Election Outcomes, *Dobbs*, and Public Support for Judicial Power

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Abstract

Drawing on work in comparative poitics, we connect public support for judicial power to elections, partisan transitions in the presidency, and citizens' partisan alignment with the president. We theorize effects of presidential copartisanship on support for two forms of judicial power. Copartisans will be less supportive of horizontal judicial power (power over the president) than outpartisans yet more supportive of vertical judicial power (power over the people). We also theorize how the effect of a landmark ruling such as *Dobbs* is contextualized within the structure induced by presidential copartisanship. Employing a rolling cross-sectional design with 16 nationally-representative surveys from 2020 to 2023, we find support for our hypotheses concerning the effect of presidential copartisanship on support for judicial power. Moreover, *Dobbs* increased support for Republicans and decreased it for Democrats. More importantly, we show how the effect of *Dobbs* is understood in the context of the structure imposed by presidential copartisanship, which influences pre-*Dobbs* baselines. *Dobbs* also restructures partisan gaps in support for horizontal and vertical power. Our work shows how a combination of presidential-electoral politics and landmark rulings influence public support for different facets of judicial power.

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Judicial power—courts maintain independence from political branches and achieve compliance with their rulings (Staton 2010)—is critical for maintaining the rule of law (Helmke and Rosenbluth 2009; Vanberg 2015) and protecting against democratic erosion (e.g., Aguiar Aguilar 2023; Gibler and Randazzo 2011; Laebens and Lührmann 2021). Existing research emphasizes that *public support* for the judicial power of high courts is important for judicial independence and power (e.g., Helmke 2010; Helmke and Rosenbluth 2009; Widner 2001), helping courts to make decisions independently (Staton 2010; Vanberg 2001) and protecting them from efforts to curb their power (Bartels, Kramon, and Schmotter 2024).

Public support for judicial power is distinct from, though related to, the concept the judicial *legitimacy,* or perceptions that a court has rightful authority to render decisions. Unlike aspects of public opinion such as trust, confidence, or approval of Court decisions, each of which capture aspects of "specific" support for the Court, support for judicial power captures a deeper, more "diffuse" support for the role and power of the Court in the judicial system. *What explains public support for judicial power for the U.S. Supreme Court?*

Existing explanations for public support for judicial power fall into two categories. A first focuses on "process" factors, such as public perceptions of the Court's procedural fairness (Tyler and Rasinski 1991), perceptions of the Court as distinct from the politicization that has captured other institutions (Gibson and Caldeira 2009; Gibson, Lodge, and Woodson 2014), and subscription to democratic values and legal principles (Caldeira and Gibson 1992; Gibson 2007; Gibson and Nelson 2015; Rivero and Stone 2023). The second set focuses on the "outcomes" of court decisions, and how agreement or disagreement with outputs—on policy or partisan grounds—of the Court can shape public support (Bartels and Johnston 2013, 2020; Christenson and Glick 2015; Clark and Kastellec 2015; Gibson 2024b; Nicholson and Hansford 2014; Rogowski and Stone 2021).

Both sets of explanations suggest that support for judicial power (or "diffuse support") is (1) monolithic and (2) should be *unrelated* to who holds political power in the other govern-

ment branches, including the executive. By contrast, we advance an alternative perspective centered on the role of citizens' *partisan alignment with the president* in structuring public support for judicial power. Adapting Bartels and Kramon's (2020) comparative framework to the U.S. Supreme Court for the first time (see also Bartels and Kramon 2022), this partisan alignment implies a conceptual distinction between *two* different aspects of judicial power: (1) judicial power over other branches of the federal government (primarily the president), which we term *horizontal power*; and (2) judicial power over citizens, which we term *vertical power.* We argue that support for judicial power is in part driven by citizens' *instrumental* motivations to achieve partisan and policy goals. As a result, partisan alignment with the president should reduce support for horizontal judicial power—people do not want *their president* to be constrained. But presidential copartisanship should increase support for vertical judicial power since many people perceive that the president shapes the Court's composition in the in-party's image (Bartels and Kramon 2022). Elections matter for judicial power. Elections that produce party transitions in the presidency will then influence and restructure support for judicial power in the public.

While this theoretical perspective centers on partisan alignment with the president in structuring public support for judicial power, we address how Supreme Court decision can upset the structure induced by presidential copartisanship and also how their effects must be contextualized in this presidential copartisanship context. Indeed, in this paper we study public support for the judicial power of the U.S. Supreme Court at a politically important time for the Court: Before and after the *Dobbs v. Jackson Women's Health Organization* decision in June 2022, which overturned *Roe v. Wade.* Thus, this paper addresses the following questions: *How do partisan presidential transitions influence public support for the judicial powers of the U.S. Supreme Court? And how does this presidential context shape how we understand the effects of landmark rulings, as well as how such rulings upset the structure induced by presidential copartisanship?*

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We analyze an original rolling cross-sectional dataset on public support for the horizontal and vertical judicial power of the U.S. Supreme Court. We collected 16 rounds of survey data beginning in January 2020 and ending in March 2023. The data include survey rounds conducted before and after the Trump-Biden presidential transition, and *after* the Supreme Court's highly visible *Dobbs* decision in June 2022. Our data thus allow us to test our argument about the importance of partisan presidential transitions *and* illustrate the impact that *Dobbs* has on public support for the power of the Supreme Court.

To test the impact of partisan alignment with the president, we use a difference-in-differences analysis that leverages the presidential transition from Trump (Republican) to Biden (Democrat) in January 2021. The advantage of this approach is that we can include party identification fixed effects in our models, which account for baseline or fixed differences between Republicans and Democrats. This is important because these partisan groups may have different views about judicial power for reasons unrelated to partisan alignment (e.g., views about part Court rulings and perceptions of how liberal or conservative the Court has been), which could make cross-sectional comparisons focusing on partisan differences misleading. Our estimates capture how these partisan groups *change* when they move in or out of partisan alignment with the president, while controlling for party identification (as well as time and other respondent characteristics). In addition, we focus our analysis around a relatively narrow time window of months around the presidential transition, which helps to rule out that other events or factors such as court decisions are driving our results.

Our findings are consistent with the partisan alignment theory and the argument that the partisan identify of the president serves to structure public opinion about judicial power. Copartisans of the president are *less* supportive of horizontal judicial power than are outpartisans, while they are *more* supportive of vertical judicial power. While the effect sizes we report appear modest, we emphasize that we are capturing changes in a relatively short time

window around the presidential transition. We also provide evidence of politically important fluctuations.

Our second set of results focuses on the impact of the *Dobbs* decision. We show that *Dobbs* had a large effect on support for both dimensions of judicial power and had the effect of disrupting the trends that were jumpstarted by the presidential transition. While Democrats were trending up and Republicans were trending down on support for vertical power—consistent with the partisan alignment theory—these trends reverse post-*Dobbs*. Support for vertical power among all Democrats dropped substantially to 50% in March 2023, while it rose to over 70% among Republicans. The *Dobbs* decision also amplified the previous trends on support for horizontal power. Democrats continued to drop from their very high levels in the Trump era, while Republicans move up to over 85% support. We also examine support for reforms that have implications for judicial power, including judicial power over elections. Our evidence illustrates that *Dobbs* damaged support for judicial power among Democrats and improved it among Republicans. Importantly, understanding the effect of a landmark rulings like *Dobbs* depends on presidential-electoral context since the pre-*Dobbs* baseline is a function of presidential copartisanship.

This paper makes multiple contributions. First, we make a theoretical contribution by advancing the partisan alignment perspective on public support for the judicial power of the U.S. Supreme Court. We also contribute conceptually by differentiating the horizontal and vertical aspects of judicial power. We build on prior work that has tested the partisan alignment theory comparatively with a focus on Africa (Bartels and Kramon 2020). In African countries, judiciaries are relatively young (compared to the U.S.) and there are generally histories of judicial corruption and executive dominance vis-a-vis the judiciary and other branches. One might suggest that such contexts are especially favorable conditions for the partisan alignment theory to hold. However, in this paper we show similar patterns in the U.S., an older democracy and the context where the process-centered theories were developed

(making it perhaps a harder test of the partisan alignment theory). These findings build on prior research demonstrating how partisan alignment affects Supreme Court job approval (Bartels and Kramon 2022), a dimension of "specific" support for the Court. We show that partisan alignment also affects more "diffuse" aspects of support for the Court's role in the political system.

Second, we contribute by demonstrating the short-term and relatively long-lasting impact of the Supreme Court's decision to overturn *Roe v. Wade*. Our findings reinforce recent findings that also show a short-term decrease in Court legitimacy after *Dobbs* (Gibson 2024b). However, they contrast somewhat with other findings that suggest these negative effects on legitimacy have decreased over time (Gibson 2024a). Our results are likely different because we illustrate the importance of partisan differences and trends, rather than aggregate opinion or cross-sectional differences. As in Gibson (2024a), we find that abortion attitudes do predict attitudes toward the Court post-*Dobbs*; but we go further to show that abortion attitudes are most strongly predictive of a persistent negative impact among Democrats. This suggests partisan differences in the extent to which support for the Court has rebounded back after *Dobbs*, which is consistent with research illustrating increasing partisan polarization in attitudes about the Court post-*Dobbs* (Levendusky et al. 2024). These results have empirical and political importance for our understanding of the current state of the U.S. Supreme Court.

1. Public Support for Judicial Power

Our central outcome of interest is public support for judicial power for the U.S. Supreme Court. Judicial power requires independence in decision making and an ability to induce compliance with rulings (Cameron 2002; Hall 2010; Staton 2010). Public support is particularly important for judicial power because of the "implementation problem": Courts (including the U.S. Supreme Court) generally lack formal mechanisms for enforcing their

rulings and so rely on public support from the public and political elites (Vanberg 2005). This support constrains politicians—accountable to the same public who can punish them at the polls—from attacking courts or engaging in noncompliance (Bartels, Kramon, and Schmotter 2024; Krehbiel 2021; Staton 2010; Vanberg 2005).

On the other hand, the costs politicians pay for court-curbing and noncompliance may not be as high as theory suggests (Bartels and Johnston 2020; Driscoll and Nelson 2023b; Driscoll and Nelson 2023a; Nelson and Driscoll 2023). First, public support for a court might not be high enough to trigger insulation from court-curbing (Driscoll and Nelson 2023b). Second, and related to our explanation, is copartisanship with the politician who seeks to curb the court; evidence suggests that voters are less likely to punish their copartisans over outpartisans (Nelson and Driscoll 2023). Elite cues under polarized conditions exacerbate the policy foundations for Court-curbing, as well as the levels of support for curbing itself (Bartels and Johnston 2020).

Yet another reason centers on a new conventional wisdom that policy or partisan disagreement with the Court's outcomes or ideological direction decreases support for judicial power and thus poses risks to Supreme Court legitimacy (Badas 2019; Bartels and Johnston 2013, 2020; Christenson and Glick 2015; Clark and Kastellec 2015; Gibson 2024b; Nicholson and Hansford 2014; Rogowski and Stone 2021). Such work is important because it underscores the instrumental motivations that influence support for the Supreme Court's independence, power, and ultimately legitimacy. People are more suspicious of the Court's independence, power, and role in government when they disagree with the Court's policies. An implication of this finding is that the public can be a *constraint* on judicial power and independence (Bartels and Johnston 2020; Clark 2011). A Supreme Court that fears partisan or policy-based backlash against its rulings may strategically deviate from its preferred course of action (Clark 2011; Epstein and Knight 1998). If people grant or withhold support for the Court's power in the political system as a function of the policies it produces,

legitimacy—rightful authority to render declarative rulings for the nation—is directly threatened, by definition.

This perspective presents a sharp contrast to an older conventional wisdom that support for judicial power and legitimacy is substantially more principled, as opposed to instrumental, and rooted in "process" factors like procedural fairness, democratic values, and socialization processes that focus on the Court as "different" from the politicization of the other branches (Caldeira and Gibson 1992; Gibson 2007; Gibson and Caldeira 2009; Gibson and Nelson 2014, 2015). However, both perspectives share two characteristics that we build on in this paper. First, at least in the U.S. literature, each perspective treats public support for judicial power (or diffuse support or legitimacy) as monolithic. Neither differentiates *over whom* the Court is exerting power. Below, we discuss how we adapt Bartels and Kramon's (2020) comparative theory of two different types of judicial power. One reason *why* citizens may have separable preferences over judicial power depending on over whom the Court is ruling—and this relates to the second characteristic—centers on elections and who holds political power. We now turn to this explanation.

2. Vertical and Horizontal Judicial Power: Concept and Theory

Adapting comparative insights from Bartels and Kramon (2020) to the U.S. Supreme Court, we explain why citizens may maintain a bifurcated view of judicial power, depending on over whom the Court is exerting power, and how this relates to elections and the party of the incumbent president. Beyond the political nature of policy and partisan disagreement discussed above, people view the Supreme Court as a vehicle to achieve certain partisan goals. Elections determine which party holds political power and therefore which party will appoint new justices to the Court. Many people generally *want* and *expect* the president to shape the Court in his or her party's image (Ansolabehere and White 2020; Bartels and Kramon 2022; Zilis 2021). Research shows that the public associates the president—and that president's

party—with perceptions of the Supreme Court's ideological direction; people also seem to like the Supreme Court more when under a copartisan relative to outpartisan president (Ansolabehere and White 2020; Bartels and Kramon 2022; Dolbeare and Hammond 1968; Haglin et al. 2021; Zilis 2021). Moreover, presidential copartisanship—citizens are of the same party as the president—exhibits a quite large impact on Supreme Court job approval (Bartels and Kramon 2022).

If people associate the president with the partisan or ideological nature of the Supreme Court, then partisan alignment with the president—*presidential copartisanship*—should drive how citizens separate facets of judicial power and how presidential copartisanship differentially affects support for each facet (Bartels and Kramon 2020, 2022). If partisan motivations are operative, presidential copartisans should be dubious about the Supreme Court exerting power over "their" president, while outpartisans will want the Court to serve as a check on the president of the outparty. We refer to judicial power over the president (or the other branches of the federal government) as "horizontal judicial power" and posit the following hypothesis (adapated from Bartels and Kramon 2020):

> *Horizontal Judicial Power Hypothesis*: Presidential copartisans will be less supportive of horizontal judicial power (e.g., power over the president) than outpartisans.

This partisan alignment with the president should carry over to the another important form of judicial power: The Supreme Court's power—via its rulings—over the American people. We refer to this concept as "vertical judicial power."[1] This power has been one of the most important mechanisms of Supreme Court impact on hot-button social issues that

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[1] As Bartels and Kramon (2020) acknowledge, prior work has made a similar, though not exact, distinction between types of judicial power. Friedman and Delaney (2011) make a distinction between "horizontal supremacy" (power over the federal government) and "vertical

define partisan and policy divisions in contemporary politics. Such issues include race and affirmative action, abortion (including *Dobbs*, which we turn to next), religion, freedom of speech, and rights pertaining to criminal justice. When the Supreme Court makes decisions on constitutional rights and civil liberties, those rulings are ultimately applicable to the American people.

In these hot-button, social issues that are highly salient in American politics, presidential copartisanship will operate differently (see again Bartels and Kramon 2020). While presidential copartisans should be less supportive of horizontal power over the president than outpartisans, these copartisans should be more supportive of the Court's power over the American people than outpartisans The mechanisms are akin to those from Bartels and Kramon (2022). That is, presidential copartisans want and expect the president to shape the Court in "their" partisan image. Thus, they will be more supportive of a Court shaped by their president having power over the American people, while outpartisans will anticipate policy losses in this realm.

> *Vertical Judicial Power Hypothesis*: Presidential copartisans will be more supportive of vertical judicial power (e.g., power over citizens) than outpartisans.

3. Landmark Rulings in Presidential-Electoral Context: *Dobbs*

While presidential copartisanship provides a general partisan structure to support for judicial power, Supreme Court decisions can disrupt this structure. In their study of Supreme Court job approval, Bartels and Kramon (2022) found that Supreme Court decisions within a presidency led to fluctuations around the structure induced by presidential copartisanship. They found that the effect of presidential copartisanship far eclipsed the effect of individual

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supremacy" (power over the states). Hall (2010) also examines horizontal power as well as Supreme Court power over lower courts in "vertical issues."

rulings within a presidency (variation between presidencies was greater than variation within presidencies).

A broader implication of our theory above is that the effects of Supreme Court rulings—landmark or otherwise—must be understood in this context of presidential-electoral politics. If presidential copartisanship generally structures support for vertical and horizontal judicial power, this structure itself will contextutalize and moderate how we think of the impact of a landmark ruling. We would expect a liberal or conservative ruling to have a different effect in the public depending on the party of the president because the baselines (public support preceding the landmark ruling) are a function of presidential copartisanship. This statement means, of course, that a landmark ruling can moderate the structure induced by presidential copartisanship.

We test how the Court's landmark ruling in *Dobbs v. Jackson Women's Health Organization*, decided on June 24, 2022, upset the presidential copartisanship structure for vertical and horizontal judicial power. In *Dobbs*, the Court overturned *Roe v. Wade* and *Planned Parenthood v. Casey*, declared that the Constitution does not confer a right to an abortion (contrary to *Roe* and *Casey*), and left the ability to regulate abortion—ranging from outright bans to legalization—to the states. Because of *Dobbs*'s high salience, we expect it to have a large impact on support for judicial power and in different ways for Democrats and Republicans. Indeed, studies by Gibson (2024b) and Clark et al. (2024) show that *Dobbs* has indeed posed a threat to Supreme Court legitimacy. While we are interested in how *Dobbs* directly altered support for judicial power, what separates our analysis from prior work is that we examine how the effect of *Dobbs* is measured against the structure induced by presidential copartisanship. Related, we examine how it *disrupts*—and therefore moderates—the partisan structure of support for vertical and horizontal judicial power presented in the prior section.

Dobbs more directly implicates support for vertical relative to horizontal judicial power. As discussed, the Supreme Court's role in the abortion issue determines whether American women have a constitutional right to terminate a pregnancy. *Roe* and *Casey* said they did, *Dobbs* says they do not. While Trump was successful in shaping the Court in his partisan image (securing a six-justice conservative Republican supermajority on the Court), many of the significant legal policy implications of his judicial appointments occurred during Biden's term. The Court decided *Dobbs* in the middle of the Biden administration. Recall that our expectation from above is that after Biden is elected, Democrats will have higher support for vertical power than Republicans because they prefer and expect Biden to shape the Court in his image; note that Biden does not get an appointment until 2022 (Justice Ketanji Brown Jackson), right around the same time *Dobbs* is decided. So while Justice Jackson's appointment may have boosted Democrats' support for judicial power in line with our vertical power hypothesis, *Dobbs* cuts *directly against* this hypothesis and we expect that it will undermine the partisan structure in support for vertical power.

> *Dobbs Vertical Power Hypothesis*: *Dobbs* will decrease support for vertical power among Democrats and increase it among Republicans. *Dobbs* will flip the relative balance between Democrats and Republicans (Republicans will become more supportive than Democrats).

On the other hand, *Dobbs* reaffirms the partisan structure posited above for horizontal judicial power. That is, after Biden is elected, we expect Republicans (now outpartisans) to become more supportive of horizontal power than Democrats. The connection between *Dobbs* and horizontal power is not as direct, but some citizens may make connections to the federal government potentially making law on abortion regulations. Thus, we expect *Dobbs* to increase support for Republicans and decrease it for Democrats, but it will not affect the relative ordering between the Republicans and Democrats. In fact, we expect it to enhance this partisan gap.

Dobbs Horizontal Power Hypothesis: *Dobbs* will decrease support for horizontal power among Democrats and increase it among Republicans. *Dobbs* will enhance the preexisting relative ordering between Republicans and Democrats (Republicans more supportive than Democrats).

4. Research Design, Data, and Measurement

To test these hypotheses, we compile an original rolling cross-sectional dataset with measures of support for vertical and horizontal judicial power. We have measures from 16 survey rounds, beginning in February 2020 and ending in March 2023. The data include 10 rounds during the Trump presidency, 3 rounds in 2021 after Biden was inaugurated but before the *Dobbs* decision, and 3 rounds in 2022-23 after the *Dobbs* decision.

Table 1 summarizes the rolling cross-sectional data, providing information on the date of the surveys (first date in the field), the survey group that fielded the survey, and the sample sizes in each round. For Ipsos surveys, we contracted with the Knowledge Panel, a nationally-representative, probability sample. YouGov, which generates nationally-representative samples, administers The GW Politics Poll and the CCES studies.

4.1. Measures of Support for Judicial Power

We analyze two core measures of support for judicial power. Both are adapted to the American context from comparative work on public support for horizontal and judicial power (Bartels and Kramon 2020), which allows for comparison across country contexts. Both items capture aspects of more diffuse support for the Court by asking respondents to consider the Court's role in the political system generally. The questions also clearly distinguish between judicial power over other branches of government—in this case, the executive—and judicial power over the American people. The measures are as follows:

Support for Horizontal Judicial Power: "Thinking about the U.S. Supreme Court's role in American government, do you agree or disagree with

Table 1: Surveys, Dates, and Sample Sizes

Date	Survey	Sample Size
3 Feb 2020	GW Poll	1200
19 Jun 2020	GW Poll	1200
29 Sep 2020	CCES	1000
9 Oct 2020	Ipsos	1002
16 Oct 2020	GW Poll	2500
27 Oct 2020	Ipsos	1014
8 Nov 2020	CCES	1000
9 Nov 2020	Ipsos	1015
21 Nov 2020	GW Poll	2049
18 Dec 2020	Ipsos	1006
22 Jan 2021	Ipsos	1012
23 Apr 2021	Ipsos	1013
4 Jun 2021	GW Poll	2500
29 Sep 2022	CCES	1000
8 Nov 2022	CCES	1000
1 Mar 2023	GW Poll	2000

Note: YouGov administered both the GW Poll and CCES studies.

the following statement? The U.S. Supreme Court should have the right to make rulings that the President must follow, even if the President disagrees with those rulings." [Strongly Agree, Agree, Disagree, Strongly Disagree]

Support for Vertical Judicial Power: "Thinking about the U.S. Supreme Court's role in American government, do you agree or disagree with the following statement? The U.S. Supreme Court should have the right to make rulings that the American people must follow, even if the people disagree with those rulings." [Strongly Agree, Agree, Disagree, Strongly Disagree]

We rescale each of these items to run from 0-1 (Strongly Disagree = 0 and Strongly Agree = 1). We also create binary measures capturing agreement (or support for court power): this measure takes a value of 1 for those who Strongly Agree and Agree, and 0 otherwise.

In addition to these two core items, we analyze two survey questions about judicial reforms. We designed these questions to capture whether respondents would support a reform

that reduces the Court's horizontal or vertical power. Both questions ask respondents if they would support the following reforms.

> **Overturn rulings through federal legislation (horizontal power).** "Allow the Supreme Court's constitutional rulings to be overturned by ordinary federal laws." [Strongly Support, Support, Oppose, Strongly Oppose]
>
> **Overturn rulings through national referendums (vertical power).** "Allow citizens to overturn the Supreme Court's rulings via national referendums." [Strongly Support, Support, Oppose, Strongly Oppose]

Support for the first item indicates support for a reduction in horizontal judicial power. This type of reform would limit the Court's power of judicial review via federal legislation (passed by Congress, signed by the president). Support for the second item indicates support for a reduction in vertical judicial power, allowing citizens to directly overturn Court rulings through a national vote. We rescale each of these items to run from 0-1 and also create binary measures.

Table 2 presents descriptive statistics aggregating the data across all survey rounds. Generally, support for horizontal power is substantially higher among the American public than is support for vertical power (e.g., 82% support horizontal versus 63% support vertical). There are some partisan differences with Democrats being more supportive of horizontal power and Republicans being more supportive of vertical, though most important will be the partisan *changes* we examine below. Generally, Democrats are more supportive of both types of reforms than are Republicans. More Americans support the idea of referendums to overturn Court rulings (50%) than using legislation to overturn rulings (35%). This is consistent with the core items demonstrating overall greater support for the Court's role in constraining other branches of government (horizontal power) relative to support for the Court's role in constraining American people.

Table 2: Aggregate Support for Judicial Power (all survey rounds)

Population	Horiz.	Horiz. (b)	Vert.	Vert. (b)	Referend. (b)	Legis. (b)
All	0.73	0.82	0.57	0.63	0.50	0.34
Dem.	0.76	0.86	0.55	0.61	0.59	0.41
Ind.	0.72	0.80	0.54	0.56	0.52	0.40
Rep.	0.69	0.79	0.60	0.68	0.39	0.25

Note: "b" refers to binary measure.

We operationalize party identification as a 3-category nominal variable: Democrats, Republicans, and Independents. We code Independents who lean toward one of the parties as either Democrats or Republicans. While Ipsos uses the traditional branching method (2 questions) of measuring party identification (using a second question to distinguish strong partisans and whether independents are leaners), YouGov uses a single question to ask whether respondents are strong Democrats, not strong, lean Democrat, Independent, and so on. The implication is that the YouGov measure generates more true Independents than the Ipsos measure. (Note that we are in the process of conducting further analyses and robustness checks to address this issue). All analyses use post-stratification survey weights. In addition, all models include demographic controls—sex, education, and race.

4.2. Analysis Strategy

This section details our strategy for testing our hypotheses regarding the impact of presidential copartisanship on support for judicial power. Our goal is to estimate this impact while also controlling for partisanship (and other covariates). Controlling for partisanship is important because Democrats and Republicans may have different baseline views about judicial power for reasons unrelated to copartisanship. This means that examining cross-sectional partisan differences in support for judicial power at a single point in time could be misleading.

Our empirical approach leverages the over-time nature of our rolling cross-sectional dataset and the presidential transition from Trump to Biden in January 2021. Because the party of the president changes during our study period, copartisanship with the president is not confounded with the party identification in our data. This allows us to estimate the following model with party ID fixed effects (Democrats are the omitted reference category).

$$Y_{it} = \alpha + \beta_1 Copartisan_{i,t} + \beta_2 Independent_{i,t} + \beta_3 Republican_{i,t} + \theta X_{it} + \gamma_t + \epsilon_{it} \quad (1)$$

Y_{it} is one of our measures of support for judicial power, measured from respondent i at time t. The main coefficient of interest is β_1, which captures our estimate of the impact of presidential copartisanship. The *Copartisan* variable takes on a value of 1 if the respondent is a copartisan with the president at the time of the survey, and 0 if not. Importantly, the *Copartisan* measure is not confounded with party identification because of the presidential transition in January 2021. Republicans are a 1 on this measure until Biden is inaugurated, and 0 after. Democrats are a 0 while Trump is in office, and a 1 after Biden is inaugurated. The model also includes fixed effects for the date of the survey, γ_t, which account for time-specific factors, as well as individual controls, X_{it}, which control for level of education, age, sex, and race. β_1 can be interpreted as a difference-in-differences (DiD) estimate capturing average changes in support for judicial power as partisan groups move in and out of copartisanship with the president. The inclusion of the partisan dummies, along with survey-year fixed effects, makes β_1 analogous to the interaction term (group variable × intervention) in a classic DiD design (see Bartels and Kramon 2020, 2022; Franck and Rainer 2012).

To strengthen a *causal* interpretation of the DiD estimates, we take several steps. First, we examine evidence for the parallel trends assumption (Angrist and Pischke 2008). Here, we want to rule out that the Trump-Biden transition is confounded with trends in support for judicial power, which could lead us to attribute causality to the transition when in fact the

effects are due to the continuation of trends that had already begun prior to the transition. In the time period immediately preceding the transition to Biden, Republicans and Democrats are both trending in the same direction (down) on support for horizontal power (Figure 1). With respect to vertical power (Figure 2), both groups are trending in ways that run counter to our theoretical predictions, until Biden is declared the winner of the election: Democrats are trending down (our theory predicts they will increase support for vertical power after the Biden transition) and Republicans are trending up (our theory predicts they will decrease support for vertical power after the Biden transition). Thus, while the trends are not parallel on vertical power, they are also not moving in a direction that would bias the results in favor of our theory. Indeed they are trending in a way that would make it less likely for us to find evidence in favor of the vertical power hypothesis.

Second, we analyze a relatively narrow time window around the presidential transition in January 2021. This helps us to rule out the possible impact of other factors that might also differentially impact support for judicial power among Democrats and Republicans. For example, Court decisions could produce differential effects (Bartels and Johnston 2013, 2020; Christenson and Glick 2015). For this reason, for the DiD analyses, we do not include the post-*Dobbs* decision data (which we bring in later to examine the impact of *Dobbs*). Narrowing the time window ensures that other events are not happening that could be driving our results.

The big exception on this point is the appointment and confirmation process of Justice Amy Coney Barrett, which happened in September and October of 2020, just ahead of the election in November. These events happened so close to the election that we cannot avoid including data from this period in our analyses. Importantly for our purposes, the Barrett confirmation should bias *away* from our theoretical predictions. Specifically, the addition of Barrett to the Court—which cemented a conservative Republican supermajority on the Court—should increase support for vertical power among Republicans and decrease it

among Democrats. This is the opposite of what we predict for the impact of the presidential transition. This confirmation process would therefore only generate more attenuated impacts of the transition on support for vertical power.

Finally, we also consider that the composition, or characteristics, of Democrats and Republicans could have changed over time (Angrist and Pischke 2008). We account for this in two ways. First, narrowing the time window to the months before and after the presidential transitions makes it unlikely that the characteristics of Democrats and Republicans would have shifted significantly. Second, we include the individual controls in the models.

5. Results

5.1. Testing the Partisan Alignment Hypotheses

In this section, we test the core hypotheses of the partisan alignment theory (H1 and H2). Before presenting the main results from the DiD analyses, we begin with graphical evidence. Figure 1 presents support for horizontal power (binary) over time during the Trump presidency and the pre-*Dobbs* Biden presidency. In February 2020, there is a large partisan gap in support for horizontal power. Republicans, copartisans of the president, are substantially less supportive: 60% support of Republicans compared to 90% of Democrats. This is consistent with the partisan alignment theory. However, as we have emphasized, cross-sectional partisan differences may reflect other factors driving differences between partisan groups, and so we need to examine relative changes over time. The remainder of the plot shows trends consistent with the theory. After Biden is elected, Democrats begin trending down on support for horizontal power. Republicans also trend down after Biden is declared the winner. This is likely because of Trump's various unsuccessful legal challenges to the election result; Republicans with a desire to see Trump remain in office would have less support for him being constrained by the Courts. Immediately after Biden is inaugurated, however, Republicans begin to trend up on support for horizontal power. By the end of the

Figure 1: Support for Horizontal Power around the Election
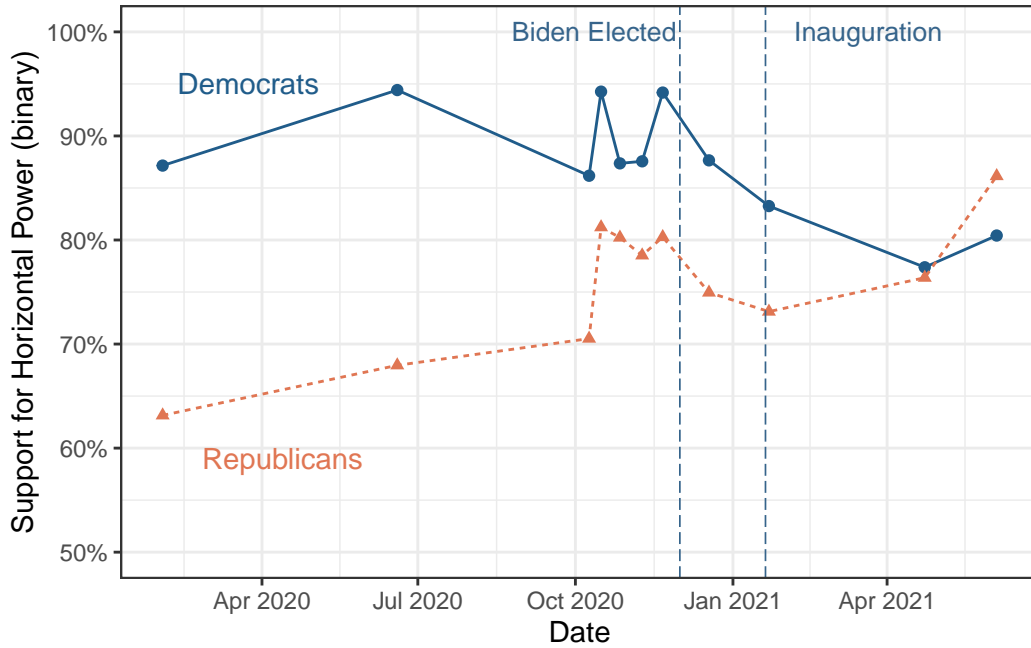
study period, the partisan gap is reversed, with Republicans (outpartisans) now expressing greater support for horizontal power than Democrats (copartisans), trends that are consistent with the theory.

Figure 2 presents the same trends on support for vertical power. While Democrats are initially slightly more supportive of vertical power than Democrats, Republicans are more supportive for the bulk of the pre-election period. Again, we expect some of these fluctuations are due to President Trump's and Senate Republicans' successful effort to replace Justice Ruth Bader Ginsburg with Judge Amy Coney Barrett in late October on the eve of the election. But again, the appointment process is central to the mechanism underlying why presidential copartisanship influences support for vertical judicial power. In a highly salient appointment process, partisans observe the president shaping the Court's ideological and partisan makeup. The process opens up partisan gaps in the direction our theory predicts. After Biden's election victory, Republicans begin trending downward in their sup-

Figure 2: Support for Vertical Power around the Election
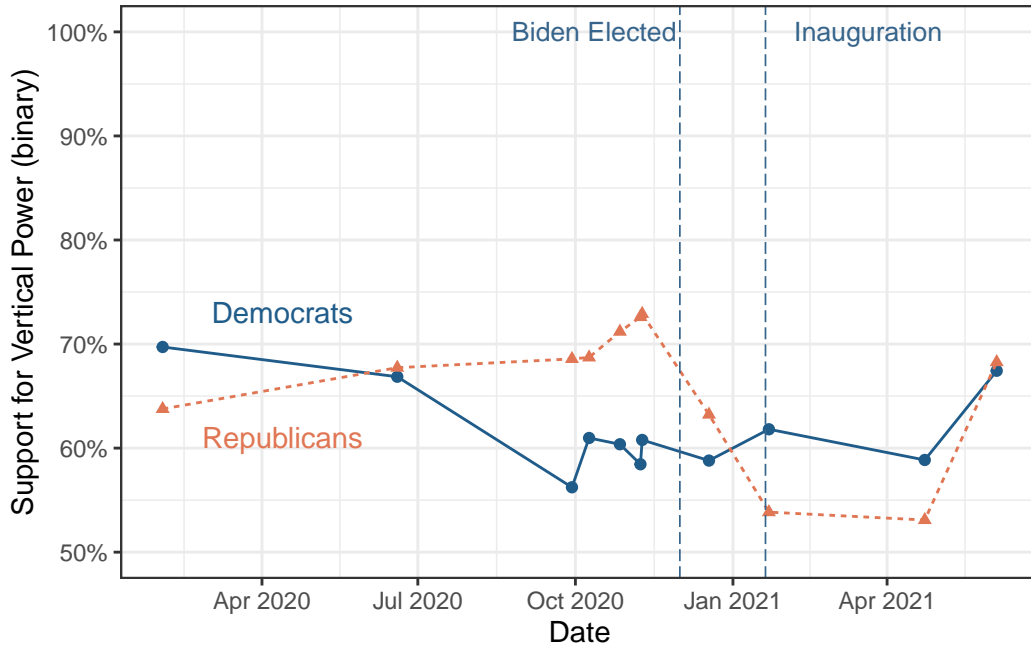
port, perhaps in response to the aforementioned election drama, while Democrats remain fairly stable. After President Biden takes office, Democrats (now copartisans) trend slightly upward, while Republicans trend further downward. Despite Republicans' upward tick in the last time period, Democrats are generally more supportive of vertical power only after President Biden takes office; these results align with our theory.

Turning to the formal statistical models, Table 3 presents the main results of the difference-in-differences analyses for support for horizontal power (estimating Equation 1). We present results for the continuous and binary measures, as well as with and without individual covariates (Democrats are the omitted references category). In all models, we cluster standard errors by partisan-group-survey-round, as this is the level where our "treatment" variable (presidential copartisanship) is applied.

The results are consistent with H1: Across each model, we find that copartisans of the president are less supportive of horizontal judicial power (while controlling for party ID)

Table 3: Presidential Copartisanship and Support for Horizontal Judicial Power

	Continuous	Binary	Continuous	Binary
President copartisan	−0.07***	−0.07***	−0.07***	−0.07***
	(0.01)	(0.02)	(0.01)	(0.01)
Independent	−0.09***	−0.13***	−0.09***	−0.12***
	(0.02)	(0.03)	(0.02)	(0.02)
Republican	−0.08***	−0.08***	−0.08***	−0.09***
	(0.01)	(0.02)	(0.01)	(0.01)
Male			0.06***	0.06***
			(0.01)	(0.01)
HS graduate			0.03***	0.03*
			(0.01)	(0.02)
Some college			0.08***	0.08***
			(0.01)	(0.02)
BA or higher			0.13***	0.14***
			(0.01)	(0.02)
Race = Black			−0.05***	−0.05**
			(0.01)	(0.02)
Race = Hispanic			−0.03***	−0.03**
			(0.01)	(0.01)
Party ID and Date FEs	Yes	Yes	Yes	Yes
Adj. R^2	0.07	0.04	0.11	0.07
N	13671	13809	13671	13809

***$p < 0.01$; **$p < 0.05$; *$p < 0.1$

than outpartisans. For the continuous measure, presidential copartisanship leads to about a 0.25 standard deviation reduction in support, which is a modest effect size, though it is statistically significant. Copartisans are about 7 percentage points less likely to support horizontal power than outpartisans. For the binary measure, the effect corresponds to about a 7.5% reduction in support from the overall mean. While these effect sizes are modest, we emphasize that we are estimating copartisan effects in a relatively narrow time window around the presidential transition: We are capturing relatively fast changes that happen almost immediately after the transition.

Table 4 presents similar findings on support for vertical power. Consistent with H2, we find that presidential copartisanship corresponds with a higher level of support for vertical

Table 4: Presidential Copartisanship and Support for Vertical Judicial Power

	Continuous	Binary	Continuous	Binary
President copartisan	0.03***	0.05***	0.03***	0.05***
	(0.01)	(0.01)	(0.01)	(0.01)
Independent	−0.03*	−0.10***	−0.03*	−0.08***
	(0.02)	(0.03)	(0.02)	(0.03)
Republican	0.02	0.02	0.01	0.00
	(0.01)	(0.01)	(0.01)	(0.01)
Male			0.06***	0.10***
			(0.01)	(0.01)
HS graduate			0.02	0.02
			(0.02)	(0.04)
Some college			0.04**	0.07**
			(0.02)	(0.03)
BA or higher			0.12***	0.19***
			(0.02)	(0.03)
Race = Black			−0.04***	−0.08***
			(0.01)	(0.02)
Race = Hispanic			−0.02	−0.05*
			(0.01)	(0.02)
Party ID and Date FEs	Yes	Yes	Yes	Yes
Adj. R^2	0.01	0.01	0.06	0.05
N	11022	11143	11022	11143

*** $p < 0.01$; ** $p < 0.05$; * $p < 0.1$

judicial power. Copartisans are about 5 percentage points more likely to support vertical power than outpartisans. The effect sizes are somewhat smaller than are the effects for horizontal power, which corresponds to the pattern found in comparative context by Bartels and Kramon (2020). We again emphasize that we are capturing very short-term changes following the presidential transition. In addition, as noted, the highly salient Barrett confirmation process created dynamics that would likely serve to attenuate the impact of presidential copartisanship for this specific transition: With a conservative Republican supermajority on the Court, Democrats would have been less optimistic about Biden's prospects of shaping the Court's ideological and partisan tenor, while Republicans would have been less concerned about presidential influence. After all, President Biden did not appoint a justice to the bench

Table 5: Presidential Copartisanship and Support for Judicial Power Reforms

|	Overturn by Law	Overturn by Referenda
President copartisan	0.00	−0.05***
	(0.01)	(0.02)
Independent	−0.06	−0.16***
	(0.05)	(0.05)
Republican	−0.10***	−0.16***
	(0.01)	(0.02)
Male	−0.05***	−0.02
	(0.02)	(0.02)
HS graduate	−0.10***	−0.06**
	(0.03)	(0.02)
Some college	−0.15***	−0.07**
	(0.02)	(0.03)
BA or higher	−0.19***	−0.15***
	(0.02)	(0.02)
Race = Black	0.13***	0.03
	(0.02)	(0.02)
Race = Hispanic	0.07***	0.02
	(0.02)	(0.02)
Party ID and Date FEs	Yes	Yes
Adj. R^2	0.03	0.03
N	7455	7453

$^{***}p < 0.01$; $^{**}p < 0.05$; $^{*}p < 0.1$

until 2022. Any effects we do find are working against many of these dynamics, so the effects we do find are telling.

In Table 5, we examine our other indicators of support for judicial power. We find no evidence that presidential copartisanship affects support for overturning constitutional court rulings using ordinary federal law (horizontal power indicator). This may be because the connection to the presidency (and Congress) is less strong for this measure.

By contrast, there is evidence consistent with the partisan alignment theory on the vertical power indicator: Support for national referendums to overturn Court rulings. Presidential copartisanship reduces support for referendums by about 5 percentage points, indicating an increase in support for vertical power among copartisans relative to outpartisans.

Figure 3: Support for Horizontal Power before and after Dobbs
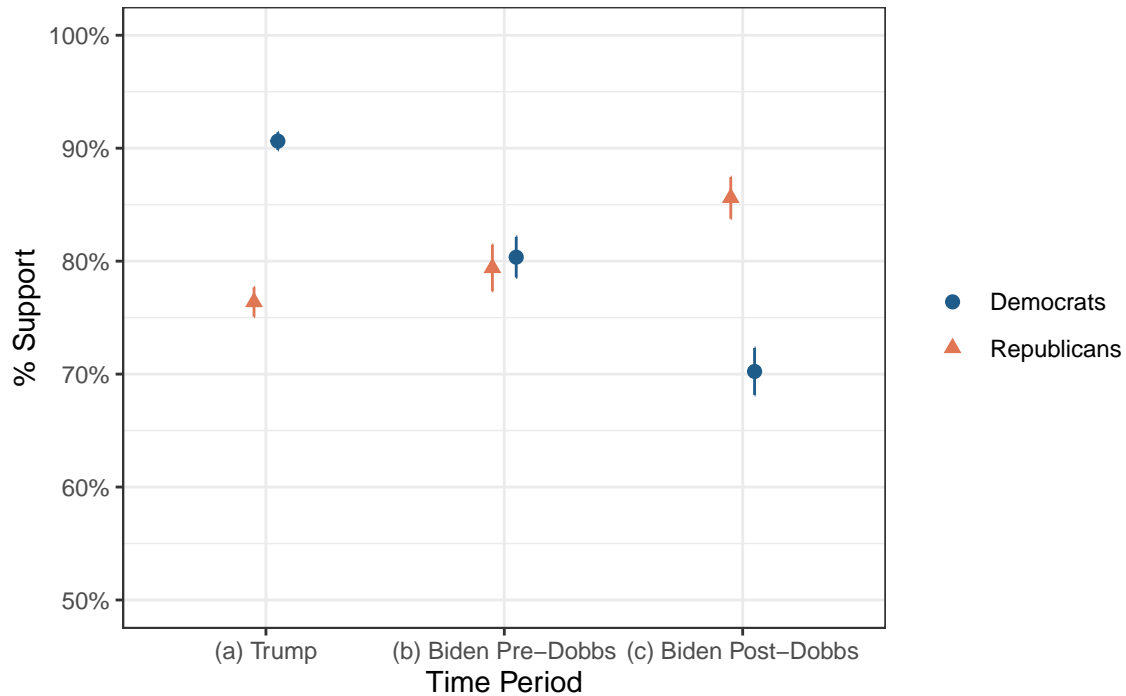
This represents about a 12 percent reduction from the overall mean level of support of 48 percent.

5.2. The Impact of *Dobbs*

The previous section illustrated how the transition from a Republican to a Democratic president shifted support for judicial power in the public in line with our theory of presidential copartisanship. We now turn to analysis of the impact of the *Dobbs* decision. We first present graphical evidence, illustrating support for different dimensions of judicial power in three time periods: (1) the Trump presidency; (2) the pre-*Dobbs* Biden period; and (3) the post-*Dobbs* Biden period.

Figure 3 illustrates trends in support for horizontal power (binary). In the Trump period, Democrats are at 90% support, while Republicans are around 77%. After Biden takes

office but before *Dobbs*, we observe trends consistent with the partisan alignment theory: Republicans become (slightly) more supportive and Democrats become less supportive. Because *Dobbs* was most unfavorable to Democrats and more favorable to Republicans, these trends continue into the post-*Dobbs* era. Democrats drop down to about 70% support, which is lower than the Republicans during the Trump presidency, while Republican support has increases to over 85%. These trends support our *Dobbs* horizontal hypothesis; note how *Dobbs* enhances the partisan gap in the direction of the general horizontal power hypothesis pertaining to presidential copartisanship.

Figure 4 presents the trends on support for vertical power, where we show that *Dobbs* significantly disrupted the partisan trends that were jumpstarted by the presidential transition. As the partisan alignment theory predicts, Democrats become more favorable to vertical power after Biden took office (but before *Dobbs*), while Republicans become somewhat less favorable (though it is a small decrease). These trends reverse after *Dobbs* in a manner inconsistent with our presidential copartisanship expectations. Republican support for vertical power moves up to over 70%: This is a large jump given that Americans are generally less supportive of vertical power (the overall mean is 60% support). By contrast, Democrats drop from over 65% support in the pre-*Dobbs* Biden period to about 53% support after *Dobbs*. The results support our *Dobbs* vertical hypothesis that *Dobbs* cuts against the structure imposed by presidential copartisanship.

The results show how *Dobbs* and presidential copartisanship moderate each other. The effect of *Dobbs* is essentially benchmarked by the structure imposed by presidential copartisanship. The implication is that who the president is at a given time influences the size of the effect of a landmark ruling because the pre-ruling level of support is a function of presidential copartisanship. In the counterfactual of a Republican president serving when *Dobbs* was handed down, we expect that we would have observed smaller decreases in support for vertical power among Democrats and perhaps stability among Republicans. Such

Figure 4: Support for Vertical Power before and after Dobbs
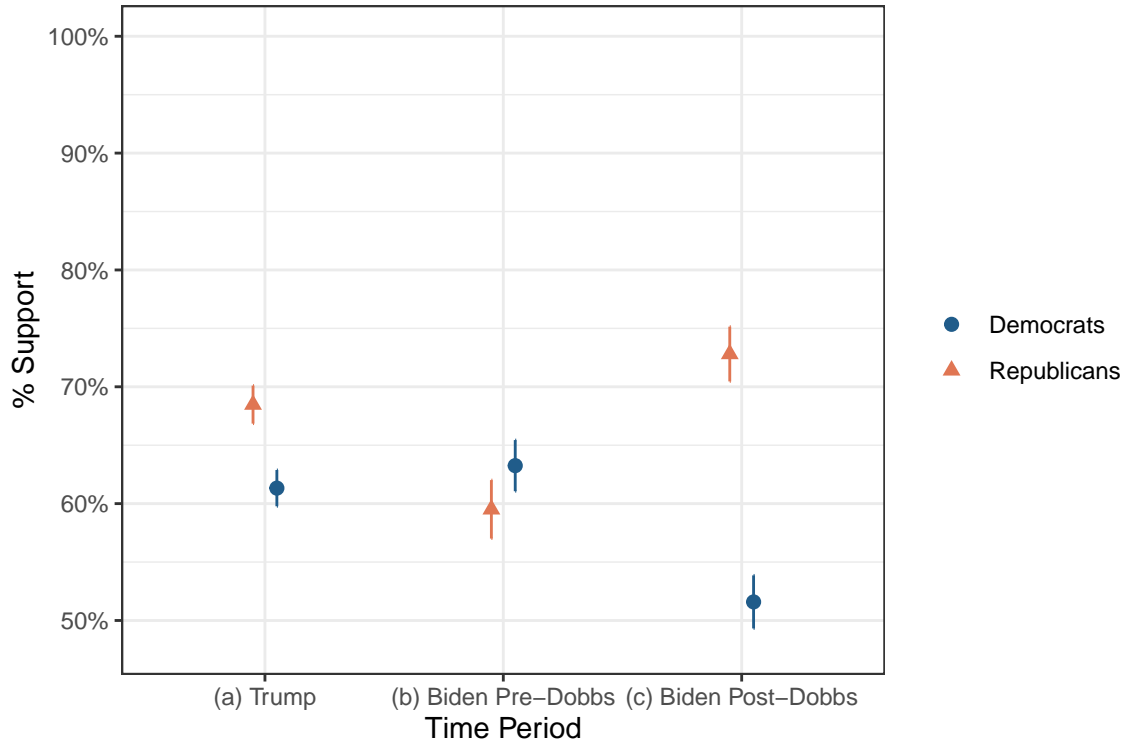
a dynamic would have occurred because in the pre-*Dobbs* period, we would have predicted Republicans to be more supportive of vertical power than Democrats in this counterfactual of a Republican president serving during *Dobbs* instead of a Democrat. The other side of the moderation coin is, as mentioned, that *Dobbs* flips the partsan ordering in support for vertical power that our partisan alignment theory predicts.

Table 6 presents regression results estimating the impact of the *Dobbs* decision on Democrats and Republicans. In these analyses, we only include data from the Biden presidency. Democrats are about 12 percentage points less supportive of vertical power after *Dobbs* (column 1), which represents about a 20 percent decrease. Republicans are about 13 percent more supportive (column 2), about a 20 percent increase from pre-*Dobbs* levels. Columns 5-6 show similar patterns on support for horizontal power. Democrats are about 10 percentage points less supportive after *Dobbs*, while Republicans are about 6 percentage

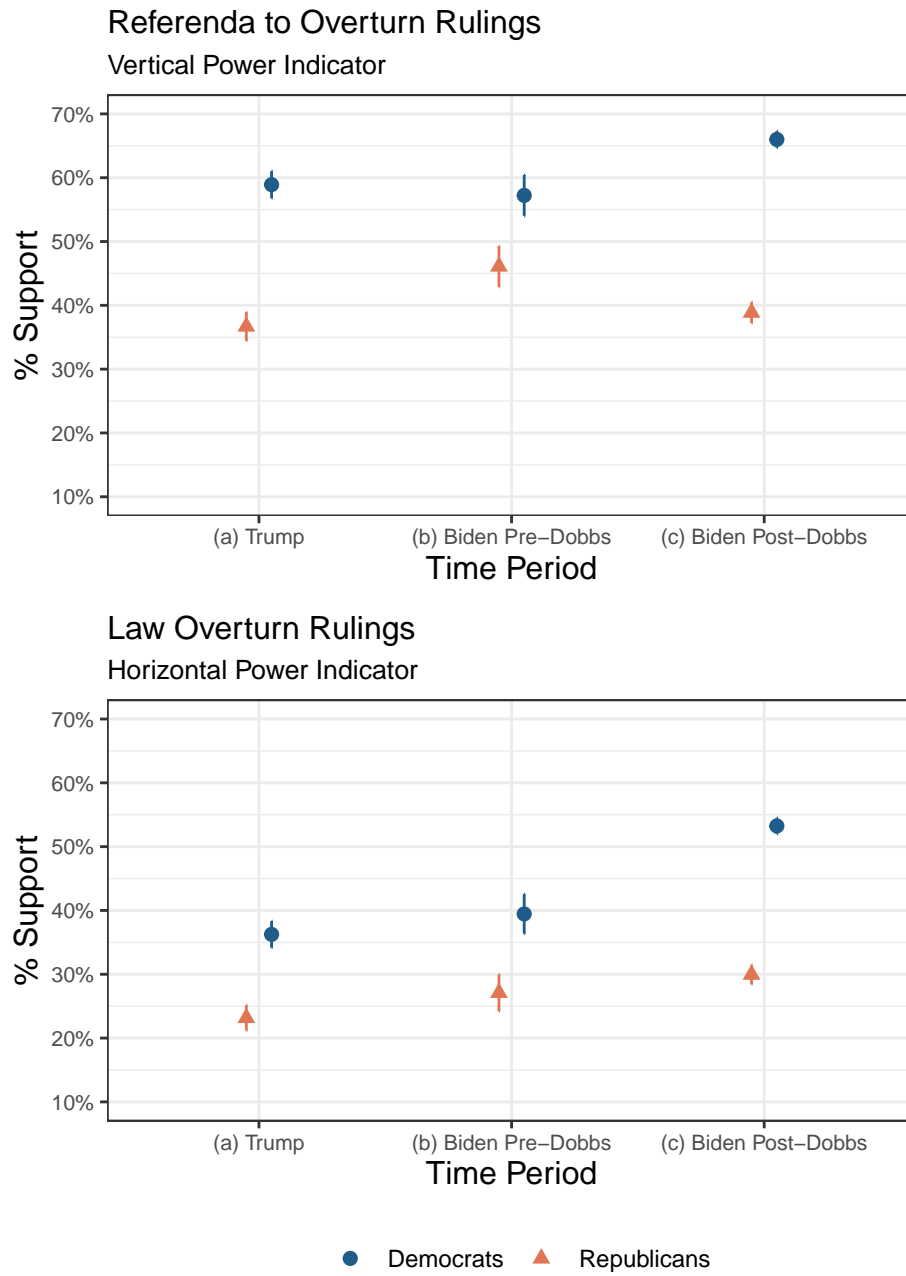**Table 6:** The Impact of Dobbs on Support for Judicial Power

	Vertical			Horizontal		
	Dem.	Rep.	Both	Dem.	Rep.	Both
Intercept	0.53***	0.41***	0.49***	0.76***	0.62***	0.71***
	(0.05)	(0.06)	(0.04)	(0.04)	(0.05)	(0.03)
Post-Dobbs	−0.12***	0.13***	−0.12***	−0.10***	0.06***	−0.10***
	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)	(0.02)
Male	0.11***	0.06***	0.09***	0.12***	0.04**	0.08***
	(0.02)	(0.02)	(0.01)	(0.02)	(0.02)	(0.01)
HS graduate	0.02	0.06	0.04	−0.05	0.13**	0.03
	(0.05)	(0.06)	(0.04)	(0.05)	(0.05)	(0.04)
Some college	0.02	0.15***	0.08**	−0.02	0.14***	0.05
	(0.05)	(0.06)	(0.04)	(0.04)	(0.05)	(0.03)
BA or higher	0.15***	0.27***	0.21***	0.08*	0.21***	0.14***
	(0.05)	(0.06)	(0.04)	(0.04)	(0.05)	(0.03)
Race = Black	−0.07**	0.08	−0.04	−0.12***	0.06	−0.09***
	(0.03)	(0.06)	(0.03)	(0.03)	(0.04)	(0.02)
Race = Hispanic	−0.01	0.05	0.02	−0.04	0.01	−0.02
	(0.03)	(0.05)	(0.03)	(0.03)	(0.03)	(0.02)
Republican			−0.04*			−0.02
			(0.02)			(0.02)
Post-Dobbs x Rep.			0.25***			0.16***
			(0.03)			(0.02)
Adj. R^2	0.05	0.06	0.06	0.06	0.03	0.05
Num. obs.	3732	2872	6604	3730	2872	6602

***$p < 0.01$; **$p < 0.05$; *$p < 0.1$

points more supportive. These represent relatively large swings in a short amount of time, but importantly, the effects are benchmarked and contextualized against the pre-Dobbs structure induced by presidential copartisanship. Though these analyses average across the 3 post-*Dobbs* surveys, we note the effect of *Dobbs* is quite stable across the those 3 surveys ending with March 2023; *Dobbs*'s impact persists to this point.

Figure 5 presents pre- and post-*Dobbs* trends on the reform indicators, which again demonstrate substantial swings—and ones relative to the pre-*Dobbs* structure imposed by presidential copartisanship. After *Dobbs*, about two-thirds of Democrats support the idea of national referendums to overturn court rulings, up from 56% before *Dobbs*. Support for

Figure 5: Support for Reforms before and after Dobbs

Referenda to Overturn Rulings
Vertical Power Indicator

Law Overturn Rulings
Horizontal Power Indicator

● Democrats ▲ Republicans

this reform to weaken vertical power decreases among Republicans to 39%. Meanwhile, over 50% of Democrats now believe that the government should be able to overturn constitutional rulings using ordinary federal legislation. This is up from 39% before *Dobbs* and 36% during

Figure 6: Support for Judicial Power over Elections before and after Dobbs
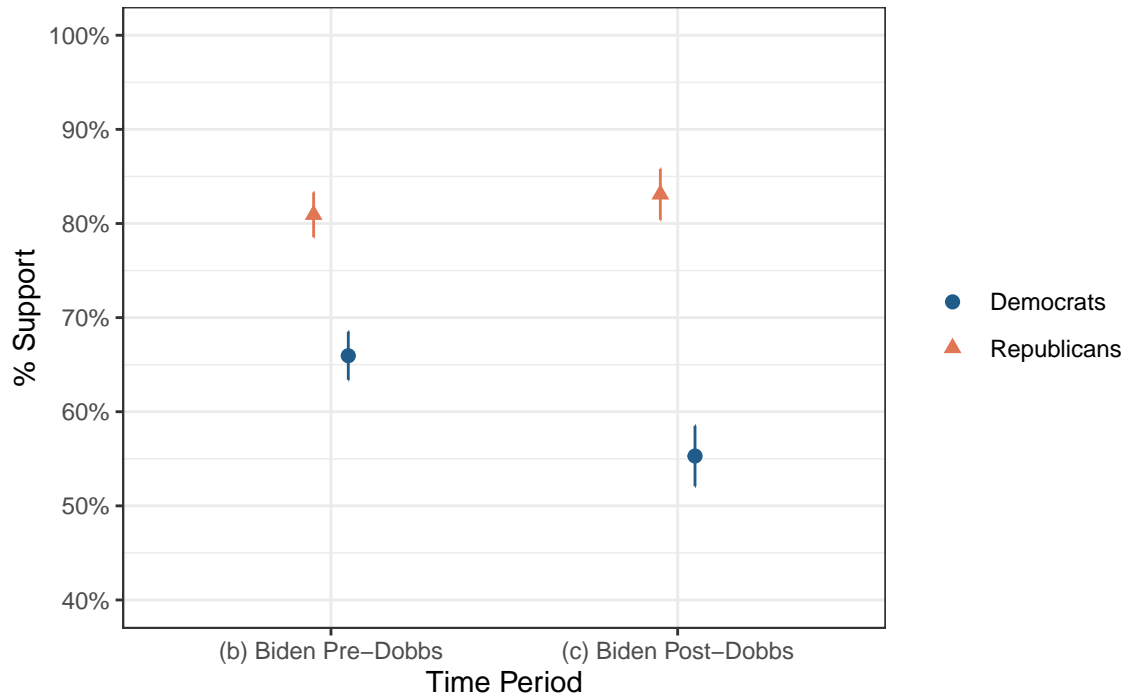
the Trump presidency. This suggests a substantial increase in support for curbing judicial power in light of *Dobbs.*

Two of our post-presidential surveys sought to capture support for or opposition to *judicial power over elections,* which is relevant given the many court cases filed by Trump after the November 2020 election. In this question, we asked: "Do you support or oppose the Supreme Court s ability to make decisions on presidential election disputes?" The results are presented in Figure 6. Before *Dobbs*, 81% of Republicans and 65% of Democrats supported the court's role in making decisions related to elections. After *Dobbs*, Democrats drop to 55%, while Republicans increase slightly to 83%. The results highlight spillover effects of *Dobbs*—increasing polarization in attitudes surrounding the role of the Court in elections, as well as low levels of support among Democrats as a result of the *Dobbs* decision.

Figure 7: How Views about Abortion Shape Support for Judicial Power after Dobbs
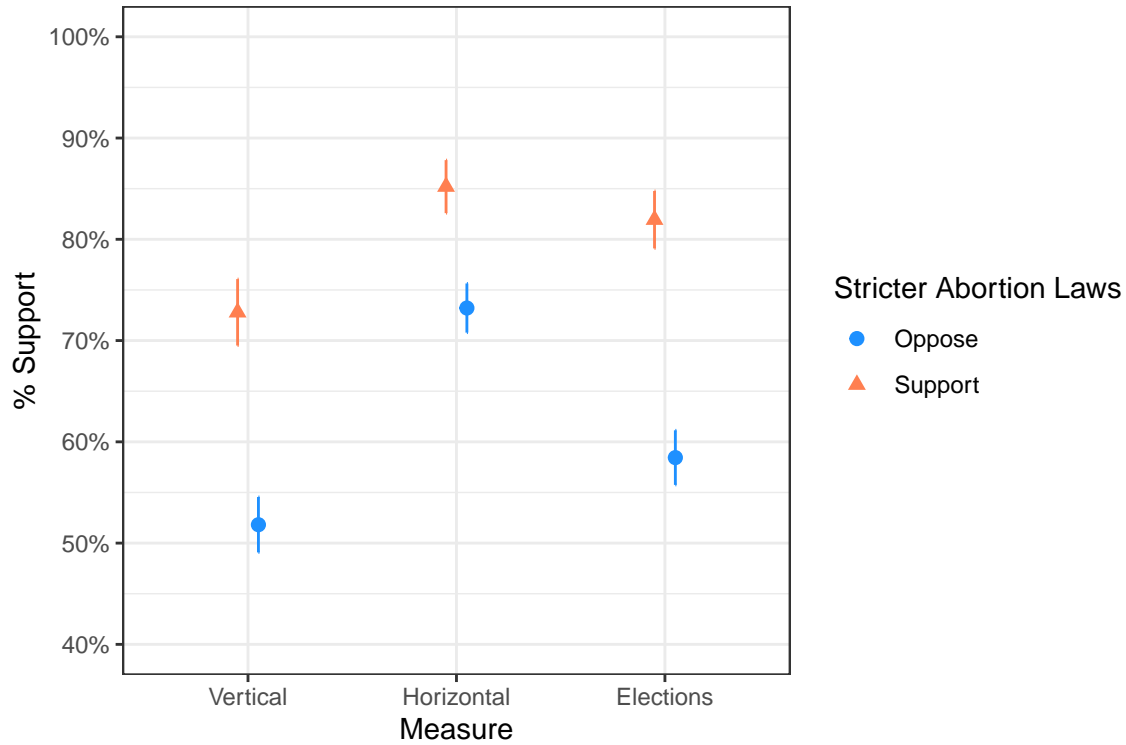
Finally, we examine how views about abortion shape support for the judicial power of the Supreme Court after *Dobbs*, an analysis analogous to Gibson's (2024b) main results. We separate the sample into those who support stricter laws to limit abortion and those who oppose such laws. This question on abortion views was only included in the final round of surveys, and so here we can only examine cross-sectional differences. Figure 7 shows that there is a substantial divergence in support for judicial power: Those who oppose making stricter laws to limit abortion are substantially less supportive of judicial power, particularly vertical power and power over elections.

Figure 8 shows that partisanship substantially moderates the impact of abortion views on support for Court power. In particular, support for judicial power goes down the most among Democrats who oppose stricter abortion laws, while abortion attitudes play a smaller

Figure 8: How Partisanship and Views about Abortion Shape Support for Judicial Power after Dobbs
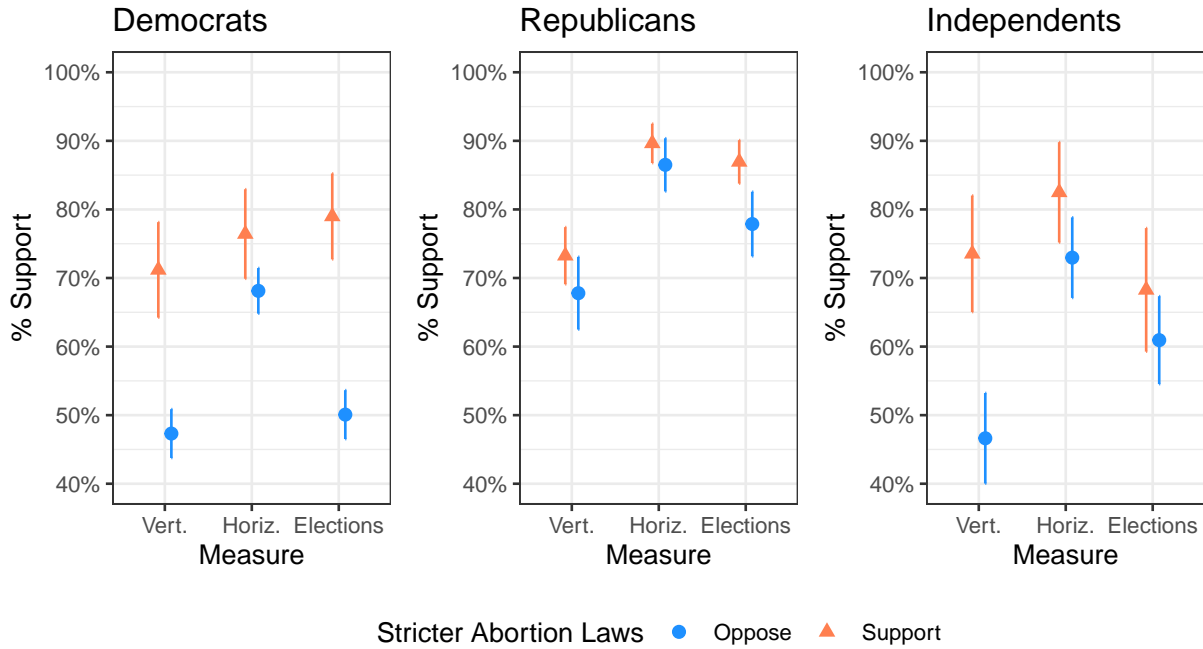
role in shaping support for the Court among Republicans. Support for vertical power and power over elections is below 50% among Democrats who oppose stricter abortion laws. The gap between those who oppose and support stricter abortion laws is also quite dramatic among Democrats, and to some extent Independents. For Republicans, support for vertical power and power over elections is somewhat less among those who oppose stricter abortion laws, but the differences are not large and the overall level of support is not as dramatically low as it is for Democrats.

In sum, this section has presented evidence that *Dobbs* substantially reduced support for judicial power among Democrats, while it increased it among Republicans. *Dobbs* thus contributed to significant partisan polarization in support for judicial power in the public, yet its effects are contextualized and moderated by the structure induced by presidential copartisanship.

6. Conclusion

Our theory and results make several new contributions to the literature on public support for courts and judicial power. First, while the literature has focused largely on policy versus process foundations, we highlight the impact of electoral and presidential politics in shaping public support for judicial power concerning the U.S. Supreme Court. Partisan alignment with the incumbent president—presidential copartisanship—shapes this support in a theoretically sensible manner. The implications are significant because the effect of presidential copartisanship is not specifically connected to either the substantive outputs the Court produces or the manner in which it produces them, which is the focus of most extant work. Instead, presidential copartisanship is connected to partisan expectations and preferences over the Court's partisan and ideological tenor.

Second, while most work treats "diffuse" aspects related to judicial power as monolithic, our focus on election transitions and presidential copartisanship begs a bifurcated view of judicial power with differing expectations for the effect of copartisanship on each facet. Drawing on Bartels and Kramon (2020), we have argued that presidential copartisanship should decrease support for horizontal judicial power (over the president) yet increase support for vertical judicial power (over the people). The mechanisms are straightforward once the partisan alignment with the president is clarified. Copartisans are less likely than outpartisans to support the Supreme Court having power over "their" president. On the other hand, copartisans are more supportive of vertical power than outpartisans because they perceive that the president will shape the Court in their party's image via Supreme Court appointments. Ultimately, this perspective highlights how elections, which determine which party controls the presidency, have an impact on shaping public support for judicial power.

Third, we have sought to contextualize the impact of a landmark ruling—*Dobbs*—into this presidential-electoral context. As we have discussed, the effect of *Dobbs* essentially depends on who the incumbent president is since the pre-*Dobbs* baseline is a function of presidential copartisanship. The effects of *Dobbs* we have found are relative to the structure imposed by presidential copartisanship. *Dobbs* increased support for judicial power among Republicans and decreased it among Democrats. And *Dobbs* upends the partisan structure for support for vertical judicial power, leading to flips in the partisan ordering relative to what we would have predicted based on presidential copartisanship. For horizontal power, *Dobbs* accentuates a preexisting partisan gap between Democrats and Republicans induced by presidential copartisanship. Our work also highlights additional large effects induced by *Dobbs* that interact with presidential copartisanship. On the whole, our work shows how a combination of presidential-electoral politics and landmark rulings influence public support for different facets of judicial power.

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