No Blank Check

The Origins and Consequences of Public Antipathy towards Presidential Power

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Contents

List of Tables

List of Figures

Acknowledgements

As the semester began in the Fall of 2013, it seemed that the US was moving toward a war footing in Syria. Near the end of August, more than a thousand people had been killed outside Damascus in a chemical weapons attack. Intelligence reports indicated that the attack had been carried out by the Syrian government under its president, Bashar al-Assad. A year earlier, American President Barack Obama indicated that the use of chemical weapons by the Assad regime would constitute a "red line" and prompt a US military response. As haunting images of those killed and injured by the attacks circulated around the world, military personnel, defense analysts, and even Obama himself appeared to believe that military intervention was inevitable.

But that isn't what happened. Rather than initiate military strikes by invoking the president's war powers, as Obama and his predecessors had done in similar situations, at the end of the month President Obama instead announced that he would seek congressional authorization before conducting military strikes in Syria.

Like many other projects, this book has its origins in hallway conversations. *Why had Obama forgone the opportunity to exercise a power he conceivably could have claimed? Why didn't he follow through on a threat he himself had made?* That we were asking these questions suggested to us that political science scholarship on the presidency had missed something important about presidential decision making. Through these discussions in Seigle Hall at Washington University in St. Louis, we began our collaboration to discover why presidents sometimes choose *not* to exercise authority they might claim to advance preferences they appear to hold.

We conducted a survey later in Fall 2013 in a first attempt to make headway on this question. Fortuitously, our colleague John Patty invited us to coorganize a conference at Washington University in St. Louis that was held the following summer. There, we presented our initial findings on the nature of

public attitudes about presidential power. We are grateful to John for the opportunity to invite an impressive group of scholars to St. Louis. We are also grateful to conference participants, particularly Chuck Cameron, for incisive and formative feedback on the project at this early stage.

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1

Introduction

Joe Biden sought the presidency for most of his professional life. After winning election to the US Senate in 1972, Biden entered the race for the 1988 Democratic Party nomination but withdrew before the first contest. He didn't last much longer when he sought the 2008 nomination. But 2020 was his year, and what a year it was.

Even for a man who had eyed the presidency for more than 30 years, Biden entered the White House with no shortage of challenges to address. He was inaugurated on January 20, 2021 in the midst of the deadliest four weeks of the COVID-19 pandemic in the US (Gamio and Leatherby 2021). The nation's economy contracted at the highest rate in recorded history in spring 2020 (Siegel and Dam 2020), and annual growth in 2020 was the lowest it had been since World War II (Siegel, Dam, and Werner 2021). After the killings of George Floyd, Breonna Taylor, and other Black Americans by police, race relations were at their lowest point in decades (*Economist* 2020). The country's reputation among foreign allies had declined precipitously (Pew Research Center 2020). And the riot at the US Capitol two weeks before Biden's inauguration had shocked the nation and the world.

While running for president, Biden had issued slews of policy pledges (Moore 2020). Yet upon becoming President-elect, Biden expressed reluctance to advance those promises with the stroke of a pen through unilateral action. On a call with civil rights leaders in December 2020, for example, Biden explained his views about the limits to executive power:

> So there's some things that I'm going to be able to do by executive order. I'm not going to hesitate to do it, but . . . I am not going to violate the Constitution. Executive authority that my progressive friends talk about is way beyond the bounds. And as one of you said. . . there is a Constitution. It's our only hope. Our only hope and the way to deal with it is, where I have executive authority, I will use it to undo every single damn thing this guy has done by executive authority, but I'm not going to exercise executive

authority where it's a question, where I can come along and say, "I can do away with assault weapons." There's no executive authority to do away that.... you can't do it by executive order. We do that, next guy comes along and says, Well, guess what? By executive order, I guess everybody can have machine guns again. So we gotta be careful. (Grim 2020)

Despite his reluctance, Biden made quick use of his presidential pen during his first days in office. Most of his efforts rolled back directives that had been issued by the Trump administration and implemented emergency measures for addressing the raging pandemic. Yet for some observers, this was a case of too much, too soon. A week into his administration, the *New York Times* Editorial Board (2021) implored the president to "ease up" on unilateral action. This plea came despite the Board's full-throated endorsement of Biden during the 2020 campaign in which it cited approvingly his "bold agenda aimed at tackling some of America's most pressing problems."

Biden's cautionary approach to executive power helps illustrate a central claim of this book. Americans have deep-seated skepticism about presidential power. This skepticism is not always made explicit in the public's day-to-day political expressions, but it is a latent force in American political culture forged at the founding of the nation and ingrained in grade school civics lessons. It is not a legalistic or intellectual understanding of the text of the US Constitution or Declaration of Independence. Rather, this skepticism reflects a belief that the separation of powers, especially in their protection from tyranny, is sacrosanct. Just as Americans celebrate the Declaration of Independence—an indictment against monarchical executive power—or cheer against King George III in the musical *Hamilton*, the public has inherited a wariness toward executive power. This latent force influences how Americans evaluate presidents and their policies and provides the political incentives for the familiar push-and-pull found in interbranch political conflict.

1.1 The Politics of Presidential Power

Nowhere is political power more contested in the American political system than it is with the presidency. The approaches of recent presidential administrations underscore the point. President George W. Bush embraced the unitary presidency theory as a justification for conducting twin wars abroad and domestic surveillance at home. President Obama used the administrative presidency to overcome congressional recalcitrance to change policies ranging from immigration to drug enforcement. And President Trump aggressively utilized unilateral directives and emergency power to fulfill campaign promises and

policy objectives. Critics challenge recent administrations on the bounds of presidential authority just as they contest the merits of the presidents' policy objectives.

The terms of these interbranch disputes are clear: when political institutions share power, clashes over who wields authority and for what ends are inevitable. The public's extraordinary expectations for its presidents provide incentives for presidents to claim additional authority in hopes of meeting public demand. Yet presidents' congressional opponents waste little time in pushing back. They accuse presidents of subverting the US Constitution by claiming power that belongs to the legislative branch. For instance, when President Obama directed the Department of Homeland Security in 2014 to modify its enforcement of deportation laws, Republican leaders criticized the president's "brazen power grab" (Shear 2014c).

This conflict over power is a fact of life for virtually every presidential administration. This conflict unfolds on a public stage as presidents and their allies justify the exercise of presidential authority while opponents criticize its use. These exchanges have an inherently political character and invite the public to evaluate the competing arguments. The public's response to these debates is an important determinant of their political resolution.

Over the last century, concerns about weak and ineffectual presidents have been supplanted by worries of an imperial presidency (Schlesinger 1973). These worries focus on whether and how presidents are held accountable for the use of power. The Framers of the Constitution intended their system of checks and balances to keep any one branch of government from accumulating too much power, but as Madison observed in *Federalist*, no. 48 "a mere demarcation on parchment of the constitutional limits" was not self-enforcing. Instead, the political process also enforces limits on presidential power. Because the president and members of Congress require popular support for their continued service in office, public opinion provides a means to resolve conflict over presidential power vis-á-vis Congress.

How do Americans evaluate presidential power? Have they inherited the skepticism of executive power, as expressed by the founding generation? Or, owing to their embrace of the presidency as the best institutional vehicle for advancing the public interest, do they endorse a more expansive view of presidential authority? Or, alternatively, on questions of presidential power, do Americans' partisan and ideological affiliations carry the day without regard for the principles that shaped the design of the US Constitution? These are the questions we address in this book.

1.2 The Rise of Presidential Power

Textbook accounts of American government identify the emergence of the modern presidency in the early twentieth century. Scholars differ about why and when exactly this transformation occurred, but it is indisputable that contemporary presidents confront challenges largely unimaginable by their predecessors. With these new trials come elevated expectations. In response, modern presidents have claimed authority and exercised power in ways that broke with the practices of their predecessors.

The presidencies of Theodore Roosevelt and William Howard Taft are an instructive contrast in theories of presidential power. Roosevelt championed a stewardship theory of the presidency, and he viewed the powers of his office as expansive especially when they were in the service of the desires of the American people. Reflecting in his autobiography on how this theory guided his approach to the presidency, President Roosevelt recalled that

> I did and caused to be done many things not previously done by the president and the heads of departments. I did not usurp power, but I did greatly broaden the use of executive power. (1913, 357)

Roosevelt's successor, William Taft, did not follow Roosevelt's philosophical lead, hewing instead to a more traditional philosophy regarding presidential governance. Taft's more conservative view was that "the President can exercise no power which cannot be fairly and reasonably traced to some specific grant of power" from the Constitution or an act of Congress (Taft 1916, 140).

Roosevelt's and Taft's divergent philosophies of the presidency were pitted head-to-head as they ran against each other for president in 1912. Taft, the incumbent president, viewed the contest as "a crusade to defend the Constitution and the rule of law against the pure democracy threatened by Roosevelt, who was increasingly sounding like a demagogue" (Rosen 2018, 94). In the end, Taft was crushed in the contest—receiving the fewest electoral votes of any incumbent president in history. In the three-way contest, Woodrow Wilson, with his expansive view of presidential powers closely akin to that of Roosevelt, was the victor.

With few exceptions, since the Taft administration presidents have seen it in their political interests to claim powers that may extend beyond even a Hamiltonian view of the presidency. Summing up the trajectory of presidential power, one account notes that:

> Although Presidents Calvin Coolidge and Herbert Hoover adhered to Taft's strict constructionist vision of the presidency, all presidents since Franklin D. Roosevelt have embraced what the historian Arthur M. Schlesinger, Jr. called the imperial presidency,

drawing on Theodore Roosevelt's and Woodrow Wilson's idea of the president as a steward of the people (Rosen 2018, 123).

The transformation of the presidency following Roosevelt's vision represented a victory for Progressives. Around the turn of the twentieth century, Progressive reformers sought to modernize and democratize government administration and its procedures. Recasting the role of the presidency in the American system of government lay at the center of many of these efforts. The key argument for Progressives—which is often articulated by contemporary proponents of presidential supremacy—relates to the president's unique relationship with the mass public. No other political actor, they argue, is elected by the entire country. Therefore, the president is best positioned to understand and advance the national interest and to represent the political views of a national constituency.

Yet Progressive-era reformers recognized that achieving their vision required that the presidency acquire more institutional authority. As Henry Jones Ford (1898, 215) proclaimed, "While the presidential office has been transformed into a representative institution, it lacks proper organs for the exercise of that function . . . [N]o constitutional means are provided whereby he may carry out his pledges." Presidents and political observers thus used Progressives' arguments to advocate for shifting institutional power toward the presidency and away from Congress. For instance, Congress endorsed the theory of presidential representation to endow the president with greater agenda-setting powers and administrative capacity in the decades following the Progressive Era (Dearborn 2019a, 2019b). As presidential expectations steadily grew during the second half of the twentieth century, presidents lay claim to an increasingly wide range of powers. Today, presidents routinely act on their own to effect policy outcomes through a wide range of means—all without involving Congress.[1] The ascendance of the presidency in the American political system has been accompanied by debates over how far, exactly, presidents can and should wield power to meet their herculean expectations. While Theodore Roosevelt's theory of the presidency has won out over the past century, we argue that the public's deference for the rule of law and related skepticism of executive power is more reflective of Taft's philosophy.

[1] It bears mentioning that this phenomenon is by no means new. Presidents since Washington have drawn upon their powers to create the nation's policies on their own. Yet the extent to which presidents rely on these tools as part of their governing strategy is unique to the modern era.

1.3 Campaigning on Unilateral Power

Presidents could hardly be blamed for seeking new ways to achieve their goals when their formal authority is so limited. The assumption that presidents seek to employ whatever means allow them to achieve their goals is found in virtually every standard account of the presidency. Just as pursuing the re-election imperative is a prerequisite for legislators who hope to achieve their political and programmatic goals, maintaining and expanding the presidential toolkit is essential for success-oriented presidents. According to this view, pursuing a robust approach to power is inherent in the contemporary presidency.

While modern-day presidents may embrace Roosevelt's governing philosophy, their rhetoric suggests a reluctance to stray from Taftian principles. As candidates pursue the presidency, their ambivalence or downright antipathy toward unilateral powers is apparent. As questions of executive power have become increasingly salient in recent presidential campaigns, candidates have repeatedly gone out of their way to run *against* the presidency and have promised to restore it to its more humble roots. During the 2008 campaign, for example, Barack Obama argued that

> [t]he biggest problems that we're facing right now have to do with George Bush trying to bring more and more power into the executive branch and not go through Congress at all. And that's what I intend to reverse when I'm president of the United States of America (quoted in Karl 2014).

Then-candidate Obama also criticized the Bush administration for its aggressive use of signing statements, arguing that "it is a clear abuse of power to use such statements as a license to evade laws that the president does not like or as an end-run around provisions designed to foster accountability" (Savage 2007). Obama further argued that the American people ought to evaluate presidents on the basis of how they intended to exercise power while governing. "Any President takes an oath to, 'preserve, protect and defend the Constitution of the United States,'" he said. "The American people need to know where we stand on these issues before they entrust us with this responsibility—particularly at a time when our laws, our traditions, and our Constitution have been repeatedly challenged by [the Bush] Administration"(Savage 2007).

Obama's chief opponent for the 2008 Democratic presidential nomination, then Senator Hillary Clinton, expressed similar views in similarly direct terms. "I think you have to restore the checks and balances and the separation of powers, which means reining in the presidency," she argued (Bombadieri 2007). Clinton further expressed opposition to the unitary executive theory most prominently attributed to Vice President Dick Cheney, which Clinton said "[had] been a concerted effort by the vice president, with the full acquiescence of the

president, to create a much more powerful executive at the expense of both branches of government and of the American people" (Bombadieri 2007). Obama's running mate, then Senator Joe Biden, further addressed Cheney's contribution to presidential power during the 2008 vice presidential debate. According to Biden,

> Vice President Cheney has been the most dangerous vice president we've had probably in American history. The idea he doesn't realize that Article I of the Constitution defines the role of the vice president of the United States, that's the Executive Branch. He works in the Executive Branch (*New York Times* 2008).

During the 2008 presidential campaign, Obama, Clinton, and Biden each made clear their opposition to not only the Bush administration's policies but also its embrace of a stronger and more unilateral presidency. Though each of these Democrats sought the presidential office for themselves in the 2008 campaign, they promised to pursue their policy objectives through a more constrained vision of executive power.

Four years later, President Obama found himself on the receiving end of criticism from Republican presidential candidates for his use of executive power. According to Ron Paul, for instance, Obama did not "respect constitutional limits on executive power" and proved to be even "worse than his predecessor" (*New York Times* 2011). Rick Santorum went further, accusing the Obama administration of an "arrogance" that "surpasses the Nixonian period . . . This is a president who uniformly disregards the Constitution, disregards the rules that are put in place" (Lee 2012).

The 2016 presidential campaign saw even more pointed criticism of Obama's use of power from candidates vying to replace him. Ben Carson said that Obama's "executive self-aggrandizement has elevated political interests over the executive duty of faithfully enforcing the law"; if elected, Carson committed to refrain from "the unconstitutional practices of making law through executive orders"(*New York Times* 2016). Senator Rand Paul sounded a similar note, arguing that "unconstitutional claims of authority by the President" had dramatically increased presidential power over the previous decade. In contrast, Paul pledged "to restore our constitutional system of separation of powers, which allows the American people to decide how they are to be governed" (*New York Times* 2016). Senator Ted Cruz went a step further, arguing that the first thing he would do after taking the oath of office would be to "rescind every illegal and unconstitutional executive action taken by Barack Obama" (Chen 2015).

Candidate Donald Trump sounded the harshest and most persistent criticisms of President Obama's use of executive power. In January 2016, Trump

objected to what he referred to as the "executive order concept" in response to Obama's use of administrative action to regulate gun access. According to Trump,

> You know, it's supposed to be negotiated. You're supposed to cajole, get people in a room, you have Republicans, Democrats, you're supposed to get together and pass a law. [Obama] doesn't want to do that because it's too much work. So he doesn't want to work too hard. He wants to go back and play golf (Krieg 2016).

In another interview that month, Trump elaborated upon his objections to Obama's use of unilateral powers, telling a morning news show that, "the problem with Washington [is] they don't make deals. It's all gridlock. And then you have a president that signs executive orders because he can't get anything done. I'll get everybody together" (*Fox and Friends* 2016). At a town hall the following month, Trump told his audience that "the country wasn't based on executive orders . . . you can't do it" (Lemire and Colvin 2017). He went even further in March 2016, promising that he would scale back his use of unilateral powers were he to be elected. Candidate Trump said that, while Obama "sign[s] them like they are butter," President Trump would "do away with executive orders for the most part" (Trump 2016a). His criticism of President Obama's unilateral actions continued through the general election. In September 2016, for instance, Trump noted that, as if to draw a contrast between Obama and himself: "Right now, we have an executive order president" (Benen 2017).

Unilateral power once again figured prominently in the candidates' rhetoric during the 2020 election cycle—and this time among candidates from both parties. A feature in the *New York Times* profiled 2020 candidates' proposals for "reforming executive power after Trump" (Bewetherick, Lieberman, Bouchard, and Fiscus 2019). In announcing a long-shot primary challenge to President Trump, former Rep. Joe Walsh accused the Trump administration of being a "walking billboard for the need to curb abuses of presidential power" and echoed the familiar refrain of presidential candidates to work with Congress to reign in the powers of the imperial presidency. Democratic candidates were just as adamant and expressed nearly unanimous calls for scaling back unilateral powers. Senator Cory Booker observed, as so many other candidates had, that the US system of separation of powers was imperiled because of the "unhealthy" flow of authority to the executive branch. Senator Kamala Harris expressed support for the "goal of restoring our constitutional separation of powers and reducing opportunities for abuse." Similarly, Senator Amy Klobuchar argued that the Trump administration had "ignored . . . checks and balances" and that the president had instead "pursued his divisive agenda by undermining our democracy and exploiting executive power."

As the evidence above suggests, candidates in recent presidential elections have avoided advocating for a more muscular set of powers. This observation raises several questions. First, why would presidential candidates back away from unilateral power if voters were generally unconcerned with it? If, as conventional wisdom suggests, the public is unaware of or disinterested in questions of political procedure, presidents (and presidential candidates) should not bother dedicating precious time to discussing this issue. Second, why would would-be presidents dissociate themselves from unilateral power if this position could limit their ability to achieve their political objectives? Contemporary presidents and presidential candidates promise to do something about virtually everything. Voters expect nothing less. Increased levels of congressional gridlock reduce the opportunities for presidents to achieve their promises via legislation. Such conditions would seem to increase the appeal of unilateral approaches for presidents who hope to satisfy their constituencies. Yet their rhetoric suggests that as candidates, the men and women who want to become president (some of whom do) perceive limits to the acceptability of unilateralism as a means to an end.[2]

1.4 Accountability and Unilateral Power

Concerns over executive power featured prominently in the founding of the United States and have, at various times in American history, been represented in robust political debates. Along with presidential claims to new powers come cries that presidents are exceeding or abusing their authority. Each new presidential administration begets alarming books, law review articles, and op-eds that warn of the increasing power of the presidency.

Accountability—and its absence—is usually front and center in debates over presidential power. In *The Imperial Presidency*, one of the most prominent indictments of presidential power, Schlesinger viewed presidential accountability and presidential power as inextricably linked. According to Schlesinger (2004, ix),

> the American Constitution . . . envisages a strong Presidency within an equally strong system of accountability. When the constitutional balance is upset in favor of Presidential power and at the expense of Presidential accountability, the office can be said to become imperial.

[2] Scholarship on presidential rhetoric provides a fuller treatment of how presidents convey their understanding of the office and its powers (Campbell and Jamieson 1990, 2008; Tulis 1988). In contrast with this research, we are interested primarily in how the public understands the office and its powers.

Political scientists and other observers have leveled similar criticisms of presidents' uses of unilateral authority. Some view executive orders as incidents of "unaccountable power and a way of evading both public opinion and constitutional constraints" Mayer (2002, 9). In comments on the nomination of Brett Kavanaugh to the Supreme Court, one constitutional scholar complained of Judge Kavanaugh's "indulgent interpretation" of "constitutional questions of executive power," which would "effectively undermine a President's accountability to law"(Shane 2018). Following the Senate's acquittal of President Trump after his impeachment by the House, one commentator lamented that the acquittal represented the "degrading of presidential accountability"(Sorkin 2020).

Debates over presidential power are arguments over the appropriate scope of political power. In the extreme, unbound executive power is a dictatorship whereby an executive exercises absolute authority without regard for the rule of law. In the US's system of separation of powers, members of Congress often complain about executive power in these very terms. Near the end of President George W. Bush's administration, Senator Arlen Specter argued that historians would regard the post–9/11 Bush presidency as an era of "unbridled executive power." Eight years later, Senator Mike Lee (R-UT) sounded similar notes and argued forcefully against the "arbitrary, unaccountable government-without-consent that Congress now for its own selfish reasons enables the executive branch to practice" (Lee 2016). In his opening statement supporting Congress's 2019 impeachment inquiry into President Trump, Representative Adam Schiff (D-CA) argued that "the balance of power between our two branches of government will be irrevocably altered" if the president is exempt from Congress's efforts to hold the president accountable through oversight (Paz 2019). Speaker Pelosi (D-CA) likewise criticized the Senate's "betrayal of the Constitution" for acquitting President Trump, arguing that Senate Republicans had "embraced this darkest vision of power" offered by the president's legal team in which "Congress and the American people have no right" to hold the president accountable for abuses of power (Pelosi 2020).

Unaccountable unilateral power is tyranny, the fear of which loomed large in debates about institutional design at the American founding. Delegates to the Constitutional Convention considered the presidency with their rebellion against the "absolute Tyranny" of King George III over the North American colonies still fresh in their minds. The absence of an executive under the Articles of Confederation contributed substantially to governmental failures in the early republic. This experience underscored the need for the Founders to enshrine robust executive power in the young nation's new constitution. After debate, convention delegates settled on an executive branch headed by a sin-

gle individual—the president. Keenly aware of the anti-Federalists' skepticism toward executive power, authors of the Constitution proposed that an elected executive, along with interbranch competition, would limit the president's accumulation of power. As Mansfield (1989, 295) argues, "the task of political science in *The Federalist* was to show that an energetic executive could be republicanized."

For the Founders, presidential accountability was the antidote for tyranny. *The Federalist Papers* emphasized that the need for popular support constrained American presidents. The task of creating an accountable chief executive was "the objection that most concerned the Founding Fathers" (Schlesinger 1973, 386). In *Federalist*, no 68, therefore, Alexander Hamilton emphasized that "the sense of the people should operate in the choice" of the president " to whom so important a trust" is invested. Hamilton went on to argue that the president "should be independent for his continuance in office on all but the people themselves." Concerns about accountability motivated the design of the office itself, as Hamilton justifies the unitary executive in *Federalist*, no. 70 on the basis of accountability considerations. If executive authority were to be divided across members of a plural office, Hamilton argued, it would be difficult to attribute specific decisions to individual executives and would therefore be more difficult for the public to hold those individuals accountable for their behavior. In his words, "the plurality of the Executive tends to deprive the people of . . . the restraints of public opinion." Arguments at ratification further turned on the accountability relationship enshrined in the office's design. The Founders accomplished the twin goals of creating an energetic yet accountable president because "the Constitution would facilitate presidential energy and enable the people, Congress, and the courts to detect and prevent abuses of the same" (Kitrosser 2015, 49).

This nature of this accountability was a distinguishing characteristic of the newly created presidency. A political commentator in Virginia noted that "[t]he United States are the scrutinizing spectators of [the president's] conduct" (quoted in Kitrosser 2015, 48). The Supreme Court further affirmed the political constraints on presidential action in *Marbury v. Madison*, a case that involved the reach of presidential authority. Chief Justice John Marshall wrote that "the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience." In addition to establishing the principle of judicial review, *Marbury v. Madison* speaks to the accountability of presidents in exercising their power to appoint judges. Even while establishing the judiciary's most important power, Marshall noted the nebulous

nature of presidential power and the influential role of the public in holding it to account.

Questions about presidents' accountability for the exercise of power have been raised even in some of the most extraordinary moments in the history of the republic. Even as President Abraham Lincoln contemplated unprecedented measures in his attempt to preserve the Union, scholars linked public opinion with the president's ability to act with Hamiltonian "decision, activity, secrecy, and dispatch." Rossiter (1956) noted that

> Lincoln is supposed to have said that he could do anything with "public sentiment" but nothing without it or against it... The President draws immense authority from the support of the American people, but only if he uses it in ways they understand and approve, which generally means ways that are fair, dignified, traditional, and familiar.

The public reaction to some of Lincoln's orders tempered his subsequent exercise of authority. In 1863, former congressman and Ohio gubernatorial candidate Clement Vallandigham was arrested for violating an order issued by one of Lincoln's generals that prohibited speaking out against the Union or expressing favor for the Confederacy. The act caused consternation among his cabinet and "roused" a "furor of anger... in the country," and one newspaper declared the act "the tyranny of military despotism" (Donald 2011, 420). In response, Lincoln commuted Vallandigham's sentence. Shortly thereafter, the same general attempted to suspend an anti-war newspaper. Lincoln, who had been chastened by the response to the previous arrest, overruled him (Donald 2011, 21). Public opinion also factored heavily into Lincoln's decision to ultimately issue the Emancipation Proclamation. He "began preparing public opinion for a proclamation of freedom" by consulting with African American leaders and by publishing a letter where he argued that his primary goal was to save the union (Donald 2011, 366–369). During the Civil War, Lincoln expanded the powers of the presidency in unprecedented ways, yet even in this context public opinion shaped his political options.

During the administration of Franklin Roosevelt, the Brownlow Committee convened to discuss how to better organize the White House to allow the president to meet contemporary governing challenges. The committee proposed "giv[ing] the President authority commensurate with his responsibility ... [and] hold[ing] him to strict accountability for the exercise of that authority" (Brownlow 1955, 114). Acknowledging the expansion of presidential authority during the Roosevelt administration, Rossiter (1956, 54–55) argued that the public would hold these powers to account. He observed that,

> ... if [the President] flouts either the considered judgments or ill-considered prejudices of any vocal segment of the people, if he chooses to roam too far outside the accepted

limits of presidential behavior, he will find himself exposed to all those enemies who multiply like mosquitoes in a Jersey August whenever a President plays the game too hard. No President, certainly no peacetime President, ever wielded more power with less need to worry about the political consequences than Franklin Roosevelt in 1933, yet even then the assumption was abroad that there were some steps he could not take, some measures he could not recommend to Congress, in his effort to rescue "a stricken Nation in the midst of a stricken world."

Presidents must anticipate how their behavior influences future public opinion. Popularity can be fleeting, and thus presidents cannot rely solely on their public standing today to determine what political boundaries may exist tomorrow. Even popular presidents eschew actions that they might prefer to take because of their calculation about the potential political reaction. Observers of politics must consider not only how public opinion affects what presidents do but also what dissuades them from undertaking that which they would otherwise choose to do. If the president forges ahead, "he invites the one disaster from which Presidents rarely recover: the loss of genuine popular support" (Rossiter 1956, 56).

Consistent with the arguments advanced by the authors of the Constitution, a president's need for continued political support provides a source of accountability for his behavior. Theories of democratic accountability posit that voters supply incentives for elected officials to represent their interests. Election-seeking presidents, for instance, are understood to pursue policies and generate outcomes that voters support. Should presidents stray too far from public opinion, this perspective posits, they risk declining approval ratings and damaging their (or their partisan successor's) electoral fortunes.

The rhetoric of the authors of the Constitution and others invokes a public that carefully monitors how presidents exercise their power and dutifully sounds the alarm when the commander-in-chief exhibits tyrannical impulses. But does this accountability exist? If so, how does it operate? Elections facilitate popular control of political officials through the principal-agent relationship. Voters (the principals) select officials (the agents) to act on their behalf. If officials fail to behave in ways desired by the principals, voters can replace them at the next election. Therefore, elections provide incentives for officials to reflect public preferences by virtue of voters' abilities to sanction or reward them based on their performances.

For public accountability to exist in the context of presidents' exercise of power, two conditions must be satisfied. First, the American public must have preferences over how presidents wield power. Second, they should apply those preferences when evaluating presidential performance. Evidence that the public satisfies these two conditions means that presidents and their use of au-

thority are subject to "the discipline of consent" that reflects "the genius of democracy" (Schlesinger 2004, 388).

1.5 Public Evaluations of Presidential Power

Elite rhetoric aside, do Americans care about the use of presidential power? Do they have opinions over how presidents get things done? Do they hold presidents accountable for the *means* with which they pursue their policy *ends*? In other words, do citizens hold presidents accountable for exercising unilateral political power? We briefly survey three competing perspectives on how Americans view presidential power and its use.

1.5.1 The Partisan Electorate

One dominant view of mass political behavior emphasizes the partisan nature of the electorate. This view offers a pessimistic perspective on the potential for presidential accountability. According to this view, presidential power is not a salient or accessible topic for most Americans and thus they do not view it through a principled lens. Instead, Americans apply short-term heuristics—particularly partisanship—when evaluating presidential power. In particular, Americans who share the president's partisanship may support expanding the president's power while those who are aligned with the opposing political party may not. Pundits and political scientists consistently assert the dominance of partisanship in contemporary public opinion (Klein 2016; Mellman 2017), as the public reflexively applies its partisan identities when evaluating political events, receiving political information, and even while participating in the dating and labor markets (Gerber and Huber 2010; Huber and Malhotra 2017; McConnell, Margalit, Malhotra, and Levendusky 2018). Americans may also engage in partisan "cheerleading" (Sears and Lau 1983) by expressing greater support for presidential power with a copartisan president in office as a means of expressing their affinity for the president. In this view, Americans vacillate between expressing support for and opposition to presidential power depending on their alignment with the president's political orientation. This perspective therefore expresses a rather dim view about the potential for Americans to hold presidents accountable on the basis of their use of power.

A related view emphasizes Americans' attitudes toward the president currently in office. Americans who think highly of the president—because, for example, they support his policies, approve of his job performance, or admire his leadership—may express greater support for expanded presidential

power. For example, critics of President Trump note that "the higher President Trump's approval rating, the more dangerous he is" (Levitsky and Ziblatt 2018, 192). This view holds that presidential approval is the currency of presidential power; as presidents accrue more of the former they can expect to marshal more of the latter. Applied to public opinion, Americans' beliefs about presidential power may pivot with their support for the person holding the office as opposed to their attitudes toward the office itself.

1.5.2 Deciders-in-Chief

A second perspective suggests that Americans entrust the presidency with great power and support its exercise. Political commentators, campaign consultants, the public, and presidents themselves routinely extol the virtues of presidential leadership. According to survey research, supermajorities of the public endorse the view that "[a]n ideal president provides strong leadership" (Kinder, Peters, Abelson, and Fiske 1980, 319), leading political strategist David Moore (1995, 205) to argue that "the single most important value of the American public is respect for strong presidential leadership." Likewise, presidents perceived as strong leaders are viewed more favorably by the electorate (Cohen 2015). Americans' support for strong leadership may be expected to manifest in their support for a muscular and robust set of powers belonging to the presidency.

This view is not inconsistent with scholarship that links the development of the modern presidency to Americans' increased appetites for presidential power. According to this scholarship, presidents now occupy a more central role in American government than in earlier periods of the nation's history. As Lowi (1986, 20) explains, "[H]aving given presidents maximum power to govern and all the help they have ever asked for, the public has rationally focused its expectations on them, counting on them to deliver on all the promises they explicitly made." Accordingly, the public may accept and even demand vigorous presidential activity, even if it comes through the exercise of illegal or constitutionally dubious powers. This view asserts that "opting not to act—indeed, merely being perceived as not acting—comes at a great political cost" to American presidents (Howell 2013, 125). Rather than recoiling at the ambitions of power-seeking executives, this perspective posits that Americans endorse bold action from their presidents and evaluate them based on whether they wield power in a sufficiently assertive manner.

1.5.3 Constitutional Veneration

We advance an alternative perspective that argues that Americans have attitudes over how presidents exercise power. These attitudes reflect values over the inviolability of the system of government expressed in the Constitution. Americans embrace a "literary theory" of separation of powers and express hostility toward presidential power (Pious and Pyle 1984, 153). This view emphasizes Americans' high levels of reverence for and approval of the Constitution (Brown and Pope 2019; Levinson 2006; Stephanopoulos and Versteeg 2016; Zink and Dawes 2016). Americans' constitutional affinities are ingrained from an early age and in the classroom as they learn civics and American history (Pious and Pyle 1984). Accordingly, Americans may be hostile to the concentration of power within the presidency and exhibit what Posner and Vermeule (2010) characterize as "tyrannophobia." This view suggests that Americans harbor negative evaluations of presidential power and hold presidents accountable by withholding their support following its use.

Despite the importance of accountability in democratic systems, we know little about how these mechanisms operate with respect to the exercise of power. Our analyses here provide the first empirical record and systematic evaluation of how the public views presidential power and its use. As Hibbing and Theiss-Morse (1996, 29) wrote a quarter-century ago, "in the case of the executive branch, almost nothing exists on public support for the institution itself. Much attention has been devoted to support for the person occupying the position of president, but not so for the institution of the presidency." That remains largely the case today.

On the theoretical side, no existing account explains how the public evaluates the power of the presidency against their own partisan interests, ideological loyalties, and approval ratings of individual presidents. What Americans think about presidential power and the conditions under which those attitudes are deployed when evaluating presidents, then, is the stuff of speculation. Understanding how the mass public views presidential power and holds leaders accountable for its use is important not only because "[p]ower restrained by accountability and consent is more likely than arbitrary and unrestrained power to produce wise policy" (Schlesinger 2004, 491) but also because the nature of accountability shapes the potential "scope of executive abuses" (Posner and Vermeule 2010, 113).

1.5.4 Presidential Responsiveness to Public Opinion

Theories of political accountability emphasize how elections induce officials to respond to public opinion. There is considerable evidence of issue-based accountability, particularly in the context of legislative (Adams, Engstrom, Joesten, Stone, Rogowski, and Shor 2017; Ansolabehere and Jones 2010; Canes-Wrone, Brady, and Cogan 2002; Shor and Rogowski 2018) and judicial (Ansolabehere and White, Forthcoming; Bartels and Johnston 2013; Christenson and Glick 2015) politics. These findings generally show that the public bases their evaluations of legislators and judges on whether they behave in ways that reflect the public's political leanings. A smaller body of literature documents issue-based accountability in the context of the presidency. In studies on presidential elections, voters select presidential candidates on the basis of issue congruence (Jessee 2012, 2010, 2009). These findings are consistent with the role of elections as a screening mechanism that allows the public to choose candidates who will advance policies they support. Analyses of voters' responses to presidential unilateral actions show that presidential approval ratings are responsive to the public's level of agreement with the policies presidents have created (Ansolabehere and Rogowski 2020).

Research on presidential behavior, moreover, provides evidence that electoral incentives encourage presidents to behave in ways consistent with the public's policy views. For instance, presidents propose budgets that are conditionally responsive to the public's spending preferences (Canes-Wrone and Shotts 2004). Presidents' support for congressional legislation is also strongly responsive to the public's policy preferences (Erikson, MacKuen, and Stimson 2002; Stimson, MacKuen, and Erikson 1995). American foreign policy decisions, including those made by the president, are also constrained by the level of public support for them (Baum and Potter 2015). And Rogowski (2019) provides evidence of an association between public opinion and presidents' uses of unilateral directives, showing that presidents issue more directives for topics that the public believes are salient and for which they support more governmental involvement. This scholarship provides evidence consistent with the conclusion that "popularity-seeking presidents take a stand in response to public opinion or in anticipation of it" (Page and Shapiro 1992, 349). In an important exception, however, Druckman and Jacobs (2015) argue that presidents strategically manipulate public opinion to simulate responsiveness while they advance policy ideals that are often at odds with most Americans' interests.

Though theories about strategic interactions among political institutions often have not explicitly incorporated public opinion (but see Groseclose and McCarty 2001 for a prominent exception), some accounts of presidential be-

havior entertain the possibility of such a function. In discussing how presidents use vetoes, Cameron (2000, 17-18) considers whether public opinion might "stop a president from pursuing his supporters' objectives even in the teeth of congressional opposition." Likewise, Moe and Howell (1999a, 866) argue that courts' decisions to uphold or strike down unilateral actions may be influenced by the popularity of the presidents' actions.

Understanding the nature of public accountability of executive power strikes at the heart of democratic viability. As in most presidential systems, the chief executive occupies a unique position within the American political system. Unlike Congress and the courts, the president and the presidency are one and the same. As a consequence of the unitary presidency:

> The President is in a position to do serious damage, if not irreparable injury, to the ideals and methods of American democracy. Power that can be used decisively can also be abused grossly. No man can hold such a concentration of authority without feeling the urge, even though the urge be honest and patriotic, to push it beyond its usual bounds. We must therefore consider carefully the various safeguards that are counted upon to keep the President's feet in paths of constitutional righteousness (Rossiter 1956, 33).

Levitsky and Ziblatt (2018, 191–192) underscore the importance of public opinion for the safety of democracy. They argue that "would-be authoritarians" endanger democracy to the extent they have widespread public support. Yet this account conflates support for individual politicians and public attitudes about how those officeholders should rule. If the mass public responds to how officeholders go about achieving their objectives, even politicians with high levels of popularity may risk public blowback.

The assumption that the public evaluates presidents on the basis of outcomes alone dominates the study of the presidency—and to great consequence. Presidents enter office with a variety of objectives and goals, and perhaps chief among them is to secure subsequent electoral support from voters (Kriner and Reeves 2015; Moe 1985). To do so, presidents have incentives to respond to public opinion (Cohen 1999; Edwards 1983; Jacobs and Shapiro 2000) and thus pursue policies that the public supports. As a consequence of this singular focus on the purposes of presidential action, scholars attribute a wide range of presidential behavior—including vetoes (McCarty 2009), executive orders (Howell 2003; Rogowski 2019), and public appeals (Canes-Wrone 2006; Kernell 2006)—to the president's focus on the public's policy preferences. Indeed, the public's demand for increased policy responsiveness from presidents is widely posited to explain the ascendance of the modern presidency (Lowi 1986; Neustadt 1990) and presidents' increased reliance on unilateral tools (Howell 2003; Moe and Howell 1999a; Moe and Howell 1999b). If the public also scrutinizes the ways these policy outcomes are achieved, these attitudes

may affect the incentive structures for presidents to take action. As Canes-Wrone (2006, 192) observes, "The relationship between a chief executive and his or her public can significantly affect the ways in which formal institutions operate in practice." To make progress on this question, however, we require a theory of public opinion that considers the means through which political outcomes are realized.

1.6 An Overview

In this book, we present a new theoretical perspective and assemble comprehensive original data to study accountability over the use of power. We argue that public support is no blank check on unilateral presidential powers. Rather, legacies of colonial rule and the American founding are reflected in contemporary public opinion about the presidency. We advance three primary claims. First, Americans view executive power with skepticism and prefer national policymaking to be the domain of Congress rather than the presidency. While Americans may desire that presidents channel public opinion by articulating ambitious policy agendas, they prefer that Congress legislate rather than the president to enact those agendas via fiat. Second, Americans' attitudes toward executive power are not mere reflections of party loyalties to a particular president; rather, they reflect their beliefs about the separation of powers and their commitments to the rule of law. The American public meaningfully distinguishes their attitudes toward the presidency from their evaluations of its occupant. Third, the public brings these attitudes to bear when evaluating presidents and their records in office. Americans hold presidents accountable not only for *what* they accomplish but also for *how* they wield power. Our argument implies that responsiveness is driven not just by demand for particular policies but also by the public's fundamental normative expectations about the separation of powers and how policies ought to be achieved. More generally, our argument suggests that public opinion toward presidential power structures the terms of interbranch conflict in contemporary American politics.

Our focus on public opinion and the use of power provides new theoretical and empirical insight into the presidency, the politics of policymaking, and political representation and accountability. First, our argument suggests that while scholarship on the presidency has been concerned chiefly with characterizing its influence in a system of separated powers, it has overlooked the political dynamics that accompany its acquisition and use. According to one dominant perspective, presidential power is "the power to persuade" (Neustadt 1990, 11). Presidents wield influence to the extent they are successful in con-

vincing other political actors that what the president wishes them to do is in their own best interests (Neustadt 1990). More recent research shows that persuasion may not be the only means through which presidents can effectively wield the power of the office. Howell (2003) argues that presidents can leverage ambiguities in Article II to advance policy initiatives via direct action that Congress otherwise could not. Yet both of these perspectives take the president's authority as exogenous; neither of these accounts, or any others, studies how presidents attempt to accumulate and legitimate their power or their success in doing so.

We put front-and-center the politics that animates interbranch conflict and produces accusations of presidential overreach. We focus on how the American public views presidential power and how those views structure the incentives for competing claims to power. We begin in Chapter 2 by presenting a behavioral perspective on the relationship between the mass public and the American presidency. In contrast with a large literature that argues that Americans evaluate presidents and policies solely on the basis of their partisan and ideological views, our account emphasizes Americans' evaluations of governing procedures. We focus particularly on the skepticism with which Americans have viewed executive power since the nation's humble beginnings. This skepticism initially manifested in the exclusion of an executive branch from the nation's original governing document, the Articles of Confederation, and the limited powers granted to governors in early state constitutions. Once the need for an independent executive became clear by the mid-1780s, Alexander Hamilton, among others, devoted substantial ink in *The Federalist* to justifying the need for a presidency and emphasizing the strict limits on its powers. We argue that this skepticism is found in American public opinion today, borne of political socialization that emphasizes veneration for the US Constitution and prescribes a limited policymaking role for the executive. While constitutional questions may not occupy most Americans' thoughts on a regular basis, we argue that these core values toward executive power structure how Americans view policies achieved through unilateral action and the presidents who exercise that power. They also affect how political elites respond in turn.

The next section of the book presents original survey data to evaluate our argument about public opinion toward executive power. In Chapter 3, we introduce our approach to measuring Americans' attitudes toward institutional powers of the presidency and describe the surveys we conducted to implement it. We then provide new evidence from surveys conducted between 2013 and 2018 that characterizes Americans' aggregate orientations toward executive power. In documenting these attitudes, we note the relative stability of attitudes even as the Obama presidency ended and the Trump presidency began. We also

contrast attitudes toward unilateral power with presidential approval and find that the latter is both more variable and more polarized than the former. We also contrast attitudes toward unilateral power with presidential approval and find that presidential approval is both more variable and more polarized than attitudes toward unilateral actions.

Chapter 4 presents evidence about the origins of attitudes toward executive power. We demonstrate that attitudes toward presidential power reflect evaluations of the current president as well as more fundamental conceptions about the nature of the office, which are rooted in constitutional commitments. We show that support for the rule of law durably predicts support for unilateral presidential powers across a wide array of contexts. Together with the findings in Chapter 3, the results in this chapter suggest that Americans distinguish their views of the current president from more fundamental attitudes about the institution of the presidency.

In Chapter 5, we interrogate individual-level change and continuity in support for unilateral action. Taking advantage of the panel nature of our survey data, we examine within-respondent changes in support for unilateral powers. While we find strong cross-sectional support that presidential approval is related to support for unilateral powers, we find no evidence that within-respondent shifts in presidential approval result in changing views of the institutional power of the office. We also leverage the election and inauguration of Donald Trump to examine how the person holding office affects attitudes toward the institutional authority of the presidency. Even across presidencies, most respondents maintain their views of the bounds of presidential powers. The last section of the chapter connects our work to scholarship on presidential mandates and explores how aggregate public support for the president's policy goals affects individual-level attitudes about the exercise of power.

In Chapter 6, we examine how the attitudes we document affect evaluations of policies pursued via unilateral action. We present results from a series of survey experiments we conducted with nationally representative samples of Americans. The experiments varied the policy goals presidents wished to accomplish and the means by which presidents sought to attain them. We find that Americans provide systematically more negative evaluations of both presidents and their policies when they use unilateral actions. In an era of persistent congressional gridlock, we also show that Americans prefer that presidents take *no* action rather than advance their goals via unilateral power—even if this results in no change in policy outcomes. In both cases, moreover, we find that these patterns apply to individuals who both support and oppose the policy in question; that is, the negative effects of unilateral action among individuals who

oppose the president's policy position are not offset by positive effects among those who share the president's policy views.

The preceding chapters evaluate perceptions of presidential power in contemporary American politics. In Chapter 7, we present a wider and more historical view of Americans' attitudes toward presidential power. The effects we document in Chapter 6 are not simply artifacts of today's hyperpolarized environment or the contemporary status and salience of American presidents. Instead, we present evidence from dozens of national polls conducted between the presidencies of Franklin Roosevelt and Donald Trump to show that Americans almost always reflexively reject expansions of presidential power, and that these attitudes influence their evaluations of how presidents have historically wielded prerogative powers. We then revisit four historical cases in which presidential power was contested to show how the public's attitudes about executive authority reflected the contemporary debates on the topic.

Concerns about power and accountability in presidential systems are by no means limited to the United States (see, e.g., Crisp, Olivella, and Rosas 2020; Linz 1990). Chapter 8 ventures beyond the United States and evaluates attitudes toward executive power in comparative perspective. We present evidence from surveys conducted in more than fifty countries in Africa and the Americas that the relationships we document in the United States are widely generalizable. Americans are not unique in expressing skepticism toward executive authority, and at the individual level these attitudes are consistently structured by commitments to core governing principles. At the country level, we further show that aggregate attitudes toward executive power are associated with institutional and political contexts. Our findings suggest attitudes toward executive power are structured by a common set of factors around much of the globe. They also suggest the capacity for domestic audiences to hold their political leaders accountable for how they exercise power.

The concluding chapter returns to the ideas that motivated our study and discusses the implications of our argument and findings for the presidency, representation and accountability, the separation of powers, and democratic theory.

6

Public Cost of Unilateral Action

The previous chapters document Americans' antipathy toward executive power and explore the origins and predictors of these attitudes. But do these attitudes affect the public's evaluations of political outcomes and presidential behavior? Put differently, do Americans' attitudes toward the means affect how they evaluate the ends?

In this chapter, we test and present evidence that the public provides more negative evaluations of policies achieved through the use of unilateral power compared with those obtained through other means. We further find that the exercise of unilateral power reduces the president's public standing. These findings illuminate the political consequences of our theoretical argument. If Americans' attitudes toward executive power mirror their partisan preferences as they evaluate political outputs, the beliefs described by previous chapters may be of little consequence for shaping the politics of unilateral action. But we present evidence that Americans base their evaluations of policy outcomes on how they were fashioned and of presidents on how they deploy power. The studies in this chapter connect our study of attitudes toward unilateral powers to how public opinion provides incentives for, and places constraints on, presidential action.

6.1 Public Responsiveness to Presidential Action

Legislation and executive action are not perfect substitutes. The reach of legislation is more expansive, and its impacts are more durable than unilateral action. Unilateral actions can be revoked or rescinded by future presidents (Thrower 2017b), whereas undoing congressional statutes requires supermajorities to pass new or amended legislation (Ragusa and Birkhead, Forthcom-

ing). The failure of Republican efforts to overturn the Affordable Care Act in recent years offers a case in point.

Presidents may prefer to implement policies via legislation, but the contemporary legislative process is marked by polarization and razor-thin majorities, with Congress often blocking presidents' agendas. Under these conditions, executive action takes on a substantively different role (Cameron 2002). As Howell and Moe (2017) observe, "a big reason presidents have favored executive orders and other unilateral actions is that, with Congress such an institutional disaster, the legislative process is all but unavailable for solving problems." From the first day of their administrations, presidents face an uphill battle in enacting their priorities through legislation.

Given the background of legislative gridlock, unilateral action becomes an attractive option. Presidents may pursue unilateral approaches only after exhausting the possibility of securing legislation. Such was the case with President Obama's initiatives to reform immigration. But presidents may spurn plodding through imminently doomed legislative action to draw upon executive power from the start. They may calculate the prospects of congressional support and devise strategies for using unilateral powers accordingly. Presidents do not formulate legislative approaches for all of their policy agendas but instead assess the relative costs and benefits of avoiding or engaging Congress (Rudalevige 2002, chap. 8).

Presidents may even prioritize executive action over the legislative process. Because presidents must often make significant concessions when negotiating with Congress (Barrett and Eshbaugh-Soha 2007), unilateral action may allow the president to secure policies that better reflect his preferences. We observe this routinely in matters of international affairs, whereby presidents eschew treaties and prefer executive agreements, which are unilateral actions (Martin 2005). The first weeks of recent presidential administrations have revealed presidents eager to advance their policy goals on matters ranging from immigration to health care reform to pandemic relief through unilateral action rather than by first engaging Congress.

Existing scholarship has paid scant attention to how the public responds to the president's use of unilateral power. Most studies ignore or reject the potential for the public to evaluate presidents on the basis of how they achieve political outcomes. Instead, the public is presumed to base their evaluations of political outcomes on underlying policy preferences or partisan affiliation. Understanding how attitudes toward political processes affect attitudes about outcomes is crucial for identifying the potential for public opinion to affect presidents' decision-making processes.

6.2 Studying the Public Costs of Unilateral Power

How do voters respond when presidents use unilateral powers? While our research question is straightforward, answering it is less so. One method of inquiry would be to identify situations in which presidents achieved identical policy outcomes through different means: some through legislation and others through unilateral action. We could then compare the public responses to each. This approach fails, however, on both empirical and theoretical grounds. Empirically, this strategy is impractical, as it is impossible to identify real-world policy outcomes that were achieved through different means but were otherwise identical in every respect. Moreover, even if we could locate comparable cases, the political contexts would be sufficiently different between them that any comparisons would be problematic.

Even if the perfect set of comparable cases were to exist, there are good theoretical reasons to be skeptical of the results that such comparisons would produce. Unilateral actions are commonly understood as strategic actions by presidents to advance their policy goals, subject to potential constraints from other institutional actors (Howell 2003; Moe and Howell 1999b)—and, potentially, public opinion (Christenson and Kriner 2015; Posner and Vermeule 2010). Strategically minded presidents may thus avoid taking unilateral actions in precisely the situations in which public opinion would react harshly. This form of strategic selection bias is a common threat to inference when studying public responses to elite behavior. In the context of our research here, it could produce null findings regarding the relationship between unilateral action and public opinion when a better-specified counterfactual would provide evidence of a negative public response. This concern also applies to analyzing public responses to actual unilateral actions taken by presidents, which may explain the mostly null effects reported in Christenson and Kriner (2017a).

Instead, following recommendations on the design of survey experiments (Gaines, Kuklinski, Quirk, Peyton, and Verkuilen 2007; Mutz 2011), we modeled our study after research on the domestic politics of international relations (Chaudoin 2014; Tomz 2007). Similar to our own research questions, many of these studies examine how the public evaluates political leaders on the basis of their decisions related to either military intervention or the use of diplomacy with foreign states. In particular, research on audience costs typically employs experimental approaches in which respondents are randomized to receive information about whether a political leader issued a threat against a foreign country and whether the leader subsequently acted upon it. While the specifics vary depending on the nature of the research question, these studies identify potential audience costs by comparing respondents' evaluations of the leader

based on whether the leader subsequently took action as threatened. A feature of these designs is that both the information as well as the political and strategic contexts are held constant across the various conditions. This approach enables sharp inferences about the effect of backing down relative to following through with the threat.

As part of our design, we ask respondents to evaluate hypothetical scenarios involving the potential use of unilateral action. We ask respondents to consider prospective instances of unilateral power. Three primary considerations motivated this choice. First, by presenting respondents with information about events that have not happened, we avoid contaminating the results of the experiment with the ideas about real-world events that respondents may bring with them. Second, our experiments invoke generic future presidents and hypothetical presidential candidates rather than actual presidents. This allows us to cleanly disentangle respondents' evaluations of policy actions from their attitudes toward a president. Third, by manufacturing cases of unilateral power, we can estimate the public costs for a variety of potential scenarios in which it may be employed. As we describe above, presidents' unilateral actions reflect a range of strategic considerations including the potential public response. To understand the nature of latent public opinion, we study how respondents *would* evaluate unilateral power *if* a president had decided to use it. Therefore, our approach is similar to that used by Lowande and Gray (2017).

6.3 The Costs of Unilateral Action vis-à-vis Legislation

In our first set of experiments, we examine the costs of unilateral action relative to a legislative approach. We consider the public response to unilateral action using vignettes administered through a series of survey experiments. We conducted these experiments with a nationally representative sample of approximately 1,700 US adults on the October 2015 wave of TAPS, described in Chapter 3.

We study 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 legislative (rather than unilateral) means. We then compare respondents' assessment of the presidential contenders based on the information respondents received about how the candidates intended to accomplish their policies.

We fielded the survey in a context whereby candidates of both parties were

campaigning for their party's nomination for the 2016 presidential election, during which time candidates announced some of the initiatives they promised to undertake via both legislation and unilateral action. For instance, Hillary Clinton announced that she would use unilateral power to achieve a variety of goals, from gun control to financial regulation (Allen 2015), while Marco Rubio pledged to use unilateral action to roll back actions taken by the Obama administration (Elliot 2016). The timing of our study, therefore, corresponds to a context in which many voters were considering both the substance of presidential candidates' policy proposals and how they would accomplish them.

The survey experiment consisted of vignettes about policy goals expressed by hypothetical presidential candidates, along with how the candidates intended to achieve them. The use of hypothetical candidates comes at the cost of reducing the real-world attributes of the experiment. This cost is offset by distancing respondents from their feelings about any actual politician, which could serve as confounders. We developed vignettes around three fictitious 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. While these decisions limit the realism of our experimental setup, they allow us to establish the potential effects of unilateral action absent potential moderators such as partisanship and presidential approval. Our experimental approach thus focuses our attention on how public opinion reacts to how policy is made in circumstances in which presidents could plausibly consider unilateral action.

Following Mutz (2011), our vignettes were relatively short and employed straightforward language. Table 6.1 shows the vignette text across each experimental condition. 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 the policy domains of social issues, economic policies, and foreign affairs. They also address salient policy debates in American politics. Our data confirm that public opinion varies considerably across these three policy proposals. To the extent we find similar patterns across policy areas, we have greater confidence of a general relationship between unilateral action and public response.

We randomly assigned respondents 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 accomplish the policy. We avoided technical

terms (e.g.,"executive order," "memorandum," or "directive"). 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. To avoid potential contamination from one vignette to the next, respondents received the same treatment assignment for each candidate and policy area. We also randomized the order in which we presented the candidates and issues.

Table 6.1 *Vignette Wording for Costs of Unilateral Action vis-à-vis Legislation Survey Experiment*

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

Our vignettes abstract away from contextual circumstances that often accompany the use of unilateral action, such as elite debate surrounding the policy and characteristics of the leaders involved. Because these details were omitted, these features are essentially held constant, which avoids the challenges associated with potential confounding factors.

We evaluated two dependent variables. First, we examine support for the

candidate in question. We asked respondents: "How likely would you be to support Candidate [name]?" The response options were on a four-point scale, ranging from "very unlikely" to "very likely." Second, we study respondents' approval of the candidate's proposed handling of the issue. 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." For ease of presentation, we collapsed both measures into dichotomous indicators of evaluations of the candidates, though our results are nearly identical when using the original response scales. We present these results as robustness checks in Appendix D. Finally, in all our analyses, we report results using survey weights that are constructed based on national population parameters.

6.3.1 Results

We begin by examining whether respondents' evaluations of the presidential candidates are responsive to the means through which the candidates propose to enact their policy goals. Table 6.2 shows the proportions of respondents who reported supporting each candidate (top panel) and approving of the candidate's proposed handling of the issue (bottom panel). The entries in the table show, first, that the proportion of respondents supporting the candidates significantly varied across treatment groups in each policy domain. For instance, 62 percent of respondents in the control condition supported the candidate who wanted to legalize medical marijuana, compared with 58 percent of respondents in the legislative condition and 46 percent of respondents in the unilateral condition. The hypothesis of no global differences can be rejected at $p < .01$ ($F = 14.85$). We find similar patterns for the candidates who supported reducing corporate taxes and deploying US troops to Eastern Europe.

Second, we find that the means by which presidential candidates proposed to achieve their policy goals led to significant differences in evaluations of the candidates' handling of the issues. For example, 22 percent of respondents in the control condition approved of the candidate's handling of corporate tax reductions, compared with 24 percent of respondents in the legislative condition and just 11 percent of respondents in the unilateral condition. These differences are significant at $p < .01$ ($F = 11.84$).

Third, the data suggest that Americans are most familiar, and perhaps comfortable, with policymaking that occurs through legislation. In contrast with other survey experiments (see, e.g., Gaines, Kuklinski, Quirk, Peyton, and Verkuilen 2007), we included the control condition—for which no additional

information was provided about how the policies would be implemented—to benchmark the effect of the unilateral condition against the effect of informing respondents that the president intended to use the legislative route. The data indicate that the differences between the control condition and the legislative condition are considerably smaller than the difference between the control condition and the unilateral condition. For instance, as the first column of the top panel shows, the difference between the control condition and the legislative condition is 4 points for the proportion of respondents who supported the candidate on the issue of marijuana. In comparison, the difference is 16 points between the control condition and the unilateral condition for the same issue. We find this pattern for each of the other issues and both dependent variables. These data suggest that the absence of information about how policies are achieved leads respondents to infer that they are produced via the legislative route. The larger differences we find between the control group and the unilateral action condition suggest that respondents are less likely to consider policymaking as a function of executive action. Thus, an initial inspection of the data provides new evidence that the means by which political officials propose to achieve their policy goals affects how citizens evaluate those officials and their policies.

To test our expectation that the public reacts negatively to the unilateral action condition, we compare the average candidate evaluations among respondents in the unilateral action condition to those among respondents in the other two conditions. Figure 6.1 presents these comparisons and shows the treatment effects of unilateral action on support for the candidate. Each point represents the difference in mean support for the candidate between the unilateral treatment and one of the other two conditions. A triangle plots the difference between the unilateral and control conditions, and a circle plots the difference between the legislative condition.

These comparisons characterize different counterfactuals. While the former shows the effect of unilateral action relative to a condition in which respondents receive no information about how candidates propose to accomplish their goals, the latter identifies the effect of a unilateral approach relative to a legislative proposal. Negative numbers along the *x*-axis in Figure 6.1 indicate lower support among the unilateral condition, while positive values indicate stronger support among those in the unilateral condition. The vertical line at zero indicates the null hypothesis of no effect of unilateral action on candidate evaluations. The horizontal lines represent the 95 percent confidence intervals.

As Figure 6.1 shows, unilateral action significantly decreased support for the candidates. Compared to the control condition, the use of unilateral action to legalize marijuana decreased candidate support from 62 percent to 46 percent,

Table 6.2 *Summary of Costs of Unilateral Action vis-à-vis Legislation Survey Experiment*

	Legalize Marijuana	Lower Corporate Taxes	Deploy US Troops
Panel A	DV = Support Candidate		
Control	0.62	0.24	0.35
	(0.02)	(0.02)	(0.02)
Observations	559	558	559
Legislative Condition	0.58	0.28	0.31
	(0.02)	(0.02)	(0.02)
Observations	539	531	531
Unilateral Condition	0.46	0.19	0.28
	(0.02)	(0.02)	(0.02)
Observations	535	527	526
F	14.85	5.42	2.91
p	<.01	<.01	.05
Panel B	DV = Handling of Issue		
Control	0.76	0.22	0.40
	(0.02)	(0.02)	(0.02)
Observations	404	418	365
Legislative Condition	0.73	0.24	0.35
	(0.02)	(0.02)	(0.03)
Observations	395	378	347
Unilateral Condition	0.54	0.11	0.29
	(0.02)	(0.02)	(0.02)
Observations	410	425	371
F	27.49	11.84	5.86
p	<.01	<.01	<.01

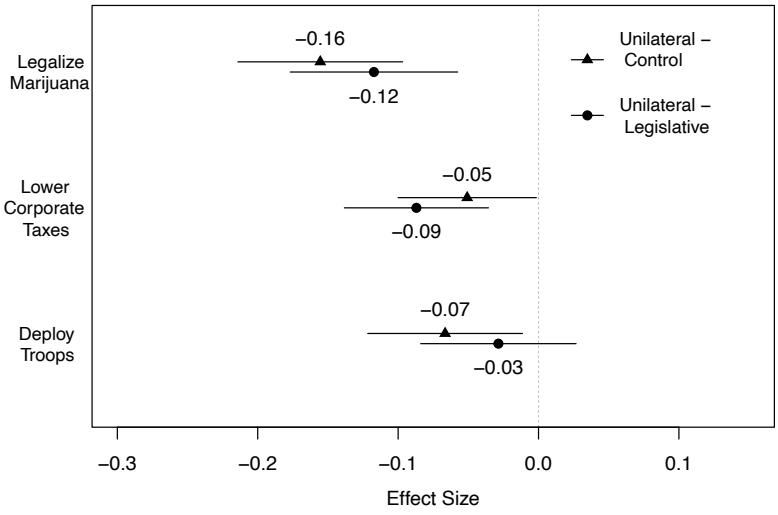
Note: Cell entries are the proportion of respondents who reported supporting the candidate (top panel) and approving of the candidate's handling of the issue (bottom panel). Standard errors in parentheses.

or 16 percentage points. Similarly, respondents were 12 percentage points less supportive of a candidate who pledged to legalize marijuana via unilateral action rather than through the legislative process. Overall, respondents reacted in negative ways toward presidential candidates who proposed to change federal

law regarding marijuana policies through unilateral action rather than through other means.

We find similar patterns for the other two issue areas, though the differences are somewhat smaller in magnitude. For the candidate who supported lowering corporate taxes, unilateral action reduced support by 5 percentage points relative to the control condition and 9 percentage points relative to the legislative route. Deploying troops via unilateral means reduced candidate support by 7 percentage points compared to the control condition and 3 percentage points compared to the legislative condition (the latter of which falls short of statistical significance at conventional levels). On the whole, the results in Figure 6.1 are consistent with our expectations and provide new evidence that the means by which politicians propose to achieve their policy objectives affect their levels of public support.

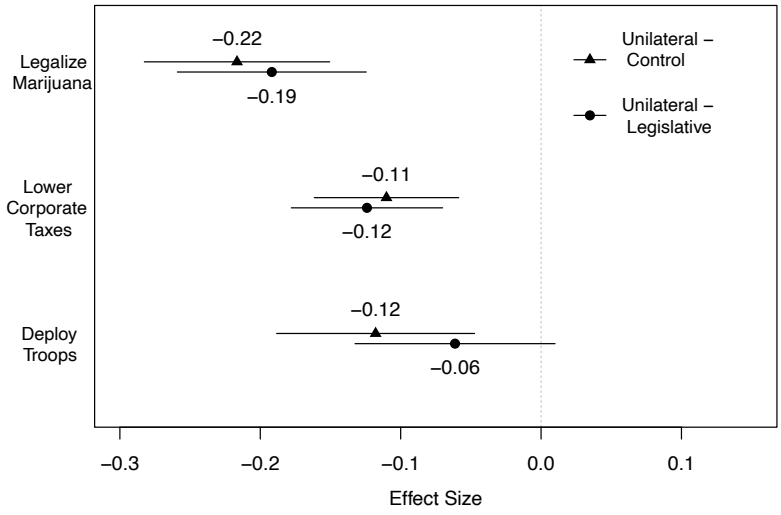
Figure 6.1 The Effect of Unilateral Action vis-à-vis Legislation on Support for Presidential Candidates



Note: Triangles indicate 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. Negative values along the *x*-axis indicate that the unilateral treatment decreased candidate evaluations. The horizontal lines are the 95 percent confidence intervals associated with the differences in proportions. Across all issues, respondents in the unilateral condition expressed less support for candidates compared with respondents in the control and legislative conditions.

Figure 6.2 displays similar patterns for respondents' evaluations of the candidates' proposed handling of the issue. For the marijuana case, the pledge to use unilateral action decreased evaluations of the candidate's handling of the issue by 22 and 19 percentage points, respectively, compared to the control and legislative conditions. As with respondents' support for the candidates, the magnitude of the effect of unilateral action is strongest for marijuana but is consistently negative for the tax and troop deployment issues. Unilateral action reduced evaluations of the candidate's handling of the tax issue by 11 and 12 percentage points, respectively, compared to the control and legislative conditions. Similarly, unilateral action reduced evaluations of the candidate's handling of troop deployments by 12 and 6 percentage points, respectively, relative to assessments among respondents in the control and legislative conditions, though the latter result again falls short of statistical significance.

Figure 6.2 The Effect of Unilateral Action vis-à-vis Legislation on Approval of the Candidates' Handling of Issues



Note: Triangles indicate 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. Negative values along the *x*-axis indicate that the unilateral treatment decreased candidate evaluations. The horizontal lines are the 95 percent confidence intervals associated with the differences in proportions. Across all issues, respondents in the unilateral condition expressed less approval for the candidates' handling of the issue compared with respondents in the control and legislative conditions.

In all, we find that Americans evaluate policies—or, here, policy proposals—on the basis of how they are fashioned. Consistent with our evidence in the preceding chapters that documents Americans' opposition to presidential unilateralism in the abstract, our experimental findings indicate that the public provides systematically lower levels of support for executives who propose to deploy unilateral power to achieve their policy goals. Across the three issues we examined, our findings suggest that these reactions are most negative in the domain of social policy and are smaller, though consistently negative, on economic issues and foreign policy. Though we consider a small set of issues, the findings raise the possibility that the public response to unilateral action could vary with the politics or complexity of the particular issue area.

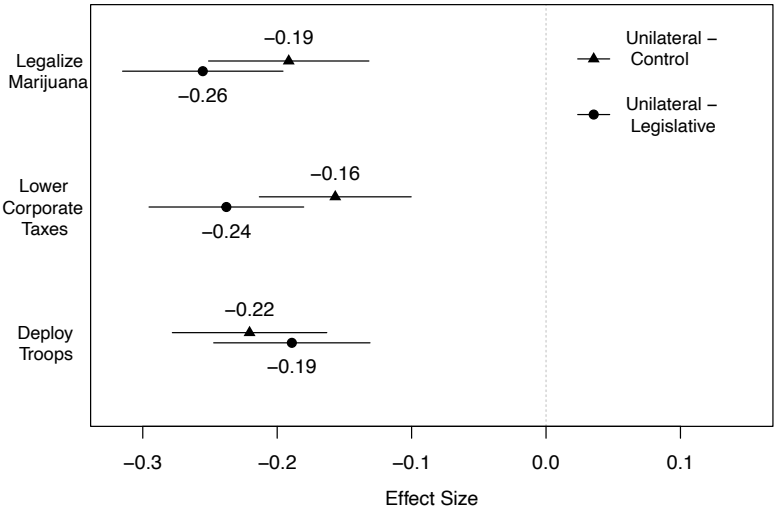
6.3.2 Leadership Traits and Potential Mechanisms

We further study the consequences of unilateral action by examining how it affects respondents' assessments of the personal traits of the candidates. Our theoretical perspective posited in Chapter 2 and our results in Chapter 4 demonstrate that Americans' evaluations of presidential power reflect their commitments to the rule of law. We evaluate whether the public costs of unilateral power on candidate evaluations are consistent with this proposed mechanism. After respondents received the vignette, we measured respondent evaluations of the presidential candidates by asking them to indicate whether they believed each candidate "respects the rule of law." We measured responses to these questions on a four-point scale, which we collapsed into a dichotomous indicator.

Figure 6.3 present the results. Consistent with our argument, we find that unilateral action proposals significantly decreased respondents' beliefs that the candidate respected the rule of law in each policy domain. 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. We find nearly identical results 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 suggest that the public applies its commitments to core democratic values—here, the rule of law—when evaluating proposals by presidents to exercise unilateral powers.

We also evaluated whether the pledge to use unilateral action affected other perceptions of the candidates. Elections provide voters with the opportunity to elect officeholders on the basis of their competence (Alt, Bueno de Mesquita, and Rose 2011; Ashworth 2012), and presidential candidates have incentives to

Figure 6.3 The Effect of Unilateral Action vis-à-vis Legislation on Evaluations of the Candidates' Commitment to the Rule of Law



Note: Triangles indicate 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. Negative values along the *x*-axis indicate that the unilateral treatment decreased candidate evaluations. The horizontal lines are the 95 percent confidence intervals associated with the differences in proportions. Across all issues, respondents in the unilateral condition expressed significantly lower evaluations of the candidates' commitments to the rule of law.

develop images that emphasize these qualities (Hayes 2005; Holian and Prysby 2014). It is possible, therefore, that a candidate's intention to exercise unilateral powers could promote impressions of strong leadership. Perceptions of traits such as leadership can lead to increased popular or electoral support (Fridkin and Kenney 2011; Funk 1999; Miller, Moy, and Reeves 2018), and assessments of presidential leadership contribute to presidential approval ratings (Cohen 2015). We thus investigated how unilateral action affected respondents' beliefs that the candidate "provides strong leadership" and is "able to get things done."

We present the results in Figure 6.4. 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 6.4, 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). 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 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 rather than by going it alone.

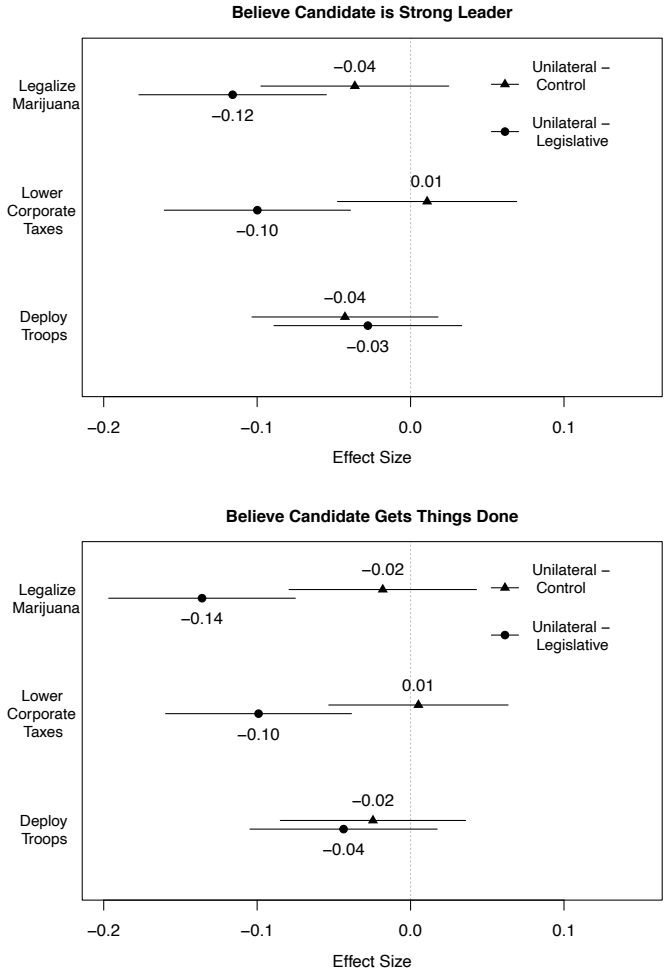
The data reported here provide broad support that public evaluations of presidents reflect not only what they do but also *how* they do it. The public responds to how candidates propose to achieve their policy goals. Proposals to use unilateral powers, in particular, decrease voters' assessments of the candidates. Contrary to suggestions that political leaders such as presidents can foment positive public images of leadership and accomplishment by acting alone (Howell 2013), our findings provide no evidence that unilateral action increases evaluations of candidates along these trait dimensions.

6.3.3 Unilateral Action and Issue Accountability

Our findings above indicate that the public responds negatively to the use of unilateral power. One may wonder whether these patterns are sufficient for presidents to reconsider wielding power alone. Americans are increasingly divided in their evaluations of recent presidents. If, as Christenson and Kriner (2017a) argue, the public costs of unilateral action are concentrated primarily among the president's partisan opponents, or among members of the public who oppose the president's policy goals, presidents may have little to lose by exercising unilateral power. But if unilateral action also reduces the president's standing among individuals who agree with the president, presidents may incur political costs from even their allies. This latter condition would provide suggestive evidence that presidents may need to think twice before pursuing unilateral means for accomplishing their policy goals.

We distinguish between these possibilities and investigate the potential for heterogeneous treatment effects. To do so, we study how preferences and procedures interact by evaluating whether the penalties for unilateral action vary depending on respondents' views on each of the three issues. Our primary fo-

Figure 6.4 The Effect of Unilateral Action vis-à-vis Legislation on Evaluations of Candidate Traits



Note: Triangles indicate 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. Negative values along the *x*-axes indicate that the unilateral treatment decreased candidate evaluations. The horizontal lines are the 95 percent confidence intervals associated with the differences. Unilateral action did not improve respondents' evaluations of the candidate for either dependent variable or for any issue area.

cus is on whether the public costs of unilateral action vary on the basis of whether individuals agree or disagree with the president's policy position.

We measure respondents' views on each policy domain, in some instances leveraging previous panels of TAPS and using questions asked of the same respondents in earlier waves. The text of these questions is shown in Table D.1 in the Appendix to this chapter. Each question evaluates public opinion in the relevant policy domains, but there is varying degrees of correspondence with the specific policies advocated by the presidential candidates in our experimental vignettes and the wording of the survey instruments measuring policy preferences. The question wording for defense policy exhibits the greatest disparity with the policy outcome advocated by the presidential candidate. 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 post-treatment variable. For ease of interpretation, we recoded each measure into binary variables indicating whether respondents agreed with the policy position advocated by the presidential candidates. Responses to these questions are contained in the variable *Policy agreement*.[1]

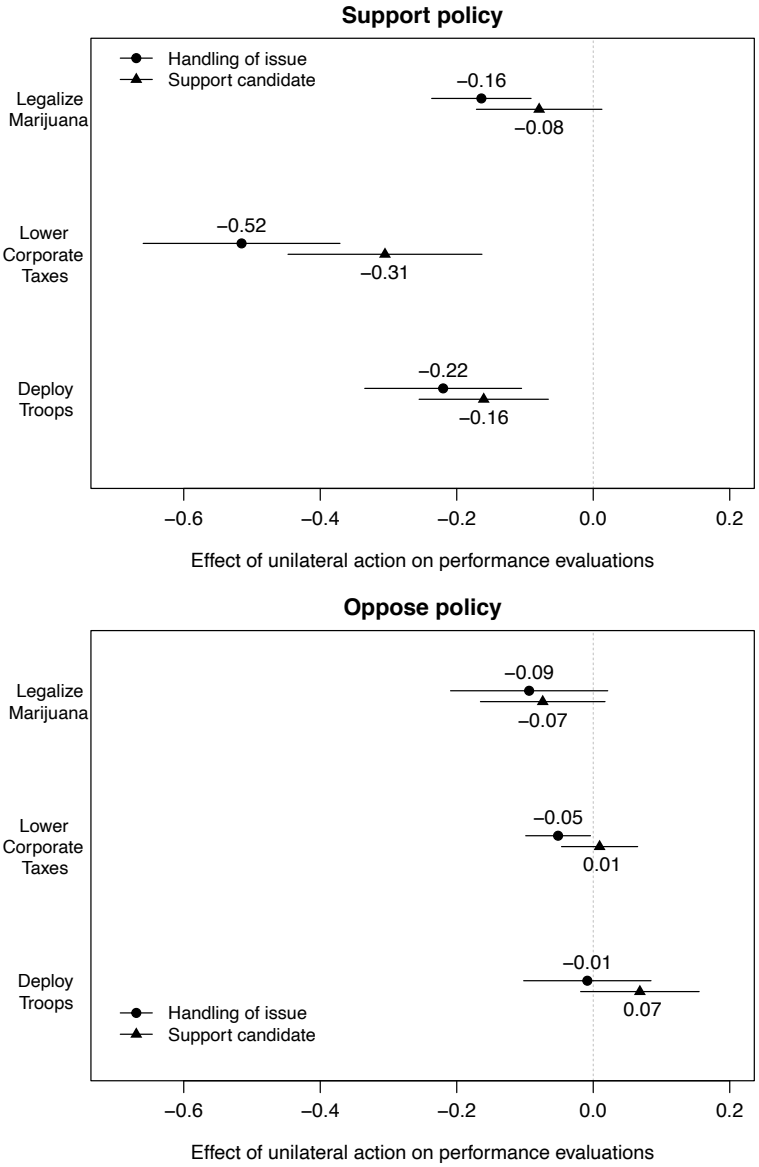
Figure 6.5 shows the effects of unilateral action among respondents who support and oppose the presidential candidate's position for each issue. For this analysis, we calculate the effect of unilateral action relative to the legislative condition and omit respondents in the control group. As above, negative numbers along the x-axes indicate that unilateral action reduced evaluations. The top figure shows that the effects were consistently negative among respondents who supported the candidates' issue position. All six treatment effects are negatively signed and five are statistically distinguishable from zero. The magnitudes were especially larger in the context of the tax issue.

The bottom panel of Figure 6.5 shows results for respondents who oppose the candidate's position. While the estimated effects are generally negative, they are considerably smaller in magnitude relative to the effects of unilateral action among respondents who support each of the policies. Moreover, none is statistically distinguishable from zero. Strikingly, these patterns provide little evidence that the negative effects of unilateral action are driven by individuals who oppose the policies created through its use. Instead, individuals who oppose the policy in question appear to be less sensitive to the means through which it is enacted.

We use linear regression to test more formally whether policy agreement moderates the effect of unilateral action on candidate evaluations. We regress

[1] Respondents indicated their views of each policy on five-point scales, where the midpoint represented a neutral response option. For the purposes of this particular analysis, we omitted respondents who chose the neutral option so that we can clearly compare the effect of unilateral action based on whether respondents supported or opposed the policy in question.

Figure 6.5 The Effect of Unilateral Action vis-à-vis Legislation on Evaluations of Presidential Candidates



Note: Points represent the differences in aggregate evaluations of the presidential candidates based on whether they propose to achieve their policy goals via unilateral action or with legislation. The top plot shows effects among respondents who agree with the candidate's policy views and the bottom plot shows effects among respondents who disagree with the candidate's policy views. The plotted points show the differences in mean support, whereby negative values indicate public penalties for unilateral action relative to legislation. The horizontal lines represent the 95 percent confidence intervals.

each of the dependent variables for the three issue areas on an indicator for assignment to the unilateral (rather than legislative) condition, the binary indicator for policy agreement, and the interaction between them. The coefficient for the unilateral action condition provides an estimate of the treatment effect among individuals who oppose the candidate's policy position and the coefficient for the interaction term characterizes whether this effect differs for individuals who support the candidate's policy view.

Table 6.3 shows the results of these analyses. First, we find no compelling evidence that the unilateral condition reduced candidate evaluations among respondents who opposed the policy in question. Four of the six coefficients for the unilateral condition are negative yet none is statistically significant at conventional levels. Individuals who oppose policies endorsed by presidential candidates do not appear to further penalize candidates who propose to enact those policies through unilateral action.

Second, as one would expect, evaluations of the presidential candidates are more positive as respondents' policy preferences are aligned with the candidates' policy goals. The coefficients for *Policy agreement* are positive and statistically significant in each of the six models. Consistent with theories of issue accountability, respondents in the legislation condition evaluated presidential candidates more favorably when the candidates shared respondents' policy views.

Third, and most importantly, for both the taxes and troops issues we find that individuals' policy preferences moderate the effects of unilateral action. The coefficients for the interaction terms are negative and statistically significant in four of the six models, indicating that the effects of unilateral action were more negative for respondents whose policy views were aligned with those of the respective candidates. Neither interaction term is significant for the marijuana policy domain, indicating that the negative consequences of unilateral action applied to both supporters and opposers of the candidate's policy view. In sum, the results provide no evidence that the negative consequences of unilateral action are driven solely, or even primarily, by individuals who oppose the policy substance of the presidential candidates' proposals.

The results in Table 6.3 highlight the interaction between substantive policies and procedural values in how Americans evaluate officeholders. The negative coefficients on most of the interaction terms indicate that policy agreement is a weaker predictor of candidate evaluations when the candidate pledges to use unilateral power. That is, while respondents generally provided more positive assessments of candidates who advocated issue positions shared by respondents, policy agreement mattered less to respondents when candidates proposed to achieve their goals via unilateral actions rather than by working

Table 6.3 *Model of Costs of Unilateral Action vis-à-vis Legislation: Interaction with Policy Preferences*

Panel A	DV = Approve of handling		
	Marijuana	Taxes	Troops
Unilateral Condition	−0.09	−0.05	−0.01
	(0.05)	(0.03)	(0.06)
Policy Agreement	0.63*	0.62*	0.40*
	(0.05)	(0.05)	(0.06)
Unilateral condition × Policy Agreement	−0.07	−0.46*	−0.21*
	(0.07)	(0.06)	(0.08)
Intercept	0.34*	0.11*	0.15*
	(0.04)	(0.02)	(0.04)
Observations	526	696	503

Panel B	DV = Support candidate		
	Marijuana	Taxes	Troops
Unilateral Condition	−0.07	0.01	0.07
	(0.05)	(0.03)	(0.05)
Policy Agreement	0.54*	0.48*	0.30*
	(0.05)	(0.05)	(0.05)
Unilateral condition × Policy Agreement	−0.01	−0.31*	−0.23*
	(0.07)	(0.07)	(0.07)
Intercept	0.25*	0.16*	0.14*
	(0.03)	(0.02)	(0.04)
Observations	659	854	687

Note: Entries are linear regression coefficients with standard errors in parentheses. The dependent variable is listed at the top of each panel. Respondents who received the legislative treatment condition are the omitted category. Data are weighted to national population parameters. $^{*}p < 0.05$.

with Congress. These results suggest that the public's negative evaluations of unilateral power may undermine issue accountability by reducing support for candidates who otherwise promote popular policy agendas.

Together, our survey experiments demonstrate that a president's inclination to pursue policies through unilateral means may come at a public cost. Our data provide evidence of decreased public evaluations of presidential candidates who promise policies via unilateral action rather than by working with Congress. These effects are especially strong among respondents who agree

with the candidate's policy position. Respondents who share officials' policy goals do not appear to be contented by their issue congruence, but instead downgrade their assessments of candidates who propose to achieve their objectives through means that respondents oppose. Presidents eager to curry favor with the public must consider not only the level of public support for their policy initiatives but also how the public may respond to the means through which they intend to achieve them. Advocating for popular initiatives may not be sufficient to boost an official's public standing if they implement such initiatives through unpopular means.

6.4 The Costs of Unilateral Action vis-à-vis Inaction

Thus far, we have shown that the public does not uncritically accept when presidents use unilateral strategies. The public does not hold favorable views of presidential power, and our survey experiments indicate that the public penalizes leaders for its use. Instead, the public would prefer that presidents pursue their policy objectives through the legislative process.

Presidents, however, may not always have the luxury of considering the option of passing legislation in lieu of using unilateral powers. In our current era of heightened partisan disagreement and slim partisan majorities, many presidential policy initiatives may be dead on arrival to Congress. For these presidents, then, the choice is not whether they should pursue legislation rather than unilateral action; instead, these presidents must decide whether to take unilateral action or acquiesce to the status quo.

We conducted a second study to evaluate the public incentives for presidents to act when legislation is unlikely. Existing scholarship presents competing views about the nature of these incentives. Canonical accounts equate action with presidential leadership. For example, Howell (2013, 125) asserts that "opting not to act—indeed, merely being perceived as not acting—comes at a great political cost." Because presidents benefit from being perceived as strong leaders (Cohen 2015), unilateral action may also allow presidents to exhibit leadership in the face of legislative inaction.

There is sparse evidence that the mass public rewards presidents for taking action instead of accepting the status quo. The previous analyses in this chapter show that the public holds negative views of unilateral power and disapproves of presidents who exercise it. But these analyses do not adjudicate whether unilateral action is preferable to no action at all. Arbitrating between these competing expectations is essential for understanding presidents' public

incentives for using unilateral power when congressional gridlock makes legislative action unlikely, a context increasingly familiar for recent presidents.

6.4.1 Public Opinion and Incentives for Unilateral Action

We examine the public reaction to unilateral action in the context of congressional inaction. Our primary interest is whether a president's public standing is affected by exercising unilateral power when they would otherwise not achieve their policy goals. Identifying whether unilateral action provides benefits for the president, and among which voters, is essential for characterizing the president's public incentives during persistent gridlock.

6.4.2 Design

We embedded three experimental vignettes in a survey we conducted in March 2018. The survey was administered by YouGov, with a sample of approximately 4,000 respondents designed to be demographically representative of the US population. The vignettes concerned salient political issues, including health care, immigration, and international sanctions. These issues addressed domestic and foreign policies on which Americans may have varying views about the desirability of unilateral action.

The vignettes presented all respondents with identical information about the president's policy goals, informed them that the president was unable to achieve these goals with legislation, and reported that the president criticized Congress for its inaction. This design ensures that all respondents were aware of the president's political views and his disagreements with Congress. For each vignette, we randomly assigned respondents to one of two conditions. In the presidential inaction condition, we told respondents that the status quo remained unchanged. In the unilateral action condition, we told respondents that the president issued a unilateral directive to advance his policy goal. We present the full vignette wording in Table 6.4.

After each vignette, we measured respondents' evaluations of both the president's handling of the issue and job performance. The questions were asked as follows:

- Would you approve or disapprove of the way the president has handled [issue]?
- Would you approve or disapprove of the way the president has handled his job as president?

For simplicity, we collapsed the dependent variables into binary indicators for

Table 6.4 *Vignette Wording for Costs of Unilateral Action vis-à-vis Inaction*

Issue	Stasis Condition	Unilateral Condition
Immigration	Suppose a president would like to change policy to allow undocumented immigrants to become US citizens. Congress, however, is unwilling to take action on the president's proposal. In response to the stalemate, the president has harshly criticized the Congress's inaction. US immigration policy remains unchanged.	Suppose a president would like to change policy to allow undocumented immigrants to become US citizens. Congress, however, is unwilling to take action on the president's proposal. In response to the stalemate, the president has harshly criticized the Congress's inaction and acted unilaterally to allow some undocumented immigrants to become citizens if they meet certain criteria. US immigration policy is now changed.
Health care	A president would like to reform health care to reduce costs for small businesses. Congress has failed to pass legislation to make health insurance more competitive. In response, the president has complained about Congress's failure to make it more affordable for small businesses to provide health care. Health care policy remains unchanged.	A president would like to reform health care to reduce costs for small businesses. Congress has failed to pass legislation to make health insurance more competitive. In response, the president has complained about Congress's failure to make it more affordable for small businesses to provide health care. Instead, the president has acted without Congress and issued an executive order to loosen regulations on the insurance industry that would lower health care costs for small businesses. Health care policy is now changed.
Sanctions	A president has asked Congress to impose economic sanctions against a foreign nation known to be a state sponsor of terrorism, but Congress has refused to do so. In response to this stalemate, the president has angrily criticized Congress for their failure to act. There remain no sanctions against the foreign nation.	A president has asked Congress to impose economic sanctions against a foreign nation known to be a state sponsor of terrorism, but Congress has refused to do so. In response to this stalemate, the president has angrily criticized Congress for their failure to act. Additionally, the president has acted without Congress and used his unilateral powers to sanction the country. There are now sanctions against the foreign nation.

whether the respondent provided a positive evaluation of the president. Using these measures, we compared levels of support for the president across the two

conditions. If the public prefers presidents to take direct action to achieve their goals rather than accept congressional inaction, we would expect to observe more positive presidential evaluations from respondents in the unilateral action condition. But if the public's opposition to unilateral power looms larger for respondents than the president's failure to achieve a policy goal, presidential evaluations would be more positive for the presidential inaction condition. Alternatively, if the public evaluates presidents primarily on the basis of their policy views rather than their achievement of outcomes that reflect those views, we would expect to observe no difference between conditions.

In addition to testing the main effects of unilateral action on presidential evaluations, we also evaluate how the results vary among respondents who agree and disagree with the president's policy goals. Unilateral action may cultivate positive reactions among individuals who share the president's policy goals. If this were so, it would provide political cover for the president to take action even if groups who oppose the president's policy react negatively. Before respondents received the vignettes, they completed a battery of questions about their opinions on the three policy items referenced in the vignettes. The text of these questions is shown in Table D.2 in the Appendix to this chapter. Respondents answered each item using a four-point scale from "strongly support" to "strongly oppose," which we collapsed into a binary indicator of support. For each issue, we distinguished the treatment effects among respondents who shared and opposed the president's policy goal.

Comparing the effects of unilateral action among respondents who share and oppose the president's policy views allows us to put our hypothesis to an even stronger test. We expect that individuals who oppose the president's policy positions exhibit the most negative effects, as they may disagree with the president on both policy and procedural grounds. Individuals who share the president's policy goals, however, provide a more critical test. While they stand to realize policy gains when a president implements their preferred outcome via unilateral action, the result may violate their procedural preferences. If the former predominates, we will see positive effects among these respondents in the unilateral condition, which would suggest the public rewards presidents for implementing their preferred policy goals via unilateral power. But if respondents evaluate presidents on the basis not only of what they do but how they do it, we would expect that procedural preferences cancel out or outweigh their policy gains, in which case we would observe null or negative effects of the unilateral condition.

We test the hypotheses outlined above by comparing the mean levels of support across experimental conditions. We use survey weights in all analyses to estimate the population average treatment effects.

6.4.3 Results

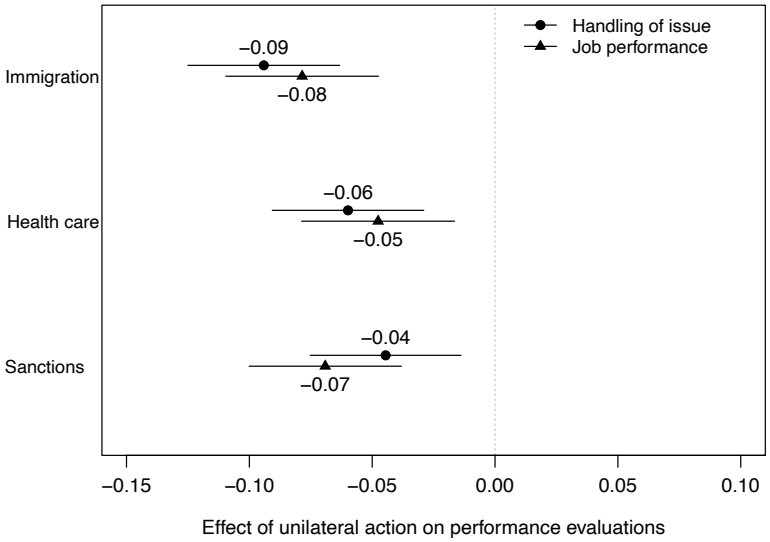
Figure 6.6 shows the results across both dependent variables and each issue area. The points indicate the difference in the proportion of respondents who provided positive evaluations, and negative values indicate that presidential evaluations were lower among respondents in the unilateral condition. Across the three survey experiments, we find that the public penalizes presidents for pursuing unilateral action compared with accepting a status quo the president expressed interest in changing. Consider first the results for the immigration issue shown at the top of Figure 6.6. Overall, 52 percent of respondents in the inaction condition approved of the president's handling of this issue, compared with 43 percent of respondents in the unilateral condition. This difference of 9 percentage points is statistically significant ($p < .001$). Though the president expressed identical policy views in both conditions, respondents *penalized* the president for exercising unilateral power to achieve his goals rather than accepting the status quo. We find the same pattern across the other two issue areas, for which evaluations of the president's handling were 6 percentage points ($p < .001$) and 4 percentage points ($p < .01$) lower in the unilateral action condition compared to the inaction condition for immigration and economic sanctions, respectively.

As Figure 6.6 shows, we find similar differences when evaluating approval of the president's job performance. Across each issue, we find that the president's approval rating is lower among respondents in the unilateral condition. The differences range from 5 to 8 percentage points and each is statistically significant ($p < .01$). These results provide striking and consistent evidence that presidents incur aggregate penalties for drawing upon unilateral action rather than retaining the status quo.

6.4.4 Policy Agreement and the Effects of Unilateral Action

We now examine how our treatment effects vary based on whether respondents support or oppose each of the president's policy beliefs. To do so, we estimate the treatment effects of the unilateral condition among respondents who either supported or opposed each of the president's policy goals. While we expect that individuals who opposed the president's policy goals provide the strongest negative reaction to the use of unilateral power, we are particularly interested in the effects among respondents who support the president's policy views. For these respondents, their support of the policy objectives pursued by presidents may conflict with their principled opposition to the use of unilateral power. The reactions among these respondents, therefore, is critical for characteriz-

Figure 6.6 The Effect of Unilateral Action vis-à-vis Inaction on Evaluations of the President



Note: Points represent the differences in aggregate evaluations of the president based on whether he exercises unilateral power to change existing policy or instead observes the status quo. The plotted points show the differences in mean support, where negative values indicate public penalties for unilateral action. The horizontal lines represent the 95 percent confidence intervals.

ing the nature of the potential political costs of unilateral power. If individuals cast aside their views on presidential power when the president uses power to achieve policy ends they support, we would expect to observe positive treatment effects from the unilateral action condition. In this case, presidents hoping to maintain or increase their popular standing need only use unilateral actions to advance initiatives supported by the broader public. On the other hand, if individuals' views on power are at least as important in their evaluations of the president as their support for the president's policy accomplishments, then we would expect to observe null or negative effects of the unilateral power condition. Should this be the case, the results would suggest that presidents can expect to lose political support among the public even when pursuing popular policy goals.

The results are shown in Figure 6.7. Treatment effects of unilateral action among respondents who supported the president's policy goals are shown in

the top plot; effects among respondents who opposed the president's policy goals are shown in the bottom plot. The treatment effects on the handling dependent variable are shown with a solid circle and the effects on the job approval dependent variable are shown with a solid triangle.

As the top plot shows, we find no evidence that unilateral action had positive effects on presidential evaluations among respondents who shared the president's policy beliefs. In the immigration vignette, for example, 51 percent of individuals who supported the president's position approved of the president's handling of the issue in the inaction condition, compared to 50 percent among respondents in the unilateral condition. Therefore, the exercise of unilateral power reduced the proportion of respondents who provided positive evaluations of the president by .01. We find similar patterns when evaluating the president's job performance evaluation. About 48 percent of the president's policy supporters approved of the president's job performance in the *inaction* condition compared to 44 percent of respondents in the *unilateral* condition. Neither of these differences is statistically distinguishable from zero; however, these findings provide no evidence that individuals who agree with the president's policy position express greater support for presidents who use unilateral power to implement it.

The results are even starker for the other two policy issues. In the context of health care, the proportion of respondents who provided positive evaluations of the president was significantly lower in the unilateral condition. The unilateral condition reduced the proportion of respondents who approved of the president's handling of health care by .05 and reduced the proportion of respondents who approved of the president's job performance by a similar margin. For the issue of economic sanctions, the results are slightly larger in magnitude, where the unilateral condition reduced the proportion of respondents who approved of the president's handling by .06 and who approved of the president's job performance by .08. Overall, the evidence presented in the top plot indicates that individuals who agree with the president's policy positions do not provide any additional support for presidents who achieve them through unilateral power—in fact, the use of unilateral power may even decrease their evaluations of the president despite their agreement with his policy views.

As the bottom plot shows, we find that respondents who opposed the president's policy goals reacted consistently negatively to the use of unilateral power. The magnitude of the effects varied somewhat across policy areas. For example, on the issue of immigration, the proportion of respondents who approved of the president's handling of the issue was .23 lower and who approved of the president's job performance was .15 percentage points lower among respondents in the unilateral condition. The unilateral action condition also had

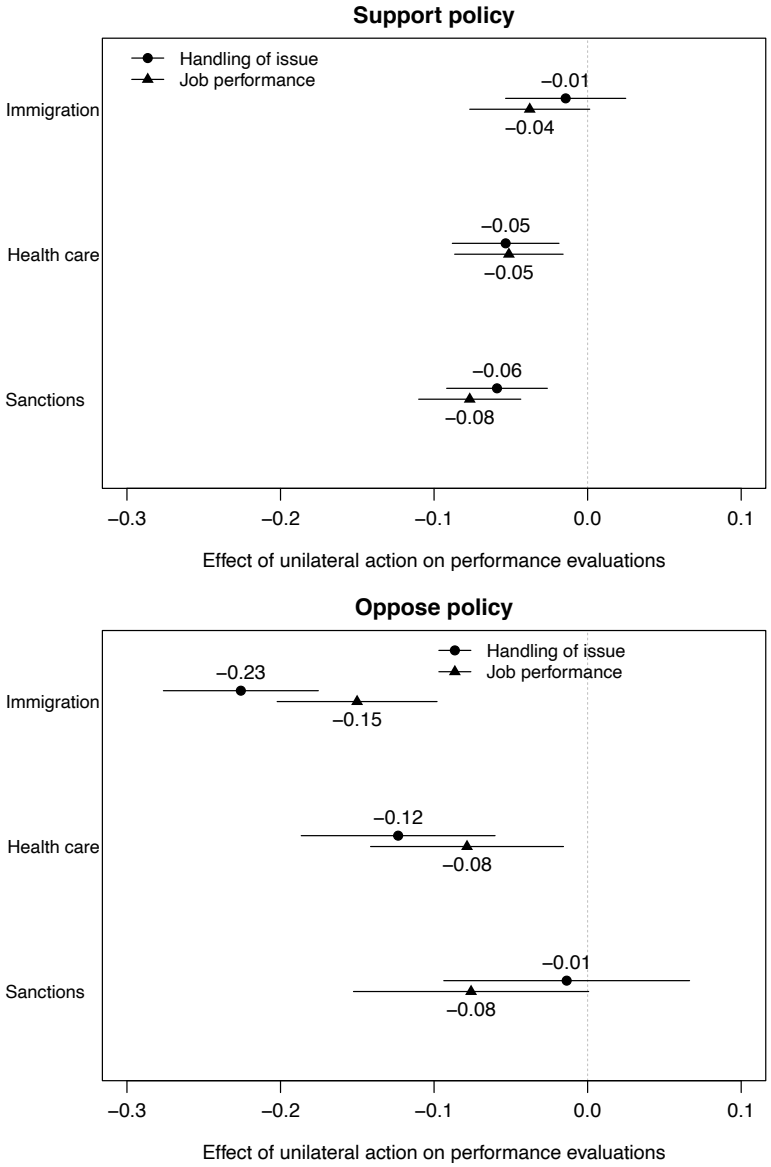
consistently negative effects in the context of health care, though the magnitudes were about half as large as the effects for the immigration issue. Finally, the results were a bit more mixed for the economic sanctions issue. The proportion of respondents who approved of the president's handling of the issue was .01 lower in the unilateral condition, though this result is not statistically distinguishable from zero. The results were stronger for the job performance dependent variable, where the proportion of respondents who approved of the president's job performance was .08 lower in the unilateral condition. Overall, we find that respondents who opposed the president's policy views reported lower evaluations when the president achieves his policy goals through unilateral action.

While the plots in Figure 6.7 provide visual evidence that policy views moderated the effects of the president's use of unilateral power, we test these heterogeneous effects more formally. Using linear regression, we model the dependent variables as a function of whether respondents were in the unilateral treatment condition, their support for the president's policy view, and the interaction between them. If the effect of the unilateral condition varied on the basis of whether respondents agreed with the president's policy views, the coefficient on the interaction term would be statistically distinguishable from zero.

The results are shown in Table 6.5. The interaction terms are statistically significant in two of the six models, providing some limited evidence that respondents' policy views conditioned the effects of the unilateral action treatment. Perhaps more interestingly, the coefficients are occasionally positive, indicating that the negative effects of unilateral action are smaller among respondents who shared the president's policy views. Moreover, in no model do the results show that supporters of the president's policy views provided *more positive* assessments of the president for using unilateral action rather than accepting the status quo. Across each policy area and both dependent variables, respondents who opposed the president's policy position penalized the president for unilateral action and, strikingly, we find no evidence that unilateral action improved evaluations of the president among respondents who supported the president's policy views.

While these results may initially be unsurprising, closer consideration suggests that these findings provide new evidence about how accountability mechanisms operate. Americans do not simply evaluate politicians on the basis of whether those officials share the public's policy views. If that were the case, we would expect no difference in presidential evaluations between the unilateral and inaction conditions; after all, both conditions provided identical information to respondents about the president's policy views. Instead, our results indicate that the public—particularly those members of the public who

Figure 6.7 The Effect of Unilateral Action vis-à-vis Inaction on Evaluations of the President



Note: Points represent the differences in aggregate evaluations of the president based on whether he exercises unilateral power to change existing policy or instead observes the status quo. The top plot shows effects among respondents who share the president's policy views and the bottom plot shows effects among respondents who oppose the president's policy views. The plotted points show the differences in mean support, where negative values indicate public penalties for unilateral action. The horizontal lines represent the 95 percent confidence intervals.

Table 6.5 *Model of Costs of Unilateral Action vis-à-vis Inaction: Interactions with Policy Preferences*

Panel A	DV = Approve of handling		
	Health care	Immigration	Sanctions
Unilateral action	-0.12*	-0.23*	-0.01
	(0.03)	(0.03)	(0.04)
Policy agreement	0.21*	-0.03	0.30*
	(0.02)	(0.02)	(0.03)
Unilateral action ×	0.07	0.21*	-0.05
Policy agreement	(0.04)	(0.03)	(0.04)
Intercept	0.43*	0.54*	0.35*
	(0.02)	(0.02)	(0.03)
Observations	3903	3916	3905

Panel B	DV = Approve of job performance		
	Health care	Immigration	Sanctions
Unilateral action	-0.08*	-0.15*	-0.08*
	(0.03)	(0.03)	(0.04)
Policy agreement	0.23*	-0.11*	0.31*
	(0.03)	(0.02)	(0.03)
Unilateral action ×	0.03	0.11*	0.00
Policy agreement	(0.04)	(0.03)	(0.04)
Intercept	0.39*	0.59*	0.32*
	(0.02)	(0.02)	(0.03)
Observations	3874	3891	3884

Dependent variable is shown at the top of each panel. Estimates are linear regression coefficients with standard errors in parentheses.
* $p < 0.05$ (two-tailed tests).

disagree with the president—also penalizes presidents for taking action to advance their policy views. Accountability is not simply about issue congruence; it is also enforced by the public's response to the use of power.

6.4.5 Within-respondent results

The results shown above are between-respondent estimates in which we compared respondents' evaluations for each issue area based on whether we as-

signed them to the unilateral action or inaction conditions. Unlike the experiments using TAPS data presented earlier in this chapter, respondents' treatment assignments in the experiments administered via YouGov were randomized separately for each of the three issues. Thus, we can also evaluate the effect of the unilateral action treatment using a within-respondent analysis. To do so, we estimated linear regressions of our dependent variables on indicators for treatment assignment along with respondent and vignette fixed effects. This specification accounts for respondent- and vignette-specific factors that may affect respondents' evaluations of the president. Using this approach, our model identifies the effect of the *unilateral action* condition using within-respondent variation in treatment assignment.[2] In contrast with the between-respondent analysis, we estimate the effect of the unilateral condition by aggregating across issues rather than evaluating the effects separately for each of them.

Table 6.6 shows the results of the within-respondent analyses. The left two columns focus on the overall effects of the unilateral condition. The coefficients for both dependent variables are negatively signed, statistically significant, and similar in magnitude. These results indicate that the unilateral condition reduced the probability that a respondent approved of the president's handling and the president's job performance by an average of 6 to 7 percentage points.

The results in the right two columns of Table 6.6 evaluate how these effects are moderated by respondents' policy views. *Policy agreement* is a binary indicator for whether respondents support the policy in the relevant issue area. The coefficients for *Unilateral condition* show the results for individuals who oppose the president's policy position and indicate that unilateral action reduced the probability of approving of the president's handling by about 13 percentage points and approving of the president's job performance by about 9 percentage points. The coefficient for *Policy agreement* shows how agreeing with the president's policy position affected respondents' presidential evaluations. On average, respondents were 16 percentage points more supportive of the president's handling of the issue and 14 percentage points more supportive of the president's job performance. The interaction terms, however, are both positive. Consistent with the between-respondent analyses reported earlier in the chapter, we find that the unilateral condition had a significantly smaller effect on evaluations of the president's issue handling among individuals who agreed with the president's policy views. However, the magnitude of the interaction term was smaller than the magnitude of the constituent term for the unilateral condition, indicating that policy agreement is not sufficient to overcome the penalties imposed on presidents for the use of unilateral action. The

[2] Overall, treatment assignments varied across vignettes for 76 percent of respondents.

results for evaluations of the president's job performance are similar. Although the interaction term falls short of conventional levels of statistical significance, it is positively signed yet smaller in magnitude than the constituent term for unilateral action.

Table 6.6 *Model of Costs of Unilateral Action vis-à-vis Inaction: Within-Respondent Estimates*

	Handling	Approval	Handling	Approval
Unilateral condition	-0.07*	-0.06*	-0.13*	-0.09*
	(0.01)	(0.01)	(0.03)	(0.02)
Policy agreement			0.16*	0.14*
			(0.02)	(0.02)
Unilateral condition ×			0.08*	0.04
Policy agreement			(0.03)	(0.02)
Individual Fixed Effects	✓	✓	✓	✓
Issue Fixed Effects	✓	✓	✓	✓
Observations	11,936	11,858	11,724	11,649
Respondents	3,999	3,997	3,964	3,961

Robust standard errors clustered on respondent are in parentheses. Data are weighted to national population parameters. Dependent variables are shown at the top of each column. * $p < 0.05$.

The results of these experiments contextualize the findings from previous research on the public cost of unilateral action and challenge accounts that argue that presidents have electoral incentives to push their agenda at all costs. Not only might presidents experience negative public reactions when pursuing unilateral action rather than legislation, but these negative public reactions also exist when the alternative to unilateral action is no policy change at all. Instead, our results suggest that the public does not view presidents as "policymakers-in-chief" but instead prefers them to respect traditional limits on the president's use of formal power.

6.4.6 Evaluating the Role of Constitutional Considerations

Our experimental results offer compelling evidence that Americans apply their negative attitudes toward unilateral power when evaluating both the presidents who exercise it and the policy outcomes that are achieved through its use. Even individuals who support the president's policy goals would sometimes prefer for the status quo to remain in place rather than for the president to create policy change with the stroke of a pen.

These findings are consistent with our theoretical argument. Here, we examine the evidence for our proposed mechanism. