the evolving views and values of the American public when interpreting the Constitution). The data also uncover significant polarization between Democrats and Republicans over the use of these judicial philosophies. Finally, the data show that while judicial philosophy matters for Democrats and Republicans, it seems to motivate Republicans more.

**Supreme Court Confirmation Politics**

Politics have nearly always affected the federal judicial confirmation process (Epstein and Segal 2005). Just as the human brain has two interacting hemispheres, the confirmation process has always had both a legal hemisphere and a political hemisphere. For example, George Washington’s nomination of John Rutledge sank, in large part, because Federalists distrusted Rutledge’s opposition to the Jay Treaty (Unger 2014). For political reasons, the Whig Senate killed Andrew Jackson’s nomination of Roger Taney to be an Associate Justice. Herbert Hoover failed to win over enough senators to confirm John Parker to the High Court, largely because of his ties to railroad companies (Maltese 1995). We could add to this list but the point obtains: Historically, politics have often influenced Supreme Court nominations and confirmations (Abraham 1992, 1999).

Yet even while acknowledging the ancient connection between politics and judicial appointments, there is no escape from the belief that today’s confirmation process is more uniformly rotten than ever. There seems to be a fairly general consensus that the modern ideology-heavy confirmation process is a “broken” (Cornyn 2003) “mess” (Carter 1994). One need look no farther than the treatment Brett Kavanaugh and Neil Gorsuch received from some Senate Democrats, or the treatment Elena Kagan and Sonia Sotomayor received from
some Senate Republicans. Only three Democratic senators voted for Gorsuch. Only five Republicans voted for Kagan. Since the debacle of the Bork nomination, most nominees have gone through hyper-charged confirmation battles. The parties’ recent changes to the filibuster have laid bare the brass knuckle politics of our modern confirmation process.

For our purposes, though, we are more concerned with how nominee characteristics influence the public’s views of those nominees. Perhaps not surprisingly, empirical scholarship strongly supports the notion that partisanship and ideology influence the public’s views of Supreme Court nominees. Many scholars find that ideological proximity to the nominee or co-partisanship with the appointing president are the leading causes of public support for a nominee (Badas and Stauffer 2018; Engst, Gschwend and Sternberg N.d.; Hoekstra and LaRowe 2013). Chen and Bryan (2018) argue that the most important factor predicting public support for a nominee is ideological agreement with him or her. Bartels and Johnston (2011, 108) find that the public believes nominees “should be required to state their views on controversial issues,” and that the President and the Senate should consider “how the nominee might vote on controversial issues.” Armaly (2018) shows that Justice Scalia’s death—and President Obama’s consequent possibility to fill that vacancy—led to an increase in support for the Court among Democrats. These studies show that partisanship and ideology strongly motivate support for or opposition to High Court nominees.

Factors other than partisanship and ideology also influence the public’s support for nominees. The public appears to base some support for nominees on their legal qualifications. Hoekstra and LaRowe (2013) find the public supports nominees who attend top law schools, receive high ratings from the American Bar Association, and are praised for their years of service as sitting judges. Kaslovsky, Rogowski and Stone (N.d.) find evidence that legal experience and attending elite Ivy League schools bolsters public support. Perhaps as a consequence of the public’s support for legal qualifications, senators cast their confirmation votes, in part, based on nominee qualifications (Epstein and Segal 2005; Epstein et al. 2005). Some scholarship also suggests the public bases its support for nominees on demographic
Characteristics. Badas and Stauffer (2018) conclude that shared identity increased support for Clarence Thomas among liberal African Americans, for Elena Kagan among conservative women, and for Sonia Sotomayor among conservative Latinos—all groups not otherwise disposed to support them but for their demographic ties. Kaslovsky, Rogowski and Stone (N.d.) find similar effects in an experimental setting (but see Sen 2017). In short, ideology, partisanship, legal qualifications, and demographic considerations affect how the public evaluates High Court nominees.

But what about the nominees’ judicial philosophies? Judicial philosophy, after all, should be one of the most important factors the public uses to evaluate judicial nominees. And it is something that receives attention during the confirmation process. Yet, surprisingly, we know nothing about its role in public support for nominees.

Public Evaluations and Judicial Philosophy

Before we proceed, we address an important question: do most Americans hold views about and preferences for judicial philosophies? Probably not initially—at least without some prompting or explanation. In public opinion research, a revealed opinion or preference is an approximation of a latent attitude. And an attitude is a “psychological tendency that is expressed by evaluating a particular entity with some degree of favor or disfavor” (Eagly and Chaiken 1993, 1). True attitudes tend to be stable and well-defined. It seems hard to believe that Americans, who generally have little information about the Court, hold deep-seated, stable, and well-defined preferences about judicial philosophy. Indeed, some scholars question whether they have strong attitudes about anything at all (Converse 2006; Zaller 1992).

Yet that cannot be the end of the story. For we know that Americans hold particular views toward particular institutions, and nowhere is this truer than for their views of

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2Sen (2017) concludes, however, that demographics have no influence once controlling for the partisanship of the nominee.
the Court. Americans tend to trust the Court more than they do the other branches of government.\(^3\) They evaluate judicial nominees based on their perceived legal qualifications. (Just ask Harriet Miers.\(^4\)) Americans recognize the need for an independent judiciary. They generally are unwilling to seek changes in the personnel and structure of the Court simply out of disagreement with its specific decisions (Gibson and Caldeira 1992). Indeed, Gibson and Nelson (2017) argue that diffuse support for the Court is a function of the public seeing the Court as unlike an ordinary political institution.

While it is clear that citizens recognize judicial decision making involves some extralegal considerations, they nevertheless believe justices typically heed legal norms (Gibson and Caldeira 2011). For example, the public proffered more supportive views of the Court when they believed Chief Justice Roberts upheld the Affordable Care Act out of sincere legal reasoning, and were less supportive when they “learned” that he voted strategically and contrary to his own personal ideology (Christenson and Glick 2015).\(^5\) Thus, in multiple ways, Americans distinguish between the Court as a legal institution and other institutions. And so they may have general thoughts about proper judging (i.e., judicial philosophy) that can be activated. We believe that when presented with information about a nominee’s judicial philosophy, the public will use that information to inform their evaluations.

