

# The Public Cost of Unilateral Action

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**Abstract:** *Scholarship on democratic responsiveness focuses on whether political outcomes reflect public opinion but overlooks attitudes toward how power is used to achieve those policies. We argue that public attitudes toward unilateral action lead to negative evaluations of presidents who exercise unilateral powers and policies achieved through their use. Evidence from two studies supports our argument. In three nationally representative survey experiments conducted across a range of policy domains, we find that the public reacts negatively when policies are achieved through unilateral powers instead of through legislation passed by Congress. We further show these costs are greatest among respondents who support the president's policy goals. In an observational study, we show that attitudes toward unilateral action in the abstract affect how respondents evaluate policies achieved through unilateral action by presidents from Lincoln to Obama. Our results suggest that public opinion may constrain presidents' use of unilateral powers.*

**Replication Materials:** The data, code, and any additional materials required to replicate all analyses in this article are available on the *American Journal of Political Science* Dataverse within the Harvard Dataverse Network, at: <https://doi.org/10.7910/DVN/XRJ43D>.

Modern presidents have increasingly turned to unilateral means instead of legislation to address their policy priorities. Presidential candidates campaign on using unilateral powers, egged on by interest groups pressuring them for swift action, and presidents increasingly rely on executive actions to avoid the pitfalls of legislation. In 2016, Democratic candidate Hillary Clinton campaigned on a “sweeping executive power agenda” in which she promised to circumvent Congress and enact policies ranging from gun control to strengthened financial regulations.<sup>1</sup> This tact was fully supported by, among others, the Center for American

Progress, a liberal think tank, which urged the Democratic president to enact policy by bypassing Congress.<sup>2</sup> In the first days and weeks of his administration, President Trump employed unilateral powers with aplomb, placing a travel ban on citizens of seven countries, weakening implementation of the Affordable Care Act, and reauthorizing the Keystone and Dakota Access Pipelines, all without so much as a congressional resolution in support. Whereas President Obama mostly issued executive actions privately and without fanfare, photo ops and signing ceremonies have accompanied the executive actions of President Trump.<sup>3</sup>

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<sup>1</sup>Jonathan Allen, “Hillary Clinton’s Sweeping Executive Power Agenda Is Unprecedented,” *Vox*, October 8, 2015. <http://www.vox.com/2015/10/8/9480589/hillary-clinton-executive-action>.

<sup>2</sup>Sarah Rosen Wartell and John Podesta, “The Power of the President: Recommendations to Advance Progressive Change,” Center for American Progress, November 16, 2010. [https://cdn.americanprogress.org/wp-content/uploads/issues/2010/11/pdf/executive\\_orders.pdf](https://cdn.americanprogress.org/wp-content/uploads/issues/2010/11/pdf/executive_orders.pdf). Podesta, the former head of the Center for American Progress, chaired the 2016 Hillary Clinton presidential campaign.

<sup>3</sup>Gregory Korte, “Trump’s Executive Actions Come Faster and in Different Forms Than Before,” *USA Today*, January 30, 2017. <http://www.usatoday.com/story/news/politics/2017/01/30/trumps-executive-actions-come-faster-and-different-forms-than-before/97255592/>.

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Despite the pervasiveness of unilateral presidential action—executive orders, presidential memoranda, and the like—legislation has undeniable advantages. Unilateral actions are necessarily limited in scope, whereas legislation passed by Congress and signed by the president has fewer boundaries. Although President Obama could unilaterally raise the minimum wage for federal contractors, only Congress could alter the minimum wage for all. Likewise, executive actions are easily revised or undone by future administrations, with approximately half of the executive orders issued from 1937 to 2015 amended, superseded, or revoked by subsequent presidents (Thrower, 2017).

While any president would prefer his or her policies codified as legislation over an executive order, a president might choose to eschew working with Congress and instead act alone (Rudalevige 2002). In an era of polarized politics, “the legislative process is all but unavailable [to the president] for solving problems.”<sup>4</sup> Even in cases of unified government, presidents must still make substantial concessions on any legislative proposal (Barrett and Eshbaugh-Soha 2007). Instead of pursuing highly altered versions of their policies that are unlikely to see enactment, presidents may turn to unilateral actions as a first course of action.<sup>5</sup>

In this article, we study voter response to the exercise of unilateral powers. Existing scholarship on democratic responsiveness focuses on how presidents use political power to achieve outcomes that reflect the public’s preferences (e.g., Canes-Wrone and Shotts 2004) but overlooks public attitudes toward the instruments of power. Nowhere in the American political system is power more contested than it is with respect to the presidency, and questions about the use and abuse of executive power animate debates around the world (e.g., Fish 2006; Horowitz 1990; Negretto 2013; Remington 2014). Because presidents are accountable to public opinion, the public’s response to unilateral action suggests incentives for presidents’ behavior and informs normative debates over the boundaries of presidential power.

We present evidence from two studies on how unilateral powers affect public evaluations of the president and his policies. The first study reports evidence from a series of survey experiments we conducted with a nationally representative sample of U.S. adults. Our experimental

design addresses strategic selection biases present in existing research. Across a range of policy domains, we find that survey respondents were highly responsive to the means through which political outcomes were achieved. Exercising unilateral powers resulted in more negative ratings compared to accomplishing political goals through legislation passed by Congress. The costs of unilateral action were largest among respondents whose preferences aligned with the policy outcomes. In the second study, we show that general attitudes toward unilateral action are associated with how the public evaluates specific policies that were achieved unilaterally by presidents from Lincoln to Obama. Our results have important implications for theories of public responsiveness to political elites and contribute evidence to suggest how public opinion bears on the separation of powers. More speculatively, our findings suggest that public opinion may constrain the exercise of unilateral powers by penalizing presidents for pursuing policies through unilateral rather than legislative means.

## Political Accountability and Executive Power

Presidents’ approval ratings and electoral performances are responsive to factors including unemployment rates (Mueller 1970), federal spending (Kriner and Reeves 2015), and war casualties (Karol and Miguel 2007). Voters also hold presidents accountable for nonpolitical phenomena, such as natural disasters (Gasper and Reeves 2011). Given that the public expects the president to do “something about everything” (Neustadt 1990, 7), presidents face incentives to use their office to effect policy change across a myriad of domains.

Lawmaking in the U.S. system of separated powers generally requires agreement between Congress and the president. Accordingly, the traditional view holds that presidents accomplish their political goals by convincing other actors—especially members of Congress—to support their initiatives (e.g., Neustadt 1990). In this perspective, the president’s success in office depends on his ability to secure his preferred legislation. Presidents devote substantial resources to recruiting legislative sponsors for their initiatives, soliciting support from stakeholders, and rallying public support for their policies (e.g., Canes-Wrone 2006; Kernell 2006). Under this perspective, pursuing legislation with congressional support is a president’s best chance to affect the outcomes for which he is held accountable.

Another perspective highlights how presidents affect political outcomes using a variety of unilateral strategies.

<sup>4</sup>William Howell and Terry Moe, “America’s Antiquated Constitution,” *Prospect*, February 2, 2017. <http://www.prospectmagazine.co.uk/world/americas-antiquated-constitution-united-states-constitution-donald-trump-electoral-college>.

<sup>5</sup>Presidents routinely take unilateral action in the form of an executive agreement instead of treaties, subject to Senate ratification (Martin 2005).

Presidents can issue executive orders or memoranda to change how policies are administered by executive agencies (e.g., Howell 2003; Lowande 2014; Mayer 2002; Moe and Howell 1999). In terms of distributive politics, presidents can engage in particularism by directing federal resources such as federal disaster relief and federal grants toward preferred constituencies (e.g., Kriner and Reeves 2015; Reeves 2011). Presidents can also incentivize states and localities to adopt the president's preferred policies by implementing waiver programs through relevant executive branch agencies (e.g., Howell 2015). These tools allow presidents to affect political outcomes without congressional involvement.

In many instances, the president can achieve similar objectives through either legislative or unilateral means. In August 2013, President Obama considered launching a missile strike against Syria in retaliation for President Bashar al-Assad's use of chemical weapons. While Obama and many members of Congress argued that the strikes did not require congressional approval, other legislators argued that the president risked setting a precedent for future presidents to violate the separation of powers if he did not involve Congress. Obama ultimately sought congressional approval for an outcome he could have achieved unilaterally.<sup>6</sup> Presidents cannot always achieve policies through unilateral means that are identical to those that could be achieved through legislation, but the practical implications are often similar. In 2014, President Obama issued an executive order to raise the minimum wage for federal contractors to \$10.10 per hour.<sup>7</sup> While this policy did not apply universally across U.S. employers, it affected wages for some of the two million federal contract workers and signaled a commitment to an increased minimum wage.

Existing scholarship has paid less attention to public responsiveness to a president's decision to employ

legislative or unilateral means. Most studies ignore or rule out the potential for the public to evaluate presidents based on how political outcomes were achieved.<sup>8</sup> In one notable exception, Kriner (2014) finds greater support for a president's proposed military action when it receives congressional authorization but does not examine support for the action conducted unilaterally without congressional approval. Understanding how attitudes toward political *processes* affect attitudes about *outcomes* is thus important for understanding presidential responsiveness to public opinion and may yield insight into a president's unilateral calculations.

## Unilateral Action and Public Opinion

We argue that public opinion responds to how the president exercises power to achieve political goals. Our argument builds on recent scholarship that discusses the capacity of unilateral action to "provoke public ire and erode the president's political capital" (Christenson and Kriner 2015, 912). Surveys show that support for unilateral action by presidents is relatively low, particularly among voters who disapprove of the president then in office and who express strong commitments to the rule of law (Braman, 2016; Reeves and Rogowski 2015, 2016). These findings suggest that the public views policies as less legitimate when they are achieved through unilateral means. Citizens view laws as legitimate when they believe there is "something rightful about the way the laws came about" (Friedman 1998, 256). Unilateral action may be perceived as anti-majoritarian. Moreover, unilateral action often signals conflict between Congress and the president, and presidential approval tends to fall in these circumstances (Groseclose and McCarty 2001). Through these mechanisms, the public may penalize a president who achieves policy through unilateral action rather than through the legislative process. Our argument extends theoretical perspectives that predict presidential appeals are successful less because of the president's popularity and more because presidents have incentives to advance policies the public supports (Canes-Wrone 2006).

Political processes also shape the public's evaluations of other political institutions beyond the presidency. Public perceptions of judicial legitimacy depend on the fairness of judicial procedures (Gibson 1989) and the ways judges are selected (Gibson 2012). In the legislative

<sup>6</sup>Congress ultimately failed to provide authorization for the use of military force, and Obama's inaction on Syria was later criticized by Republicans. Polls showed that the public was opposed to military intervention in Syria (e.g., Mark Landler and Megal Thee-Brenan, "Survey Shows Scant Support for Syria Strike," *New York Times*, September 9, 2013; <http://www.nytimes.com/2013/09/10/world/middleeast/poll-majority-of-americans-oppose-military-strike.html>) but also believed that President Obama should receive congressional approval before taking any action (e.g., Mark Murray, "NBC Poll: Nearly 80 Percent Want Congressional Approval on Syria," *NBC News*, August 30, 2013; <http://www.nbcnews.com/news/other/nbc-poll-nearly-80-percent-want-congressional-approval-syria-f8C11038428>).

<sup>7</sup>Zachary A. Goldfarb, "Obama to Raise Minimum Wage for Federal Contract Workers," *Washington Post*, January 28, 2014. [https://www.washingtonpost.com/politics/obama-to-raise-minimum-wage-for-government-contract-workers/2014/01/27/f7994b34-87cd-11e3-916e-e01534b1e132\\_story.html](https://www.washingtonpost.com/politics/obama-to-raise-minimum-wage-for-government-contract-workers/2014/01/27/f7994b34-87cd-11e3-916e-e01534b1e132_story.html).

<sup>8</sup>Studies consider how presidential approval affects the number of executive orders presidents issue with differing results (Deering and Maltzman 1999; Krause and Cohen 1997; Mayer 1999) but do not examine whether public opinion influences a president's choice between unilateral and legislative means.

branch, perceptions of the lawmaking process influence public attitudes toward Congress (Hibbing and Theiss-Morse 1996, 2002) and individual legislators (Doherty 2015). More generally, public opinion toward political institutions reflects perceptions of institutional fairness (Doherty and Wolak 2012; Lind and Tyler 1988), and support for political leaders is responsive to the procedures those leaders employ (Tyler, Rasinski, and McGraw 1985).

Political officials commonly invoke political processes when appealing to the public. For instance, in debates over the Affordable Care and Patient Protection Act, both President Obama and members of Congress took each other to task for the procedures they employed. During his 2010 State of the Union address, President Obama argued that decreased public support for health care reform was due to a lack of transparency in how the proposed legislation was debated in Congress. President Obama noted that “the process left most Americans wondering, ‘What’s in it for me?’”<sup>9</sup> Obama’s decision to highlight “unsavory legislative maneuvering” was described by observers as a “new element of tension” in the president’s relationship with congressional leaders.<sup>10</sup> Just as politicians may attempt to shape public opinion on specific policies (e.g., Jacobs and Shapiro 2000), their public appeals suggest that they believe public opinion can also be moved by criticizing unpopular political tactics.

We expect that the public grants less favorable evaluations to presidents who achieve their goals through unilateral rather than legislative means. The role of attitudes toward political process has received relatively little empirical attention in the context of the presidency. In an important exception, Hurwitz and Peffley (1987) study public evaluations of President Reagan and find that attitudes toward Reagan’s approach to addressing foreign policy issues were strong determinants of Reagan’s foreign policy achievements. Understanding how the public responds to unilateral action clarifies how presidents’ concern for their public standings shapes their unilateral decision calculus.

We further consider that the effects of unilateralism will vary in systematic ways. Based in part on the “ambivalence of modern executive power” (Mansfield 1989), we expect that members of the public hold competing views about the desirability of unilateral action. They may value

it as a way for presidents to exercise Hamiltonian vitality by taking swift action in the face of legislative gridlock, but they may also worry about executive excess. Given these competing considerations, the public’s policy preferences may condition their reaction to the means by which presidents achieve their goals. If public opinion constrains the president’s use of unilateral powers, the most negative reactions are likely to come from those individuals who support the president’s policy. Just as the judiciary requires people who disagree with its decisions to accept the court’s legitimacy to issue rulings (Caldeira and Gibson 1992), restraining the power-seeking inclinations of presidents must come from those individuals who agree with the president’s policies. Among respondents who oppose the president’s policies, disagreement is likely to be the most salient consideration in how they evaluate the president’s behavior, and thus we expect these respondents to be less responsive to the means through which presidents pursue outcomes. Respondents who agree with the president, however, are likely to consider more deeply their ambivalence toward unilateral action and thus register more negative reactions toward the use of unilateral power. There is also a practical dimension to this asymmetry; proponents of the president’s policy goals may recognize the potential for unilateral actions to be subsequently undone by Congress, the courts, or future presidents, and thus prefer for policies to be enacted in more durable form.

## Data and Methods

How do voters respond to the use of unilateral powers? One method of inquiry would be to identify situations in which identical policy outcomes were achieved but through different means and compare the public response to each. This approach fails, however, on both theoretical and empirical grounds. Theoretically, unilateral action is commonly understood as a strategic action by presidents to advance their policy goals, subject to potential constraints from other institutional actors (Howell 2003; Moe and Howell 1999) and public opinion (Christenson and Kriner 2015; Posner and Vermeule 2010). If public opinion serves as a meaningful constraint, presidents would avoid taking unilateral action in precisely the situations where public opinion reacts harshly. This form of strategic selection bias would mask negative public responses to actual unilateral actions taken by presidents.<sup>11</sup>

<sup>9</sup>The White House, Office of the Press Secretary, “Remarks by President in State of the Union Address,” January 27, 2010. <https://www.whitehouse.gov/the-press-office/remarks-president-state-union-address>.

<sup>10</sup>John Harwood, “Obama Notwithstanding, Democrats Defend ‘Messy’ Lawmaking,” *New York Times*, January 30, 2010. [http://www.nytimes.com/2010/02/01/us/politics/01caucus.html?\\_r=0](http://www.nytimes.com/2010/02/01/us/politics/01caucus.html?_r=0).

<sup>11</sup>This concern also applies to studying public responses to actual unilateral actions taken by presidents, which may explain the largely null effects reported in Christenson and Kriner (2017).



Empirically, moreover, the approach is impractical, as it is nearly impossible to identify real-world policy outcomes that were achieved through different means (i.e., through the legislative process or by unilateral action) but were otherwise identical in every respect.

We examine public response to unilateral action using two complementary studies. The first study uses vignettes administered through a series of survey experiments to examine how unilateral action affects presidential evaluations. In our second study, we analyze data from a national survey to study how attitudes toward unilateral action shape the public's evaluations of policies. These two approaches enable us to combine the virtues of internal validity through experimentation with the external validity afforded by public evaluations of real-world policies.

We conducted three population-based survey experiments with a nationally representative sample of approximately 1,700 U.S. adults as part of The American Panel Study (TAPS), a monthly panel survey fielded by GfK Knowledge Networks.<sup>12</sup> We identify the effect of unilateral action on public opinion by administering information about a presidential candidate's policy goal and then randomizing the candidate's chosen strategy for achieving it. The design allows us to observe evaluations under counterfactual conditions in which presidential candidates propose to implement policies through non-unilateral means. We then compare respondents' evaluations of the candidates based on the information respondents received about the means through which they proposed to pursue their policies.

The survey experiment consisted of vignettes about policy goals expressed by hypothetical presidential candidates along with the means by which the candidates intended to achieve them. The use of hypothetical candidates comes at the cost of reducing the real-world attributes of the experiment, but this cost is offset by removing respondents from their feelings about any actual politician, which could serve as confounders. We developed vignettes around three candidates with common last names (Jones, Davis, and Smith). We referred to each as "Candidate [last name]." No other personal information, including party affiliation, was provided.

Our experimental design helps clarify the microfoundations of presidential behavior. Extant theories focus on how Congress and courts constrain a president's decision to take unilateral actions and typically support this conclusion by examining the frequency of executive actions in a given time period (e.g., Belco and Rottinghaus 2016; Bolton and Thrower 2016; Chiou and Rothenberg 2014;

Deering and Maltzman 1999; Howell 2003; Krause and Cohen 1997; Lowande 2014; Mayer 1999, 2002; Warber 2006). While this research has produced insights about aggregate patterns of unilateral activity, these studies are limited in that they do not consider (the rarely knowable) cases when presidents opted *not* to take unilateral action.<sup>13</sup> Our experimental approach facilitates theoretical advances by identifying how public opinion reacts to the means by which policy is made in contexts where presidents could plausibly consider unilateral action.

Following guidance from Mutz (2011), our vignettes were relatively short and employed straightforward language. Each candidate was associated with a different issue area. Candidate Jones expressed support for legalizing medical marijuana, Candidate Davis supported reducing taxes for corporations, and Candidate Smith supported sending troops to Eastern Europe to protect that region from a potential Russian invasion. These three issues span policy domains (social issues, economic policy, and foreign affairs, respectively) and are salient issues in American politics. In addition, as our data confirm, public opinion varies considerably across these three policy proposals. Similar patterns across policy areas would provide evidence of a general relationship between unilateral action and public response.

Respondents were randomly assigned to one of three conditions relating to how the presidential candidates proposed achieving the desired policy. In the *unilateral* condition, the candidate promised to "act without Congress and use the powers of the presidency" to achieve the policy.<sup>14</sup> In the *legislative* condition, the candidate said he would "work with Congress to pass a bill" to accomplish the policy aim. In the *control* condition, we did not specify how the candidate would go about achieving the desired outcome. We present the full question wordings in Table 1. To avoid potential contamination from one vignette to the next, respondents received the same treatment assignment for each candidate and respective policy areas. We also randomized the order in which the candidates and issues were presented.

Our experimental vignettes abstract away from contextual circumstances that often accompany the use of unilateral action, such as the elite rhetoric surrounding the action and characteristics of the leaders involved. While these factors may moderate public reactions to unilateral action, we sought to avoid complicating our

<sup>13</sup>Another limitation is that many notable unilateral actions are not executive orders and may come from a source other than but at the direction of the president.

<sup>14</sup>We avoided technical terms (e.g., *executive order*, *memorandum*, or *directive*).

<sup>12</sup>The project website is <http://taps.wustl.edu>.

**TABLE 1 Vignette Question Wording**

Issue	Base	Control Condition	Legislative Condition	Unilateral Condition
Medical marijuana	Candidate Jones is running for president and has publicly voiced support for the legalization of marijuana for medical purposes. . . . . . . will result in the federal legalization of medical marijuana.	. . . Jones said he supports allowing physicians in Veterans' hospitals to prescribe marijuana for their patients. He supports policies that . . .	. . . Jones said he would work with Congress to pass a bill that allows physicians in Veterans' hospitals to prescribe marijuana for their patients. This . . .	. . . Jones said he would act without Congress and use the powers of the presidency to allow physicians in Veterans' hospitals to prescribe marijuana for their patients. This . . .
Corporate taxes	Candidate Davis is running for president and has publicly voiced support for reducing taxes on corporations. . . . . . . These actions would result in a lower tax rate for many corporations.	. . . Davis said he supports giving new tax breaks to qualifying corporations. . . .	. . . Davis said he would work with Congress to pass a bill to give new tax breaks to qualifying corporations. . . .	. . . Davis said he would act without Congress and use the powers of the presidency to give new tax breaks to qualifying corporations. . . .
Deploy U.S. troops	Candidate Smith is running for president and has publicly voiced support for defending America's allies abroad. . . . . . . This action will result in expanded U.S. military efforts overseas.	. . . Smith supports sending additional troops to Eastern Europe to protect those countries from a potential Russian invasion. . . .	. . . Smith said that he would work with Congress to pass a bill to send additional American troops to Eastern Europe to protect those countries from a potential Russian invasion. . . .	. . . Smith said that he would act without Congress and use the powers of the presidency to send additional American troops to Eastern Europe to protect those countries from a potential Russian invasion. . . .

vignettes. Because these details were omitted, these features are essentially held constant and avoid challenges associated with potential confounding.

We consider two dependent variables. First, we examine support for the candidate in question.<sup>15</sup> Second, we study respondents' approval of the candidate's proposed handling of the issue.<sup>16</sup> For ease of presentation, we collapsed both measures into dichotomous indicators

<sup>15</sup>The question wording was "How likely would you be to support Candidate [name]?" The question was asked on a four-point scale ranging from "very unlikely" to "very likely."

<sup>16</sup>The question wording was "Do you approve or disapprove of Candidate [name]'s handling of [issue]?" This question was asked on a five-point scale ranging from "strongly disapprove" to "strongly approve," with a middle option of "neither approve nor disapprove."

of evaluations of the candidates,<sup>17</sup> though our results are nearly identical when using the original response scales.<sup>18</sup>

## Results

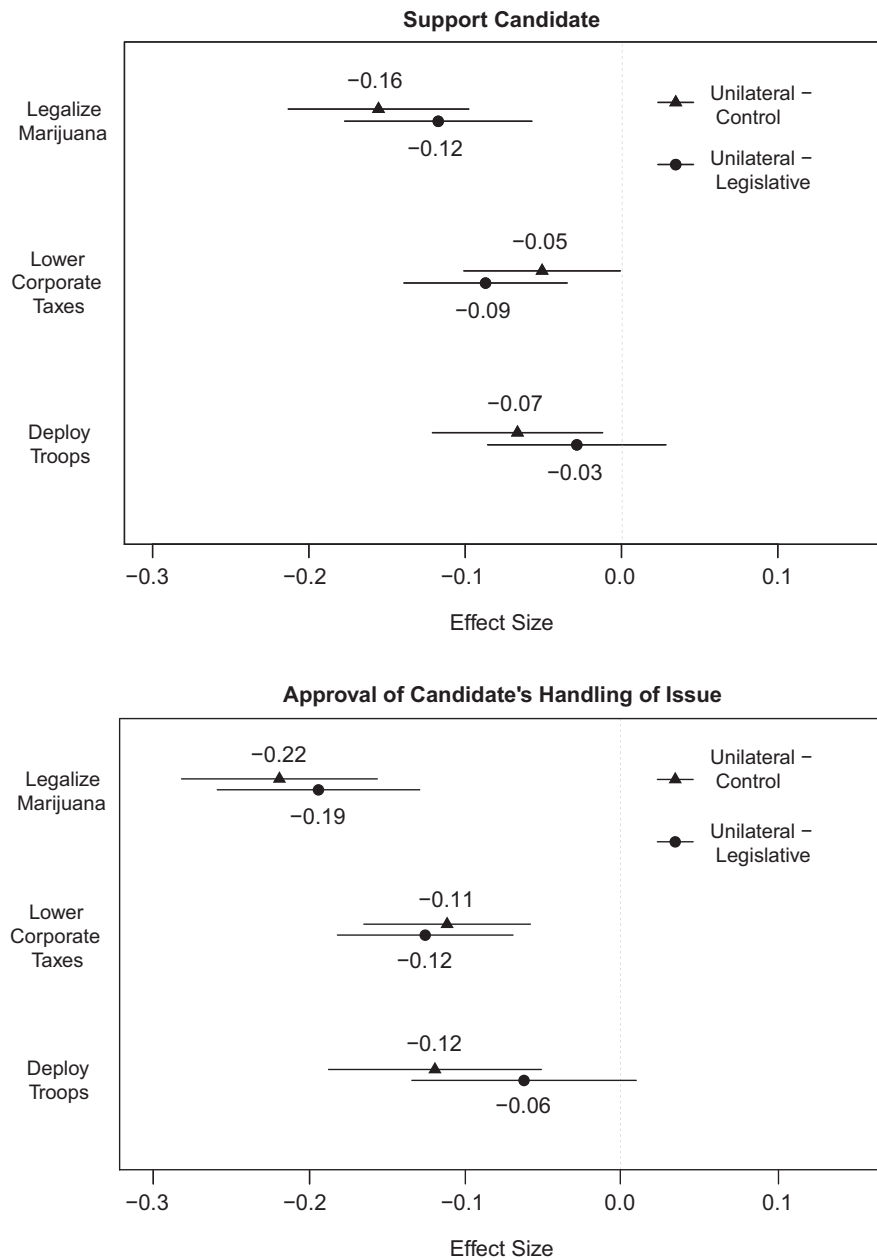
We begin by examining the treatments effects of unilateral action presented in Figure 1 for support for the candidate (top panel) and approval of the candidate's handling of the issue (bottom panel).<sup>19</sup> Each plot illustrates the costs

<sup>17</sup>We dropped respondents who chose the middle response option when we collapsed the five-point indicator of approval into a dichotomous outcome variable.

<sup>18</sup>These results are shown in the supporting information (SI).

<sup>19</sup>For overall levels of approval, see the SI.

**FIGURE 1 Unilateral Action and Presidential Candidate Evaluations**



*Note:* Triangles estimate differences between respondents in the control condition and the unilateral condition for each issue. Circles reflect the differences between respondents in the legislative condition and the unilateral condition for each issue. The horizontal lines are the 95% confidence intervals associated with the difference in proportions. Negative values along the x-axes indicate that the unilateral treatment decreased candidate evaluations. Across all issues, respondents in the unilateral condition provided significantly lower candidate evaluations than in either the control or legislative condition.

of unilateral action by presenting two comparisons for each policy area. The difference between the unilateral condition and the control condition is shown with a triangle, and the difference between the unilateral condition and the legislative condition is shown with a circle. The

horizontal lines represent the 95% confidence intervals. The vertical line at zero indicates the null hypothesis of no effect of unilateral action on candidate evaluations.

Unilateral action significantly decreased support for the candidates and evaluations of the candidates' handling

of the issues. The results are consistent across all three policy areas and both dependent variables. Compared to the control condition, in which the vignette presented no information about how the candidate would achieve his or her policy, the use of unilateral action to legalize marijuana decreased candidate support by 16 percentage points and reduced approval of the candidate's handling of the issue by 22 percentage points. The differences are smaller for the two other issue areas, but they are still negative and statistically significant. For the candidate who supported lowering corporate taxes, unilateral action reduced support by 5 percentage points and approval of the candidate's handling of the issue by 11 percentage points compared to the control condition. Deploying troops via unilateral means reduced candidate support by 7 percentage points and approval of the candidate's handling of the issue by 12 percentage points.

As Figure 1 shows, we find virtually the same patterns when comparing the use of unilateral action to a scenario in which the same policy outcome is achieved through legislative means. Significantly smaller percentages of respondents supported the candidate and approved of the candidate's handling of the issue when the candidate supporting legalizing marijuana (differences of 12 and 19 percentage points, respectively) and lowering corporate taxes (differences of 9 and 12 percentage points, respectively) proposed using unilateral powers rather than going through Congress. The evidence for the effect of unilateral action compared to legislative means is weaker for the candidate who proposed military deployments. For both dependent variables, unilateral action decreased candidate evaluations, though the difference in candidate support was not statistically distinguishable from zero ( $p = .325$ ).

We further explored the consequences of unilateral action by examining how it affects respondents' assessments of the personal traits of the candidates. For instance, a candidate's intention to exercise unilateral powers could have countervailing effects by promoting impressions of stronger and effective leaders. Perceptions of traits such as leadership can lead to increased electoral support (Fridkin and Kenney 2011; Funk 1999), and assessments of presidential leadership contribute to presidential approval ratings (e.g., Cohen 2015). We thus investigated how unilateral action affected respondents' beliefs that the candidate "provides strong leadership" and is "able to get things done."<sup>20</sup>

The results are shown in Figure 2. If unilateral action increased perceptions of the candidates' leadership and

ability to get things done, we would expect to see positive values along the x-axes. We find no support for this expectation, however. Looking first at the top panel of Figure 2, only in one of the six comparisons was unilateral action associated with increased perceptions of leadership relative to a comparison scenario (reducing corporate taxes via unilateral means increased perceptions of leadership by 1 percentage point relative to the control condition), and this difference is not statistically distinguishable from zero. The other comparisons show that unilateral action reduced perceptions of leadership by between 3 and 12 percentage points. The bottom panel of the figure reveals similar patterns. Rather than increasing perceptions of leadership and accomplishment, our findings generally show that unilateral action decreased respondents' assessments of these character traits. These results are generally consistent with a Neustadtian view of presidential leadership in which effectiveness is gauged by a president's ability to secure support from other key political actors.

We also studied how unilateral action affects perceptions that the presidential candidate respects the rule of law. The rule of law is central to debates over executive prerogative, which scholars argue is "a disturbing anomaly in a normally rule-bound system of government" (Fatovic 2004, 430). In a system in which authority is both shared and separated across the branches of government, the exercise of unilateral power by presidents may be perceived as reducing the political power of other branches of government. This is precisely the language political actors in Washington, DC, have used in debates over unilateral action. For instance, Speaker of the House John Boehner invoked the rule of law when criticizing President Obama's immigration executive actions in November 2014<sup>21</sup> and, in a later speech, said that Obama's "executive overreach is an affront to the rule of law and to the Constitution itself."<sup>22</sup> Does this language resonate with the public? We examined whether respondents were more likely to believe that presidents who exercise unilateral action violate the rule of law by doing so. We measured respondent evaluations of the presidential candidates by asking them to indicate whether they believed each candidate "respects the rule of law."

The results are shown below in Figure 3. Across each policy domain, unilateral action significantly decreased respondents' beliefs that the candidate respected the rule

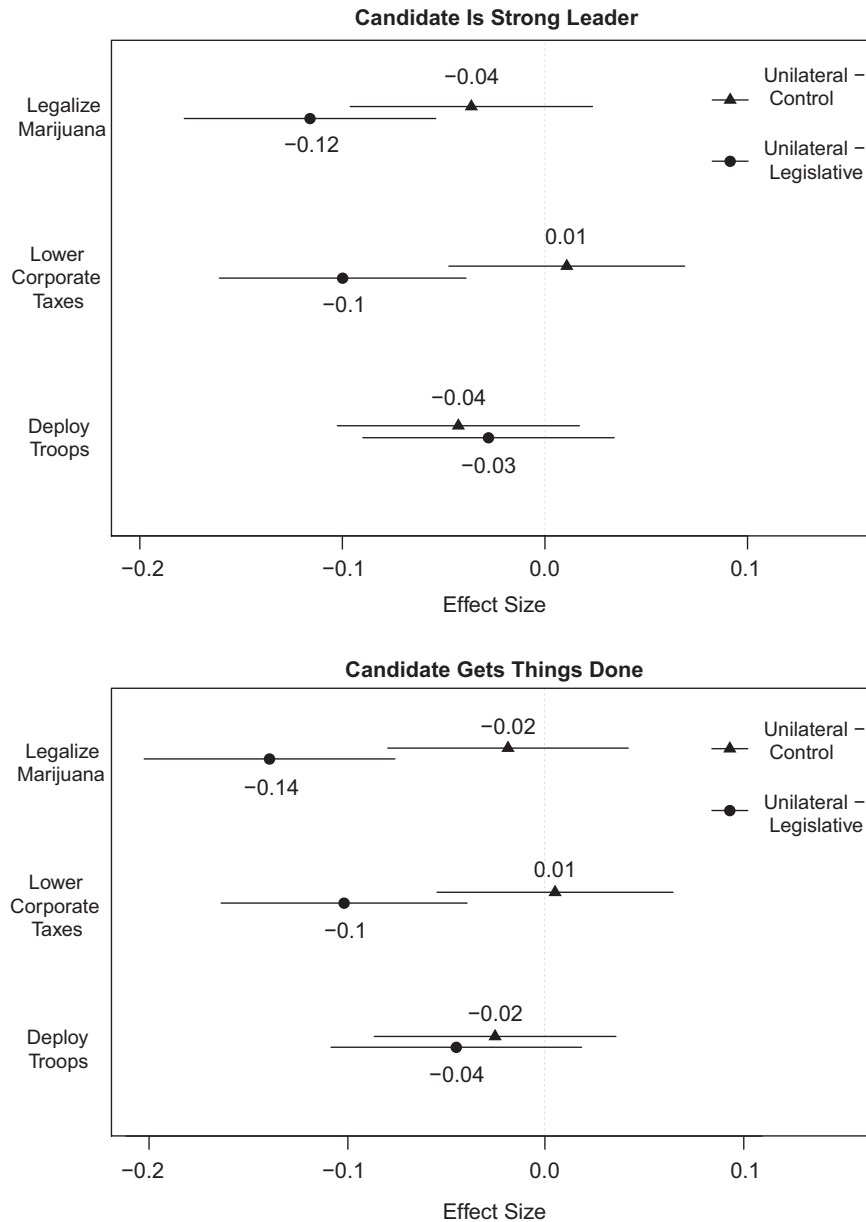
<sup>20</sup>The responses to these questions were based on 4- point scales, which we collapsed into a dichotomous indicator.

<sup>21</sup>See, for example, <http://www.npr.org/sections/thetwo-way/2014/11/21/365684952/boehner-we-will-not-stand-idly-by-as-president-undermines-the-rule-of-law>.

<sup>22</sup>See <http://www.speaker.gov/press-release/affront-rule-law-and-constitution-itself>.



**FIGURE 2 Unilateral Action and Presidential Candidate Evaluations**



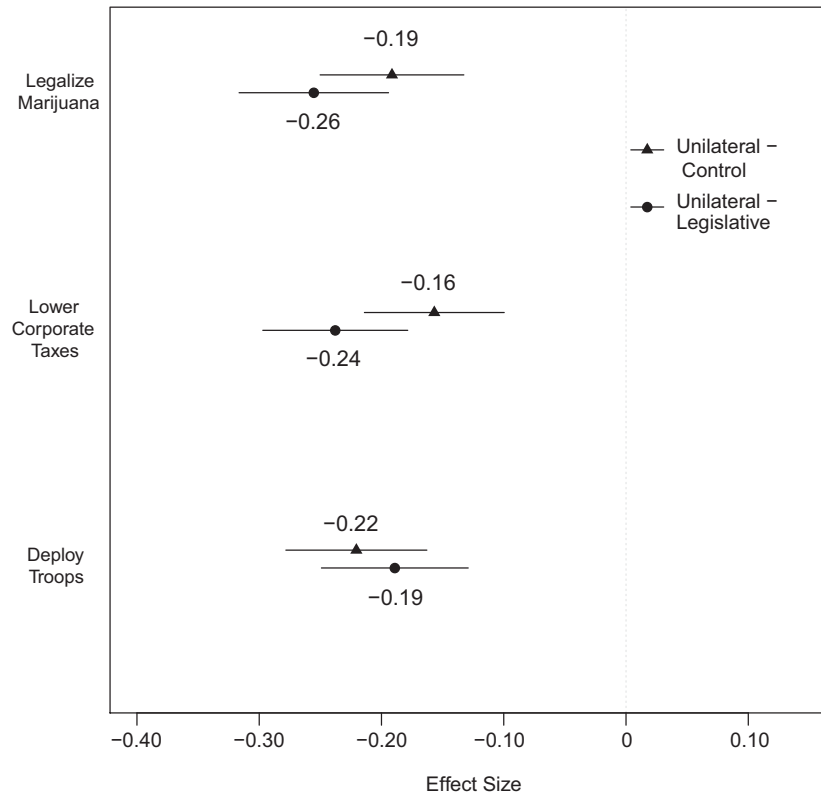
*Note:* The triangles reflect the differences between the control condition and the unilateral condition for each issue. The circles reflect the differences between the legislative condition and the unilateral condition for each issue. The horizontal lines are the 95% confidence intervals associated with the difference in proportions. Negative (positive) values along the x-axes indicate that the unilateral treatment decreased (increased) candidate evaluations.

of law. Compared to the control condition, unilateral action decreased respondents' beliefs that the candidate respects the rule of law by between 16 and 22 percentage points. Nearly identical results are found when comparing the unilateral condition to the legislative condition, where respondents' evaluations of the candidate's respect for the rule of law were reduced by between 19 and 24 percentage

points. In sum, these results indicate that unilateral action may affect how citizens evaluate the president's commitment to core principles of democratic governance.

The data reported here provide broad support for our hypothesis that unilateral action introduces political costs to the president in the form of decreased public opinion ratings. Not only are the public's evaluations of

**FIGURE 3 Unilateral Action and Perception of the Candidate's Commitment to the Rule of Law**



*Note:* Triangles reflect the differences between the control condition and the unilateral condition for each issue. The circles reflect the differences between the legislative condition and the unilateral condition for each issue. The horizontal lines are the 95% confidence intervals associated with the difference in proportions. Positive (negative) values along the x-axis indicate that the unilateral treatment decreased (increased) the belief that the candidate respects the rule of law. Across all three issues, respondents assigned to the unilateral condition provided significantly lower beliefs that the candidate respected the rule of law than in the control or legislative condition.

presidential candidates responsive to the means by which candidates intend to achieve their policy goals, but the use of unilateral powers in particular decreases voters' assessments of the candidates. Moreover, contrary to suggestions that political leaders such as presidents can foment positive public images of leadership and accomplishment by acting alone, our findings provide no evidence that unilateral action increases evaluations of candidates along these trait dimensions.

### Policy Preferences and the Effect of Unilateral Action

We now investigate whether respondents' policy preferences condition the effect of unilateral action. For the public to constrain presidents from seeking unilateral action, we expect that the negative reactions would

exist even among members of the public who support the president's policies. More generally, we explore how preferences and procedures interact to affect political evaluations.

We measure respondents' views on each policy domain, in some instances leveraging the panel nature of the survey and using questions asked of the same respondents in waves other than the wave during which our experiments were administered. Each question asked respondents to indicate their level of agreement with a policy statement along a 5-point scale, and responses were coded such that higher values indicated greater agreement with the policy advocated by the presidential candidate in the vignette. We centered these variables at zero so that each measure ranges from  $-2$  to  $2$ . The full text and distribution of responses to the questions are presented in the SI. While each question evaluates

public opinion in the relevant policy domains, the text exhibits varying degrees of correspondence with the specific policies advocated by the presidential candidates in our experimental vignettes, with the question wording for defense policy exhibiting the greatest disparity with the policy outcome advocated by the presidential candidate.<sup>23</sup> We have replicated our findings below using party identification and political ideology and find similar patterns.<sup>24</sup>

We examine how policy preferences conditioned the effects of unilateral action by estimating logistic regressions for each policy area and both of our main dependent variables.<sup>25</sup> For simplicity, we only consider respondents in the legislative and unilateral conditions.<sup>26</sup> Our main independent variables are an indicator for whether respondents were assigned to the unilateral condition, the measure of policy preferences discussed above, and an interaction between the two. We are primarily interested in the coefficient for the interaction term, where negative (positive) values would indicate that the negative effects of unilateral action are larger in magnitude among respondents who share (oppose) the president's policy goals. Because values of the policy preference variables were not randomly assigned, we estimated models with and without the inclusion of demographic covariates, including age, sex, race or ethnicity, education, and income, to ensure the robustness of our results.

The results are shown in Table 2 and are consistent across both dependent variables, model specifications, and all three policy areas. The coefficient for the unilateral condition estimates the effects among respondents whose policy preferences are at the center of the 5-point scale. First, the indicator for the unilateral condition is consistently negative and statistically significant for the marijuana legalization and corporate tax policy areas, indicating that respondents in this condition evaluated the presidential candidate more negatively than they did in the legislative condition. Second, we find that support for and evaluations of the presidential candidates are more positive as respondents' policy preferences are more aligned with the candidates' policy goals. Third, and

most importantly, the results show that individuals' policy preferences moderate the effects of unilateral action. The coefficients for the interaction terms are negative across all models and are statistically distinguishable from zero in four of the six models without covariates and five of the six models that include covariates.<sup>27</sup> Consistent with the account we outlined above, these findings indicate that the negative effects of unilateral action are largest among respondents who share the presidential candidate's policy views.

To provide an illustration of the substantive effects shown in Table 2, we estimate the predicted probability of the dependent variables based on treatment condition and policy preferences. Consider the results for approving of the candidate's handling of the issue. In the marijuana legalization case, the effect of unilateral action is estimated to be .14 more negative among respondents who strongly agree with states' legalizing marijuana compared with respondents who strongly disagree with this policy proposal. The substantive effects are even larger for the other two policy domains. Compared to respondents who strongly agree that corporations pay their fair share in taxes, the effect of unilateral action is .51 more negative among respondents who strongly disagree. Finally, moving from "strongly disagree" to "strongly agree" that the United States should spend more on national defenses increases the negative effects of unilateral action by .36. We find similar results across both dependent variables, and the substantive magnitudes are similar whether or not the demographic covariates are included.

The results from our survey experiments demonstrate that public opinion may constrain presidents' inclination to pursue policies through unilateral means. Our data provide evidence of decreased public evaluations of presidential candidates who propose to achieve policies unilaterally rather than by working with Congress. The effects are especially strong among respondents who agree with the candidate's policy position. Together, our experimental findings support the contention that the public is able to constrain presidents' unilateral tendencies. Finally, we also explored the possibility that the effects of unilateral action are conditioned by other attributes, such as respondents' political knowledge, education, age, and

<sup>23</sup>Opinions about marijuana were measured in March 2014, before some respondents joined the survey panel. Another of the measures (troop deployment) was asked in November 2015 and thus technically is a posttreatment variable.

<sup>24</sup>These results are presented in the SI.

<sup>25</sup>Our findings are robust to using the 4-point (candidate support) and 5-point (approval of handling of issue) response scales and estimating linear and ordered logistic regression. See the SI.

<sup>26</sup>This decision does not change our substantive findings. See the SI.

<sup>27</sup>The weakest results are found for the marijuana policy domain, for which respondents' preferences were elicited more than 18 months before the survey experiment was administered. The lack of statistical significance could result from decreased power due to sample attrition, as well as changes in respondents' preferences over this time period. As noted, we find consistent results when partisanship and ideology are interacted with the treatment indicators.

**TABLE 2 Policy Preferences and the Effect of Unilateral Action**

	DV = Support candidate			DV = Approve of handling		
	Marijuana	Taxes	Troops	Marijuana	Taxes	Troops
Unilateral Condition	-0.57*	-0.79*	0.05	-1.68*	-1.34*	-0.07
	(0.17)	(0.17)	(0.15)	(0.31)	(0.24)	(0.20)
Marijuana Support	0.86*			1.64*		
	(0.10)			(0.20)		
Unilateral Condition × Marijuana Support	-0.04			-0.84*		
	(0.13)			(0.22)		
Tax Support		0.87*			1.11*	
		(0.11)			(0.14)	
Unilateral Condition × Tax Support		-0.52*			-0.60*	
		(0.14)			(0.19)	
Defense Support			0.58*			0.79*
			(0.10)			(0.13)
Unilateral Condition × Defense Support			-0.44*			-0.49*
			(0.14)			(0.17)
Intercept	0.40*	-0.46*	-1.04*	1.92*	-0.45*	-0.91*
	(0.12)	(0.12)	(0.11)	(0.28)	(0.16)	(0.15)
Number of observations	836	1,057	1,010	640	803	691

*Note:* Entries are logistic regression coefficients with standard errors in parentheses. The dependent variable is listed at the top of each column. Respondents who received the legislative treatment condition are the omitted category. Data are weighted to national population parameters. \* $p < .05$ .

gender, but did not find systematic evidence that these variables played a moderating role.<sup>28</sup>

## Evaluating Presidential Uses of Unilateral Action

To what extent do the findings from the previous section affect evaluations of real-world outcomes presidents have achieved through unilateral action? We cannot retroactively conduct experiments in times past where we manipulate how presidents have accomplished their policy goals. Instead, we study how attitudes toward unilateral action are associated with approval of policies presidents have achieved through unilateral means. If, as our experimental results indicate, the public is less supportive of policies when they are achieved through unilateral action, we expect to find that individuals' attitudes toward unilateral action also influence how they view policy outcomes that were accomplished unilaterally.

We study this question using data from a nationally representative survey of 1,000 U.S. adults designed and conducted by *The Economist/YouGov* in February 2015.

The survey asked respondents whether they approved of a series of policies that presidents from Lincoln to Obama have achieved through unilateral action. Our dependent variables are respondents' approval of "the executive order" that accomplished the following:<sup>29</sup>

- Freed all slaves in the states that were in rebellion against the federal government.
- Established the Works Progress Administration (WPA).
- Created military exclusion zones during World War II and allowed for the forcible relocation of Americans of Japanese descent to internment camps.
- Desegregated the U.S. military.
- Placed U.S. steel mills facing a strike by union workers under federal control.
- Restricted all nongovernmental organizations (NGOs) that receive federal funding from performing or promoting abortion services as a method of family planning in foreign countries.
- Authorized enhanced interrogation techniques and established military tribunals to try foreign enemy combatants.

<sup>28</sup>See the supporting information.

<sup>29</sup>Some of these actions were not executive orders, but all were unilateral actions taken by a president.

- Directed the Centers for Disease Control and Prevention to research the causes and prevention of gun violence.
- Deferred deportation hearings for illegal immigrants who were brought into this country before they were 16 years old, have lived in the United States for at least 5 years, must be younger than 30, and have graduated from high school in the United States or served in the U.S. military.

Support for these actions varied widely, from a low of 19% for Japanese internment to 77% for freeing slaves during the Civil War. The variation in support for these policies is useful for ruling out the possibility that any results are an artifact of respondents' uniformly approving or disapproving of each of these actions.

The key independent variable measures attitudes toward unilateral action. Before respondents were asked to evaluate the policies noted above, they were asked whether they "approve or disapprove of presidents using executive orders." This variable was measured on a 4-point scale ranging from "strongly disapprove" (1) to "strongly approve" (4). Overall, 48% of the respondents either strongly or somewhat approved of presidents using executive orders. If the means through which policies are achieved affect how the public evaluates those policies, we expect to find a positive association between attitudes toward unilateral action and each of the policy outcomes listed above.<sup>30</sup>

We estimate a series of logistic regressions in which approval of each of the policies above is regressed on attitudes toward unilateral action. We also include respondents' ideological self-placements along a 5-point scale ranging from "very conservative" (1) to "very liberal" (5) and their reported partisan affiliation along a 7-point scale. We weight our analyses to national population parameters.

This exercise constitutes a tough test of the relationship between unilateral action and evaluations of policy outcomes. Our dependent variables measure attitudes toward high-profile historical events, including the Emancipation Proclamation, Japanese internment during World War II, Truman's seizure of the steel industry that resulted

in the *Youngstown Steel* case, and electronic surveillance conducted during the George W. Bush and Barack Obama presidencies. Given the significance of these actions, it would be surprising to find respondents' contemporary attitudes toward unilateral action affecting their assessments of historical policy outcomes.

First differences from our statistical model are presented in Figure 4.<sup>31</sup> Each point shows the difference in the predicted probability of supporting each policy outcome between respondents who strongly disapprove and strongly approve of presidents' using executive orders. The horizontal lines show the 95% confidence intervals. Negative values along the x-axis indicate decreased support for the policy among respondents who strongly disapprove of executive orders.

For each presidential action, we find that attitudes toward unilateral action strongly affect evaluations of policies achieved through its use. Respondents who disapproved of executive orders were less supportive of each policy we studied. The differences were statistically significant for eight of the nine policies; the one exception was for restricting the use of federal funds for abortions performed by NGOs in foreign countries. The reductions in support for the policy outcomes were substantively significant. For instance, the probability of supporting freeing of the slaves during the Civil War was .20 lower among those who strongly disapproved of presidents' using executive orders compared to those who strongly supported the use of executive orders. The differences were even larger when comparing support for creating the WPA (.34), interning Japanese Americans in World War II (.28), desegregating the military (.25), federalizing the steel industry (.42), conducting research on the causes of gun violence (.54), and allowing illegal immigrants brought to the United States as children to remain here without fear of deportation (.46).

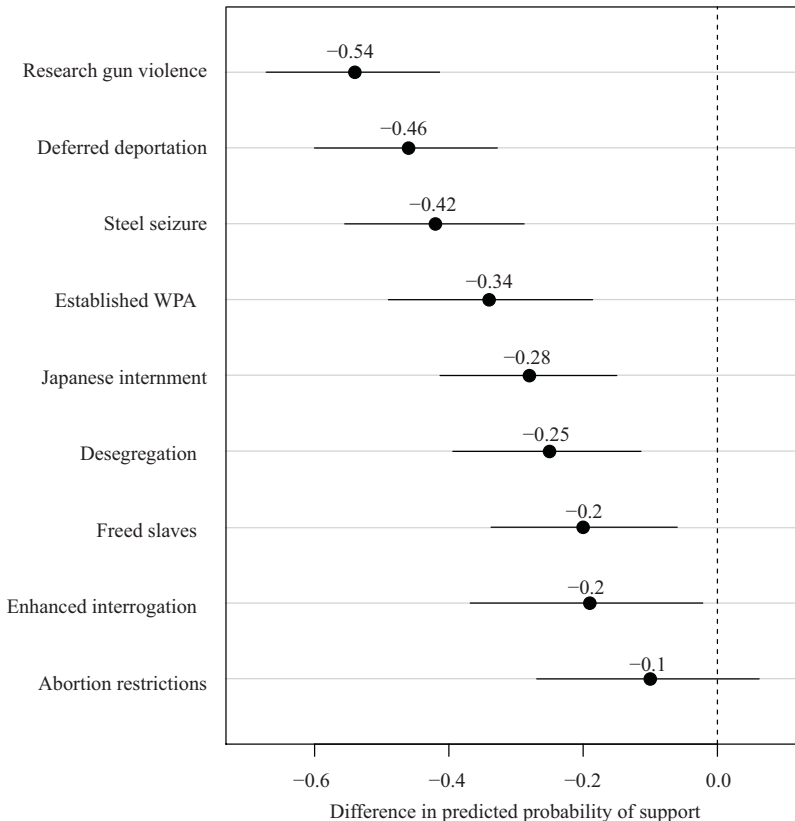
The results shown in Figure 4 demonstrate that attitudes toward unilateral power in the abstract shape how voters evaluate policies presidents have achieved through unilateral means. Not only do voters penalize presidential candidates for advocating policy change through unilateral rather than legislative means, as our experiments demonstrated, but voters who express opposition to unilateral action also are less supportive of policies that are accomplished unilaterally. In addition, the survey results suggest that the insights from our experimental analysis generalize to current and past presidents and policy

<sup>30</sup>This question appeared immediately before respondents were asked to evaluate each of the actions listed above, which risks priming respondents' attitudes toward unilateral actions. For this reason, the observed magnitudes of the estimated relationships could overstate the true effects. However, seeing variation *within individuals* in support for the range of unilateral actions suggests that even those respondents who were motivated to provide evaluations consistent with their approval of presidents' using executive orders recognized that not all policies achieved through unilateral means are equally desirable.

<sup>31</sup>The full table of coefficients can be found in the SI. We also estimated models in which partisanship was coded based on whether respondents identified with the same party or the opposite party as the president who issued each executive action. Our substantive findings remain unchanged.



**FIGURE 4 How Attitudes toward Unilateral Action Affect Evaluations of Previous Executive Actions**



*Note:* The points represent the differences in the predicted probability of approving of each unilateral action between respondents who strongly approve and strongly disapprove of presidents' issuing executive orders. The x-axis shows the decrease in support for the executive action among respondents who strongly disapprove of presidents' issuing executive orders. The horizontal lines represent the 95% confidence intervals. Estimates are from simulations based on logistic regression models presented in the supporting information.

outcomes. Since we lack a true counterfactual policy outcome accomplished through non-unilateral means, we present these results with caution. Nevertheless, in contrast with research that argues voters hold presidents accountable on the basis of policy outcomes, the results shown in Figure 4 provide evidence that the public also judges presidents' policy accomplishments on the basis of how their policies were achieved.

## Discussion

Presidents are held accountable for an extraordinary range of outcomes and often assert their unilateral powers to achieve their goals. Extant scholarship focuses almost exclusively on the constraints provided by legislatures,

courts, and bureaucrats on a president's decision to go it alone (e.g., Howell 2003; Kennedy 2015; Mayer 2002; Rudalevige 2015). While presidents might prefer to implement their policy preferences via major legislation, the reality is also that legislative solutions are increasingly rare. Congress is polarized and routinely governed by slim partisan majorities. This makes it difficult for presidents to secure coalitions to pass legislation that advances their policy goals. Executive action takes on a substantively different role (Cameron 2002). By studying how the public reacts to unilateral action by presidents, we establish how public opinion may affect interbranch dynamics in a system of separated powers.

The public assesses presidents beyond mere partisanship and ideology. Citizens also judge how presidents govern while in office. Our results provide empirical support that, despite the certainty with which a unilateral

action is ordered and implemented, it is “costly” to both “the aims in whose defense it is employed” as well as “objectives far afield” (Neustadt 1990, 28). We show that unilateral action is indeed costly to a president’s public standing. By addressing potential biases due to strategic selection among presidents, we provide evidence that the threat of public backlash may constrain a president’s use of unilateral action (Bruff 2015; Christenson and Kriner 2015; Posner and Vermeule 2010). Although we examine direct trade-offs between legislation and executive action, further research should consider the relative costs of executive action compared to no action at all or how the costs vary in the face of congressional intransigence.

Our findings indirectly speak to the conditions under which public opinion constrains a president from taking unilateral action. The evidence implies that these constraints are most influential on issues that are salient to the public and for presidents with middling approval ratings since they are especially sensitive to the public response to their actions (see, e.g., Canes-Wrone and Shotts 2004). If presidential opponents can effectively politicize unilateral action, they can weaken a president’s agenda. Criticism on procedural grounds may be as effective as or more effective than attacking policy for mobilizing public opposition when a president uses unilateral action to achieve a policy goal. These dynamics may also shape media coverage and increase the saliency of these presidential actions for the public. Additional research is needed on these questions. Despite claims that the public wants presidents to “break constitutional rules and find ways to exercise their will” (Howell 2013, 106), we find a public concerned about the centralization of American political power in the presidency. At the same time, our findings may also give cover to others who argue for vesting an expanded set of unilateral powers to a president who will deploy them only when public opinion supports their use.

We suggest new directions for the study of unilateral action. Despite voluminous scholarship on unilateral action, little is known about the conditions under which presidents exercise unilateral powers rather than pursuing legislation. The findings here begin identifying costs that factor into a president’s calculations. There are likely others, and future research should work to identify these costs.

Finally, we note several limitations of our research design. Our experimental approach, while addressing biases associated with issues of strategic selection, omits features of the real world that may have implications for the politics of unilateral action. For instance, while presidents may generally prefer legislative solutions, public response to unilateral action may depend on whether such actions

are the president’s first resort or are instead taken only after legislative attempts have failed. The public may find unilateral action preferable to stalemate, and evidence from Reeves and Rogowski (2016) suggests the public is more accepting of unilateral action when Congress will not act. At the same time, the first weeks of the Trump administration provide evidence consistent with our findings. President Trump’s unilateral approach to restricting entry to the United States from countries associated with terrorism was met with widespread disapproval and public protest. The response to unilateral action may depend upon aggregate support for the president’s policy goals and the likely success, both in the courts and through its implementation, of the unilateral policy. Further research, both experimental and observational, is necessary to better understand how political context shapes public response to unilateral action.

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## Supporting Information

Additional Supporting Information may be found in the online version of this article at the publisher's website:

- Figure A.1** Unilateral Action and Presidential Candidate Evaluations
- Table A.1** Public Response to Presidential Policymaking

**Table A.2** Policy Preference Measures

**Table A.3** Policy Preferences and the Effect of Unilateral Action

**Table A.4** Policy Preferences and the Effect of Unilateral Action (OLS estimates)

**Table A.5** Policy Preferences and the Effect of Unilateral Action (OLS estimates, with covariates)

**Table A.6** Policy Preferences and the Effect of Unilateral Action (Ordered logit estimates)

**Table A.7** Policy Preferences and the Effect of Unilateral Action (Ordered logit estimates, with covariates)

**Table A.8** Policy Preferences and the Effect of Unilateral Action (All Conditions)

**Table A.9** Policy Preferences and the Effect of Unilateral Action (All Conditions, with covariates)

**Table A.10** Partisanship and the Effect of Unilateral Action

**Table A.11** Partisanship and the Effect of Unilateral Action (with covariates)

**Table A.12** Ideology and the Effect of Unilateral Action (without covariates)

**Table A.13** Ideology and the Effect of Unilateral Action (with covariates)

**Table A.14** Education and the Effect of Unilateral Action

**Table A.15** Age and the Effect of Unilateral Action

**Table A.16** Gender and the Effect of Unilateral Action

**Table A.17** Political Knowledge and the Effect of Unilateral Action