\(^3\)https://news.gallup.com/poll/219674/trust-judicial-branch-executive-branch-down.aspx

\(^4\)George W. Bush nominated Harriet Miers to fill a vacancy on the United States Supreme Court. She was perceived as lacking serious legal qualifications and withdrew her nomination. Segal-Cover scores place Miers at .36 on a 0-1 scale of perceived judicial quality. In contrast, John Roberts is rated at .97 and Samuel Alito at .81 (Comiskey 2008).

\(^5\)In addition, strong support for the Court is a function of perceptions of the fairness of decision-making procedures (Tyler and Rasinski 1991). It is not a stretch to view judicial philosophy as a symbol of both principled decision-making and procedural fairness.
The next question, then, is whether the public actually receives information about nominees’ judicial philosophies. The answer is yes. Judicial philosophy is a major component of media coverage (Guliuzza III, Reagan and Barrett 1991; Comiskey 1999; Ringhand and Collins 2010). For example, in their exhaustive study, Ringhand and Collins report that “three issues have dominated the substance of [confirmation] hearings: civil rights, judicial philosophy and criminal justice” (601). Ringhand and Collins estimate that judicial philosophy “has consistently been in a range of approximately 10% to 20% of hearing comments.” And that count probably underestimates the attention judicial philosophy receives in confirmation hearings, as Ringhand and Collins acknowledge (618).

News and polling organizations also tend to focus on nominees’ judicial philosophies. In particular, they often discuss originalism and living constitutionalism. (We describe these philosophies in the next section.) In September of 1987, for example, the ABC/Washington Post and Gallup/Newsweek polls asked respondents whether they preferred a Supreme Court that “[sticks] closely to founding fathers’ intentions” or one that “makes decisions based on a modern interpretation of what the Constitution means.” From 2005 to 2018, at least 18 polls administered by 7 major polling organizations asked similar questions regarding which of the two philosophies the public preferred.6 The consistency with which this topic has appeared in surveys by major polling organizations is another indication of its relevance to the public. As the news media and others highlight judicial philosophy, they may prime the public to evaluate judicial nominees based on those same criteria (e.g., Baumgartner, Morris and Walth 2012).

Now, returning to the question we raised at the beginning of this section, we think it unlikely (though possible) that most of the public has deep-seated beliefs about judicial philosophies. Nevertheless, they do think the Court is unique, and they will, we believe,

6The polling organizations were ABC News/Washington Post, Fox News/Opinion Dynamics, Gallup/Newsweek, NBC News/Wall Street Journal, Pew Research Center, Quinnipiac University Poll, and Time/Abt SRBI. Specific poll results available upon request.
consider a nominee’s judicial philosophy when provided information about it. Whether they learn about these philosophies from the news, from co-partisans, or from elite opinion drivers is outside the purview of this study. That is, we are agnostic as to whether people have \textit{ex ante} beliefs about specific judicial philosophies or whether people react to information about those philosophies when provided to them. Our goal is simply to determine whether people evaluate nominees based on their perceived judicial philosophies when provided information about them. Given their views that the Court is a unique institution, we believe they will. We expect members of the public—when provided with information about a nominee’s judicial philosophy—will evaluate a judicial nominee based on judicial philosophy (as well as partisanship, ideology, and legal qualifications).

\textit{Three Judicial Philosophies}

We focus on how the public evaluates nominees and their views on three general judicial philosophies: Originalism, Living Constitutionalism, and Stare Decisis.\footnote{In our conjoint experiment, we actually varied the nominees’ judicial philosophies among: Living Constitutionalism, Global Outlook, Historical Practice, Moral Philosophy, Original Intent, Original Meaning, Pragmatism, and Stare Decisis. We include a discussion of these philosophies in Section B the Appendix.} We focus our analysis on these three prominent judicial theories because they are the most systematically well known and discussed (see, e.g., Scalia 1997).

\textit{Originalism}. We told some respondents that a nominee would “look to the intent of the Framers to reach conclusions about the meaning of the Constitution” (what could be considered original intent) and others that nominees “consider what the words in the Constitution meant at the time those words were crafted” (what could be considered original meaning). These theories argue that judges should interpret the law by looking at what those who crafted it intended. Justices rely on original intent because, supporters argue, it is the only neutral way of deciding cases and preventing justices from imposing their
own preferences. Supporters also suggest it enhances stability in the law. Our times may change, but the past is done. And so we can look to the Framers as a fixed point around which our constitutional decisions revolve. For example, in District of Columbia v. Heller (2008), Justice Scalia determined the meaning of “arms” in the Second Amendment thusly: “The 18th-century meaning [of “arms”] is no different from the meaning today. The 1773 edition of Samuel Johnson’s dictionary defined ‘arms’ as ‘[w]eapons of offence, or armour of defence.’” Opponents point out that determining Framer intent is impossible. There were so many Framers with different views, that selecting one Framer channels the outcome toward the direction sought. And so it may not be a neutral sherpa guiding judges through confusing legal terrain.

Living Constitutionalism. We told some of our respondents that a nominee would “look to the evolving views and values of the American public when interpreting the Constitution.” Supporters of this judicial philosophy argue that it keeps the Court and the Constitution up with the times and therefore enhances their legitimacy. So, whereas the death sentence for burglary may not have been viewed as cruel and unusual at the time of the Framing, many people today might see it as so. In Trop v. Dulles (1958), for example, the Court interpreted the Eight Amendment’s “cruel and unusual” language not in terms understood at the time of its creation, but in a modern context, when it found that revoking citizenship as a punishment for a crime was unconstitutional. Opponents point out that the approach, while framed in terms of updating the Constitution in order to protect its legitimacy, actually disrespects the Constitution. The Constitution separates powers among the branches of government but favors the elected branches. It created the legislature, not the courts, to make policy. If the Constitution itself needs to be updated, people can do so through the amendment process. Otherwise, they say, judicial policymaking is simply an illegitimate power grab by unelected judges.

Of course, some critics argue that looking to certain dictionaries or founding era documents can shade the analysis one way or another.
Stare Decisis. We also told some of our respondents that nominees “interpret the Constitution based on precedents established in previous cases.” Chief Justice Roberts famously explained this approach during his senate confirmation hearing, stating: “Judges are like umpires. Umpires don’t make the rules; they apply them” (Roberts 2005, 55). This philosophy argues that judges should behave incrementally and follow the collective wisdom of previous judges. Supporters of this view argue that it binds judges to previous decisions and thereby enhances the rule of law through stability. Still, the approach has its detractors. First and foremost are empirical scholars who argue that judges, at least appellate court judges, do not actually adhere to this approach (Segal and Spaeth 2002, 1996). Others suggest that even if judges did adhere to a norm of precedent, the Supreme Court hears so many cases of first impression that existing case law will not be particularly useful. And, of course, there is the fact that the Supreme Court has control over its own agenda and can therefore select cases without controlling precedent. At any rate, following precedent is an ancient judicial philosophy to which many claim fidelity and so we included it in our experiment. And while stare decisis is not quite a judicial philosophy in the same way as originalism or living constitutionalism, it is the most widely discussed aspect of judging, which led us to include it in the survey.

The descriptions we provided to our respondents are similar to the nominees’ own actual statements. For example, on the night President Trump nominated him to the Court, Justice Kavanaugh stated: “My judicial philosophy is straightforward: A judge must be independent and must interpret the law, not make the law. A judge must interpret statutes as written, and a judge must interpret the Constitution as written, informed by history and tradition and precedent” (Kavanaugh 2018). Justice Gorsuch made similar remarks, stating: “in our legal order it is for Congress and not the courts to write new laws. It is the role of judges to apply, not alter, the work of the people’s representatives. A judge who likes every outcome he reaches is very likely a bad judge…” (Gorsuch 2017). In short, these descriptions generally fit what people tend to see and hear about actual nominees.
On the whole, we have no expectation regarding which judicial philosophy the public will prefer generally. On this point we are admittedly atheoretical. We do expect, however, that individual preferences over judicial philosophy will be a function of one’s partisanship or ideology. Conservatives are likely to prefer judicial philosophies that emphasize a preference for the status quo. Originalism accomplishes that. Liberals are likely to desire judicial philosophies that allow for a loose construction of the law and more progressive interpretations. The living constitution approach accomplishes that.

It is possible, of course, that judicial philosophy acts also as an additional ideological or partisan signal. A declaration of adherence to originalism or living constitutionalism might signal to the public a seriousness regarding the nominee’s commitment to conservative or liberal judicial decision-making. Given the inconsistent voting behavior of some justices (e.g., Kennedy, O’Connor, and Souter), the public may seek additional signals that a nominee is truly committed to deciding cases in a particular fashion. Sending the signals of originalism or living constitutionalism might help assuage uncertain Courtwatchers that a nominee is “the real deal.”

The Conjoint Experiment

To determine whether, and to what extent, the public evaluates nominees based on their perceived judicial philosophies, we executed a conjoint experiment. Because a conjoint experiment differs from traditional and more well known experiments, it requires a bit of explanation. A traditional experiment isolates a causal effect by “treating” a randomly-assigned subset of individuals and then comparing outcomes between the treated and untreated groups. One significant weakness of this traditional approach, however, is that testing for the independent and interactive effects of additional variables is time-consuming, requires a large number of participants, and is therefore costly.

A conjoint experiment circumvents these limitations. In a conjoint experiment, the researcher can present respondents with multiple items to evaluate, and thus increase sample
size in a cost-effective, yet appropriate, manner. The conjoint allows researchers to test the causal effects of a number of item attributes simultaneously. An attribute is a characteristic of the item being evaluated. In our context, it is a characteristics of a nominee. Each attribute has a pre-determined number of levels. For example, the levels of the attribute Sex are “male” and “female.” The levels of the attribute Nominee Religion could be “Christian,” “Jewish,” or “Not Religious.” Any number of attributes or characteristics may be specified.\(^9\) (We provide an example of the experiment shortly.)

Another benefit, the conjoint experiment allows us to limit the impact of social desirability bias. In conjoints, respondents encounter profiles that consist of multiple attribute levels. That is, researchers need not vary only one single characteristic to measure a causal effect. Like list experiments (see, e.g., Blair and Imai 2012), conjoints provide individual respondents with multiple rationales for selecting a candidate, some of which may be based on a socially undesirable characteristic. So, respondents can reveal their true preferences without tipping their hands, and we can uncover them. Traditional experiments may bias results by emphasizing a specific attribute and de-emphasizing others. The complete randomization of attribute levels for each profile evaluation in the conjoint makes it unlikely respondents will focus on one particular attribute in their evaluations.

Though conjoint experiments first became popular in market research, they are becoming popular in political science. For example, Hainmueller, Hopkins and Yamamoto (2013) showcase the value of conjoint experiments for questions in which political scientists are interested. Their study presented survey respondents with eight side-by-side descriptions of two would-be presidential candidates and asked them to evaluate the candidates. The experiment allowed them to test the effects of various descriptors on the probability a respondent voted for one candidate over another. (They also performed a similar experiment in which respondents chose to admit one of two potential immigrants into the country.) Sim-

\(^9\)Typically, researchers create approximately ten characteristics (e.g., Hainmueller, Hopkins and Yamamoto 2013), though they may include more (Bansak et al. 2017).
ilarly, Ono and Burden (2017) investigate whether voters use a candidate’s sex as a voting heuristic. They presented survey respondents with side-by-side profiles of candidates for elected office. The profiles included personal, party, issue, and polling information. The experiment allowed them to test the simultaneous impact of these traits, and most importantly, uncover the causal effect of sex when presented alongside other common information. Sen (2017) used a conjoint experiment to analyze the impact of co-partisanship on evaluations of Supreme Court nominees.

To perform our conjoint experiment, we surveyed 1,000 adult respondents in April and May 2018 (before the Kennedy vacancy), using YouGov.10 We weighted survey responses by matching respondents’ 2016 presidential vote choice, gender, age, race, and education with the U.S. general population (according to the American Community Survey). We provided each of our 1,000 respondents five pairs of possible (but fictional) nominees with randomly assigned attributes.11 The attributes included the nominees’: judicial philosophy, age, race, sex, professional background, religion, law school, ideology, and American Bar Association rating. We also informed respondents of whether the nominee ever held elective office and the party of the president who nominated him or her. For each pair of nominees presented, respondents indicated which nominee they most preferred to see on the Court. They also rated each nominee on a 5-point scale. (Our empirical results are substantively similar regardless of whether we analyze respondents’ discrete choice or their relative rankings of nominees.12)

10See section A of the Appendix for more detailed information on the survey and respondents.

11We did not want to show respondents pictures of actual justices for fear of influencing their responses and introducing more complexity.

12Forcing respondents to make a discrete choice may lead to lower levels of satisficing. Scholars continue to debate whether satisficing is an issue among professional survey takers (Hillygus, Jackson and Young 2014; Matthijsse, De Leeuw and Hox 2015).
We offered respondents a pair of nominees to evaluate—rather than a single nominee at a time—for two reasons. First, people tend to make decisions with a reference point in mind (Kahneman and Tversky 1979). They tend to make decisions relative to other possibilities. Asking them to rate nominees while looking at other possible nominees allows us to take advantage of that natural human condition. Second, it is common for news outlets to compare nominees with the justices whom they replace. For example, the New York Times posted 155 articles discussing Brett Kavanaugh within 30 days of his nomination. Of those stories, 49.7% mentioned the justice he replaced (Justice Kennedy). Similarly, the Wall Street Journal did so 42.5% of the time. Thus, readers of these popular news outlets were, at the very least, implicitly encouraged to evaluate the nominee with another person in mind. Our experiment incorporates this reality.

Of course, forcing people to choose between two alternatives is not new to scholarship. Forcing the choice often reveals useful information about the respondent. Indeed, since 1992, the ANES has asked respondents to choose qualities they believe children should have. The qualities usually are a forced choice between independence and respect for elders; obedience versus self-reliance; curiosity versus good manners; and being considerate or being well behaved. The answers people give are thought to reveal their latent authoritarianism. At any rate, Hainmueller, Hopkins and Yamamoto (2013) argue that choice-based conjoint analysis is more common than rating-based analysis.

Our primary interest is whether respondents evaluate nominees based on their judicial philosophies. To that end, we asked respondents to choose among nominees who espoused various judicial philosophies, including the three prominent philosophies we described above: originalism, living constitutionalism, and stare decisis. We also accounted for other features that might lead members of the public to support or oppose Supreme Court nominees. We included the Party of the Nominating President (Democratic or Republican) and the Ideology of the nominee (Liberal, Moderate, or Conservative). In order to increase the realism of the experiment and align it with the current political environment, Republican
presidents nominated only moderates or conservatives. Democratic presidents nominated only moderates or liberals.

We employed various measures for the nominees’ legal qualifications. We varied the nominees’ Legal Education to account for whether they received their law degrees from an elite law school (Yale, Stanford, Harvard, Chicago, Columbia, Cornell) or a non-elite law school (Vanderbilt, Iowa, Notre Dame, Arizona State, George Washington, North Carolina, Texas, Wisconsin, and Connecticut). Using weighted randomization, we randomly selected the university appearing in a profile, with higher ranked universities appearing more often than lower ranked universities.\textsuperscript{13} We included American Bar Association Rating as not qualified, qualified, or well qualified. Weighted randomization favored more qualified nominees.

We also include nominee demographic characteristics. We varied the nominees’ Age from 40-65 years old. We also varied the nominees’ Sex (male or female). We varied the nominees’ Race to take on one of the following options: White, Black, Asian, Native American, or Hispanic. Considering the prevalence of nominees and current judges who are white, race was assigned a 37.5 percent chance of being white, 25 percent chance of being black, 12.5 percent chance of being Asian, 12.5 percent chance of being Native American, and a 12.5 percent of being Hispanic. We next varied the nominees’ Religion, with nominees assigned equal probabilities of being Catholic, Lutheran, Methodist, Non-denominational Christian, Jewish, or Not Religious.

We further accounted for whether the nominee ever Held Elected Office. Nominees were more likely to have not held elected office in the past (66% probability). We also controlled for the nominees’ Current Position. Nominees were equally likely to be: an attorney in private practice, an attorney for the United States, a state supreme court justice, a federal trial court judge, a federal appellate court judge, or a law professor.

\textsuperscript{13}We obtained the law school rankings from U.S. News & World Report. Other studies do the same (see, e.g., Johnson, Wahlbeck and Spriggs 2006).
### Table 1: Example of Conjoint Experiment Profiles

<table>
<thead>
<tr>
<th></th>
<th>Nominee A</th>
<th>Nominee B</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Age</strong></td>
<td>62</td>
<td>48</td>
</tr>
<tr>
<td><strong>Appointing President</strong></td>
<td>Republican</td>
<td>Republican</td>
</tr>
<tr>
<td><strong>Ideology</strong></td>
<td>Conservative</td>
<td>Moderate</td>
</tr>
<tr>
<td><strong>Religion</strong></td>
<td>Not Religious</td>
<td>Non-Denominational Christian</td>
</tr>
<tr>
<td><strong>ABA Rating</strong></td>
<td>Well Qualified</td>
<td>Well Qualified</td>
</tr>
<tr>
<td><strong>Race</strong></td>
<td>Native American</td>
<td>Black</td>
</tr>
<tr>
<td><strong>Current Position</strong></td>
<td>Attorney for the US government</td>
<td>Federal appellate judge</td>
</tr>
<tr>
<td><strong>Legal Education</strong></td>
<td>Harvard University</td>
<td>Harvard University</td>
</tr>
<tr>
<td><strong>Sex</strong></td>
<td>Male</td>
<td>Female</td>
</tr>
<tr>
<td><strong>Held Elected Office</strong></td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Judicial Philosophy</strong></td>
<td>Considers what the words in the Constitution meant at the time those words were crafted</td>
<td>Interprets the Constitution based on the precedents established in previous cases</td>
</tr>
</tbody>
</table>

As Table 1 shows, respondents might choose between, on the one hand, a Native American male government attorney who believes in originalism, and a black female circuit court judge who believes in precedent on the other. Another respondent might choose between a white female state supreme court justice who believes in a living constitution, and a Hispanic male law professor who employs originalism. By varying these attributes across a large sample of respondents, the conjoint experiment allows us to determine which attributes respondents most prefer.

### Results

To measure the causal effects of attribute levels in our conjoint experiment, we calculate Average Marginal Component Effects (or AMCEs) (Hainmueller, Hopkins and Yamamoto 2013). AMCEs are straightforward to interpret. They represent the average causal effect of the attribute on the probability the respondent chooses a particular nominee. So, for example, an AMCE of 0.15 for the “female” level of the Sex attribute would suggest that

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14The causal estimate is relative to the distribution of potential choice profiles. We specified our non-uniform profile assignment scheme (caused by both weighted randomization and profile combination restrictions) when estimating causal effects.
a respondent has a 0.15 greater likelihood of selecting a female nominee than a male nominee (the baseline). In other words, AMCEs reflect the change in probability of voting for a nominee caused by the indicated level of an attribute, compared to its baseline. We weight respondents such that the results reflect the average effect of the attribute on a sample that is representative of the US population.

Results From All Respondents

When provided with information about judicial philosophy, does that information independently influence how the general public evaluates Supreme Court nominees? The results say yes. Figure 1 shows the AMCEs for the entire population in our sample, and it reveals that when provided information about judicial philosophies, the general public evaluates nominees based on those philosophies.\textsuperscript{15} More specifically, Figure 1 shows the change in the probability of voting for a nominee (x-axis) with the associated attribute level on the y-axis. Horizontal lines represent 95 percent confidence intervals. The data show that the general public appears to prefer \textit{Originalism} over the \textit{Living Constitution} approach. Respondents are 5 percentage points more likely to support an \textit{Originalist} than a \textit{Living Constitutionalist} nominee. (It is worth pointing out that judicial philosophy has an effect on nominee support that is comparable to the effects of nominee ideology or qualifications.) This suggests to us that in the realm of “selling” judicial philosophies, originalism seems to have won out, at least for the time being.

Some may find it surprising that the general public has preferences over judicial philosophies. After all, as we pointed out above, scholarship suggests the public generally has a low level of political knowledge (Converse 1964; Carpini and Keeter 1996; Somin 2006). But our findings suggest that respondents were able to pick up nuances in the judicial philosophies

\textsuperscript{15}For a figure that shows the disaggregation of original intent and original meaning, see section C of Appendix. For the full results, including the philosophies of Global Outlook, Historical Practice, Moral Philosophy, and Pragmatism, see section D of the Appendix.
we presented them. Indeed, looking deeper into the respondents’ backgrounds reveals that judicial philosophies influence respondents’ views regardless of their education levels. Those with only a high school education were just as attentive to the judicial philosophy frame as were the college educated and those with post-graduate degrees.

It could be, of course, that people do not actually prefer originalism to a living constitution approach in the application of the law. Perhaps respondents simply “like the sound” of originalism better. A person who knows nothing about judicial philosophy might prefer one that it is rooted in the framing of the constitution more than one rooted in flexible and changing contemporary standards.\footnote{Perhaps, given an example of a case outcome, they would prefer the living constitutionalism approach to originalism. To examine this question would require a much more extensive and costly survey—one that walks respondents through the facts of a case, the different philosophies and how they are applied, and the outcomes to which those philosophies would lead. While this would be a fascinating approach it was ultimately too much for this endeavor.} We have not tested how respondents react to the application of judicial philosophies in particular cases and therefore cannot opine. Nevertheless, even if the results are driven simply by a preference for the framing of originalism, that still strikes us as important for understanding how people support or oppose High Court nominees. It means there is a built in preference for originalism. And it offers some explanation why some very conservative nominees may have made it through the Senate and why the moderately conservative (and somewhat originalist) Court retains substantial public support.

Moving on to our other variables, the general public prefers moderates to both liberal and conservative nominees. More specifically, the public is approximately 4 percentage points more likely to support a moderate nominee compared to a conservative or liberal alternative. Not surprisingly, the majority of Americans prefer moderation. Having controlled
for ideology, the party of the appointing president had no influence. Thankfully, respondents are much more likely to support qualified nominees than unqualified nominees.

![Figure 1: AMCEs of profile attributes of nominees presented to all survey participants. The estimate represents the change in the probability of voting for a nominee with the associated attribute level. Horizontal lines represent 95 percent confidence intervals. Positive values mean respondents preferred the first attribute to the second. Negative values mean they preferred the second attribute to the first.](image)

**Respondents by Party**

Whereas Figure 1 shows how *all* Americans as a group evaluate Supreme Court nominees, Figure 2 breaks down the results by respondent party ID.\(^{17}\) It examines how Democrats,

\(^{17}\)Respondent’s party identification (on a 7-point scale) and ideology (on a 5-point scale) are positively correlated at .69.

Results broken down by ideology (very liberal or liberal,
Independents, and Republicans evaluate *Originalism*, *Living Constitutionalism*, and *Stare Decisis*. The squares in Figure 1 represent Democratic respondents, the circles represent Independent respondents, and the triangles represent Republican respondents. Horizontal lines represent the 95 percent confidence intervals. What should be clear is that Democrats, independents, and Republicans *all* differentiate among judicial philosophies, and they do so even while controlling for ideological and partisan factors.

Democrats, however, split with Republicans and Independents over judicial philosophy. The AMCE on *Originalism* is negative and significant for Democrats, (AMCE=-0.07) meaning they prefer nominees who espouse a *Living Constitution* approach over nominees who espouse *Originalism*. For Republicans (AMCE=0.16) and Independents (AMCE=0.09), the AMCE on *Originalism* is positive and significant, showing that they prefer *Originalism* to a *Living Constitution*.\(^\text{18}\) Indeed, comparing the AMCEs on *Originalism* versus partisanship and ideology reveals that Republicans consider philosophy to be as important as partisanship and ideology. Among Democrats, the effects are nearly but not quite as strong.

Figure 2 also confirms existing understanding of the public’s evaluation of nominees. Ideology and partisanship mattered to our respondents. Republican respondents were more likely to prefer Republican nominees over Democratic nominees. They were more likely to prefer moderates and conservatives to liberals. Democrats were slightly more likely to prefer moderate, and conservative or very conservative) are consistent with the results reported below. The only meaningful differences are that moderates have a stronger preference for moderate nominees and a weaker preference for originalist nominees than do individuals categorized as Independents. See Section I of the Appendix for more information.

\(^{18}\)Why do Independents prefer originalism to living constitutionalism? We cannot say. But it is possible that the results are time-dependent. For example, one could imagine that under a Democratic administration with nominees defending living constitutionalism, Independents might express a greater preference for living constitutionalists. We thank an anonymous reviewer for pointing out this possibility.
Figure 2: AMCEs of profile attributes of nominees presented to Democratic, Independent, and Republican survey participants. The estimate represents the change in the probability of voting for a nominee with the associated judicial philosophy. Horizontal lines represent 95 percent confidence intervals. Positive values mean respondents preferred the first attribute to the second. Negative values mean they preferred the second attribute to the first.

Liberals to moderates ($p < .10$) and always more likely to prefer liberals to conservatives. Looking at the conditional results (shown in the Appendix) revealed that Democratic respondents preferred female nominees over male nominees. Republican respondents preferred religious nominees over irreligious nominees. Neither Republicans nor Democrats preferred any nominees based on race.

One might wonder whether support for these philosophies is just cue-taking from party leaders. That is, perhaps conservatives and Republicans are used to hearing about the virtues of originalism from their tribe while liberals and Democrats are used to hearing
about the living constitution from their tribe. This is entirely possible. Still, three things lead us to believe the story is more complicated than that. First, we receive the results we do even while controlling for ideology and partisanship. So, the effects of philosophy are shorn of some of that possible linkage. Second, the careful reader will notice we never used the words “originalism” or “living constitution” with our survey respondents. We explained each philosophy without using buzz words that might instantly link the philosophy to partisanship. This suggests to us that respondents were able to take our descriptions and apply them to their own views. Third, independents (i.e., those without partisan leanings) also had definite views of judicial philosophies, which leads us to believe it is not simply cue taking by partisans, for even the least partisan respondents displayed telling effects.

The Relative Importance of Judicial Philosophy

So far, we have discovered that the American public has preferences over judicial philosophy—at least when told about those philosophies. We also discovered that originalism’s aggregate support came from Republicans and Independents. Both Republicans and Independents prefer originalism while Democrats prefer a living constitution approach. We now dig deeper to find out just how important judicial philosophy was to our respondents.

We estimate a logistic regression model to calculate the conditions under which respondents selected hypothetical nominees. Our dependent variable, Select Nominee, equals 1 when the respondent selected the profile for a particular nominee and 0 when the respondent did not select that nominee profile. We interact respondent party identification, party of the appointing president, and judicial philosophy in a three-way interaction. We also include American Bar Association Ratings and Ideology as controls in the model. We exclude from the analysis respondents who identified as either “Not Sure” or “Other” when asked about their own partisan identification.

Due to the well known difficulty of interpreting coefficient estimates in a three-way interaction, we display predicted probabilities. We separately calculate the probability that
Democratic and Republican respondents select a nominee appointed by a Democratic or Republican president. We calculate these probabilities for each of the three judicial philosophies mentioned. (We held *American Bar Association Rating* at Well Qualified and *Ideology* at Moderate when making these calculations.)

Figure 3: Predicted probabilities of a Democratic respondent supporting Democratic and Republican appointed nominees who espouse a Living Constitution, Stare Decisis (Precedent) or Originalist judicial philosophy. Bars represent 95 percent confidence intervals. Results obtained via logistic regression. For predictions, characteristics were held as follows: Rating-Well Qualified; Ideology-Moderate.

**Democratic Respondents**

Figure 3 displays the predictions among Democratic respondents. It shows, first, that partisanship strongly influences how Democratic respondents evaluate judicial nomi-
nees. Consider the comparison between the first and fourth plots, which focus on a living constitution approach, applied by Democratic nominees (plot 1) and Republican nominees (plot 4). The Democratic respondent has a 0.78 probability of supporting a Democratic nominee who espouses a Living Constitutionalism philosophy but a 0.47 probability of supporting a Republican nominee who espouses it. This 31-point difference is attributable to partisan differences. Next, consider the comparison between the third and sixth plots, which focus on originalism. A Democratic respondent has a 0.66 probability of selecting a Democratic nominee who espouses Originalism but a 0.44 probability of selecting a Republican nominee who espouses Originalism. This 22-point difference is also attributable to partisan differences. Put simply, partisanship is a strong predictor of support among Democratic respondents. When holding judicial philosophy constant, they are always more likely to support the Democratic nominee over the Republican nominee.

But the data also show that Democratic respondents evaluate nominees based, in part, on judicial philosophy. Consider plots one and three in Figure 3. When we hold the nominee’s partisanship constant (at Democratic) but vary his or her judicial philosophy, we observe the effects of judicial philosophy. A Democratic respondent has a 0.78 probability of supporting a Democratic nominee who espouses a Living Constitution philosophy but a 0.67 probability of supporting a Democratic nominee who espouses Originalism. This 11-point difference is attributable to judicial philosophy—and the Democratic respondents’ dislike of originalism. On the other hand, when evaluating Republican nominees (plots 4 and 6), Democrats do not distinguish among judicial philosophies. They “punish” Republican nominees equally. This suggests that a Republican president facing a Democratic senate would be unlikely to pick up public support by nominating a Living Constitutionalist judge.

**Republican Respondents**

Figure 4 displays the predictions among Republican respondents. Not surprisingly, partisanship also matters to Republicans. Consider the comparison between the first and fourth plots, which focus on a living constitution approach. A Republican respondent has
Figure 4: Predicted probabilities of a Republican respondent supporting Democratic and Republican appointed nominees who espouse a Living Constitution, Stare Decisis (Precedent), or Originalist judicial philosophy. Bars represent 95 percent confidence intervals. Results obtained vis-à-vis logistic regression. For predictions, characteristics were held as follows: Rating-Well Qualified; Ideology-Moderate.

a 0.36 probability of selecting a Democratic nominee when that nominee espouses a Living Constitution. But that same Republican respondent has a 0.68 probability of selecting a Republican nominee who believes in a Living Constitution. This 32-point difference reflects partisanship. We retrieve similar results when we focus on Originalism. The Republican respondent has a 0.54 probability of supporting a Democratic nominee who espouses Originalism but a 0.84 probability of supporting a Republican nominee who espouses it. This
30-point difference reveals that among Republicans, partisanship is a strong predictor of support.

Judicial philosophy, however, also has a substantive effect on Republicans—and its effect is considerably greater than on Democrats. Consider plots one and three in Figure 4. When we hold the nominee’s partisanship to be Democratic but vary his or her judicial philosophy, we observe the effects of judicial philosophy. A Republican respondent has a 0.36 probability of supporting a Democratic nominee who espouses a *Living Constitution* philosophy, but a 0.54 probability of supporting a Democratic nominee who espouses *Originalism*. This 18-point increase results from the nominee’s judicial philosophy. Looking at Republican nominees (plots 4 and 6) also reveals a strong effect. A Republican respondent has a 0.68 probability of supporting a Republican nominee who espouses *Living Constitutionalism* but a 0.84 probability of supporting a Republican nominee who espouses *Originalism*. This 16-point difference, again, speaks to the effect of judicial philosophy on Republican respondents. Unlike Democratic respondents, Republican respondents strongly respond to variation in judicial philosophy whether the nominee is a Democratic or Republican. This suggests to us that a Democratic president facing a Republican senate might gain votes (and public support for a nominee) by nominating an Originalist.

**Conclusion**

Supreme Court nominations in recent years have become increasingly polarized. They emphasize ideology and partisanship more than they did in the past. Chief Justice Roberts’s comments in the introduction underscore the point. We have shown, though, that the public can also evaluate nominees through the lens of judicial philosophy. When provided summaries of nominees’ judicial philosophies, the public can differentiate between originalism and living constitutionalism (as well as stare decisis). And the effects on their support are notable. While the general public prefers originalism to living constitutionalism, the data revealed significant polarization between Democrats and Republicans in their views. And
even though respondents of both parties used judicial philosophy, it appears to have a larger effect on Republicans than on Democrats.

To be sure, these results are not without their limitations. As we stated above, we provided our respondents brief descriptions of the three philosophies and then gauged their responses. It could be that once learning in depth about the philosophies, they become more or less enamored of them. Perhaps a couple of historical examples might change their outlook. While this is possible, we hasten to point out that the descriptions we offered are in line with what they tend to hear from the nominees and from the media, providing external validity to the study.

Similarly, we wish to be clear that we believe judicial philosophy, while plainly something respondents considered in our study, is not the primary factor respondents use to evaluate nominees. Partisanship and ideology remain king. And, while these philosophies obviously have some partisan connections, the models reveal effects from philosophy that were statistically independent of partisanship and ideology. What is more, even if judicial philosophy is some kind of residual partisan or ideological signaling, our data suggest it would be a multiplier effect still worth studying.

Our results can inform current debates regarding the nomination and confirmation process. While Senators appear to prefer a scorched-earth policy in their efforts either to confirm or oppose nominees, we find that the public, at least in the abstract and when so prompted, can evaluate nominees using an arguably reasonable set of criteria. Though partisanship and ideology matter to the public, so do qualifications and judicial philosophy. The more responsive the nomination and confirmation process is to the public’s (and not factional) preferences, the more likely we will see a fairer and even-tempered confirmation process.

Our claim is not that the public holds deeply rooted beliefs about judicial philosophy (though some members of the public surely do). Rather, we argue that when made aware of a nominee’s philosophy, the public uses that information to evaluate nominees. This infor-
Information is often available to the public—as we discovered in Justice Kavanaugh’s nomination announcement remarks and those of Justice Gorsuch. There may be times when nominees want to highlight their philosophies and other times when they want to hide them. Divided government may lead to such behavior. These are empirical questions worth pursuing. For the time being, though, our data show that when given brief (and realistic) descriptions of judicial philosophy, respondents use the information to evaluate nominees.
References


Hillygus, D Sunshine, Natalie Jackson and M Young. 2014. “Professional respondents in non-probability online panels.”.


Appendix

A. Survey information

Interviews: 1000
Field Period: April 26, 2018 - May 04, 2018

YouGov interviewed 1096 respondents who were then matched down to a sample of 1000 to produce the final dataset. The respondents were matched to a sampling frame on gender, age, race, and education. The frame was constructed by stratified sampling from the full 2016 American Community Survey (ACS) 1-year sample with selection within strata by weighted sampling with replacements (using the person weights on the public use file).

The matched cases were weighted to the sampling frame using propensity scores. The matched cases and the frame were combined and a logistic regression was estimated for inclusion in the frame. The propensity score function included age, gender, race/ethnicity, years of education, and region. The propensity scores were grouped into deciles of the estimated propensity score in the frame and post-stratified according to these deciles.

The weights were then post-stratified on 2016 Presidential vote choice, and a four-way stratification of gender, age (4-categories), race (4-categories), and education (4-categories), to produce the final weight.
B. Judicial Philosophies

Global Outlook. We told respondents that some nominees “look to how public officials in other countries have interpreted similar words or phrases.” This we did to gauge the public’s response to the recent debates over whether justices should look to foreign sources of law when deciding domestic cases. For example, in Lawrence v. Texas (2003), Justice Kennedy cited a host of foreign legal sources to strike down a Texas statute banning homosexual sodomy. In the Court’s opinion, Kennedy cited a committee report to the British Parliament, British legislation passed in 1967, decisions by the European Court of Human Rights, and other foreign sources of law (Black, Owens and Williams 2015). Justices Kennedy, O’Connor, Breyer, and Ginsburg publicly advocated that justices at least look to foreign law (Ginsburg 2006, 2005; Toobin 2005; Breyer 2003; O’Connor 2002). Chief Justice Roberts (Roberts 2005) and Justices Scalia and Thomas, on the other hand, rejected it as constitutionally unsound. Legal scholars engaged the debate too. Some claimed that citing foreign law violates national sovereignty and ignores the U.S. Constitution (Kochan 2006). Others claimed the practice to be useful, arguing that looking to foreign law ensures the United States Supreme Court remains relevant internationally (Ginsburg 2005; Slaughter 2004; Koh 2001; Ackerman 1997). Given the recency of these debates, we included this philosophy as a choice in our survey.

Historical Practice. We told other respondents that some nominees “look to how other public officials in the United States have interpreted similar words or phrases.” This theory sees the judge as examining historical practices in other jurisdictions and other branches of government to interpret constitutional provisions. Consider Atkins v. United States (2002). Writing for the Court in this death penalty case, Justice Stevens looked to how the states historically came down on the death penalty for the mentally handicapped:

“In 1990 Kentucky and Tennessee enacted statutes similar to those in Georgia and Maryland, as did New Mexico in 1991, Arkansas, Colorado, Washington, Indiana, and Kansas in 1993 and 1994. In 1995, when New York reinstated its death penalty, it emulated the Federal Government by expressly exempting the mentally retarded. Nebraska followed suit in 1998...Moreover, even in those States that allow the execution of mentally retarded offenders, the practice is uncommon.”

In a similar vein, the Court in Noel Canning v. NLRB (2014) looked to historical practice to determine when Congress was “in recess” for purposes of the recess appointments clause of the Constitution. The Court stated that “the longstanding practice of the government” could inform the Court’s determination of what the law is. It went on to declare:

The upshot is that the President has consistently and frequently interpreted the Recess Appointments Clause to apply to vacancies that initially occur before, but continue to exist during, a recess of the Senate. The Senate as a body has not countered this practice for nearly three-quarters of a century, perhaps longer.

In short, the Court can interpret ambiguous constitutional (and statutory) clauses by looking to other branches of the federal government and to the states’ historical practices.

*Moral Philosophy.* A less well examined method of interpretation occurs when judges, as we told our respondents, “look to moral philosophy and principles of justice when interpreting the Constitution.” This approach is often linked to Dworkin (1996), who argued that judges should decide constitutional cases consistent with a kind of egalitarianism, forcing government to treat everyone with equal moral status. As he saw it, the Bill of Rights contains language that is moral in character, referring to moral principles in the abstract, principles that limit government power and protect individual rights. The moral philosophy gives effect—or purports to give effect—to the great abstract moral principles (not simply the words) spelled out in the Bill of Rights. In support of this view, Dworkin points to Brown v. Board of Education (1954). There, the Court relied on a moral interpretation of the Constitution. According to Dworkin, there was no appropriate “originalist” reading of the Constitution that would have directed the Court to strike down segregation in public
schools. The moral principle, however, so directed. A moral reading, he argues, is most likely to reach the Constitution’s grandest aspirations.

Pragmatism. We also told our respondents that some nominees “consider the costs and benefits of all plausible interpretations when interpreting the Constitution.” This is commonly known as the pragmatic judicial philosophy. Here, the justice determines the costs and benefits of a particular ruling, and presumably goes with the outcome that creates the greatest social utility for the most people (Posner 2003, 1990). Or, as Epstein and Walker (2010) put it: “justices who engage in this form of analysis will select among plausible constitutional interpretations the one that has the best consequences and reject the ones that have the worst” (31). Supporters of this approach suggest that because law is not always clear, it would be useful for judges to be honest about their policymaking role, and clearly to weigh the positives and negatives in their decisions. Supporters also say the approach allows for more flexibility to deal with unforeseen eventualities. Opponents of pragmatism, however, point out that it is unmoored from any kind of judicial interpretive method. It is a simple policy judgment that unelected justices impose. It’s also problematic because justices are generalists who know little about how to make effective policy.
C. Original Intent v. Original Meaning

Figure 5: AMCEs of Original Intent and Original Meaning, compared to Living Constitutionalism, for all respondents (triangle) and conditioned on respondent party identification. The estimate represents the change in the probability of voting for a nominee with the associated judicial philosophy. Horizontal lines represent 95 percent confidence intervals.
D. Full (and Unconditional) Results
E. Conditional Results

Sex:
(Baseline = Male)
Female
Race:
(Baseline = White)
Asian
Black
Hispanic
Native American
Religion:
(Baseline = Not Religious)
Catholic
Lutheran
Methodist
Non-denominational Christian
Philosophy:
(Baseline = Precedent)
Global outlook
Historical practice
Living document
Moral philosophy and principles of justice-
Originalism
Pragmatism
Party:
(Baseline = Democratic)
Republican
Ideology:
(Baseline = Conservative)
Liberal
Moderate

Change in E[Y]
F. Full (and Unconditional) Results with Ratings DV

Age:
(Baseline = 40)
41
42
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58
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60
61
62
63
64
65
Held Office:
(Baseline = No)
Yes
Ideology:
(Baseline = Moderate)
Conservative
Liberal
Legal Education:
(Baseline = Arizona State University)
Columbia University
Cornell University
George Washington University
Harvard University
Stanford University
University of Chicago
University of Connecticut
University of Iowa
University of Notre Dame
University of Texas
University of Wisconsin
Vanderbilt University
Yale University
Party:
(Baseline = Democratic)
Republican
Philosophy:
(Baseline = Living document)
Global outlook
Historical practice
Moral philosophy and principles of justice
Original intent
Original meaning
Pragmatism
Precedent
Position:
(Baseline = Attorney in private practice)
Attorney for the U.S. government
Federal appellate judge
Federal trial court judge
Law professor
State Supreme Court judge
Race:
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Asian
Black
Hispanic
Native American
Rating:
(Baseline = Not Qualified)
Qualified
Well Qualified
Religion:
(Baseline = Not Religious)
Catholic
Lutheran
Methodist
Non-denominational Christian
Sex:
(Baseline = Male)
Female

Change in E[Y]
### G. Conditional Results with Ratings DV

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Change in $E[Y]$ vs. Sex, Race, Religion, Philosophy, Party, and Ideology.
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Note: *p<0.1; **p<0.05; ***p<0.01
I. Respondent Partisanship and Respondent Ideology

Figure 6: Correlation plot between respondents’ self-reported party identification and their self-reported ideology. Points are jittered for ease of visual inspection.
Figure 7: Conjoint analysis broken down by respondents’ ideology. In the main text, results were broken down by respondents’ party identification.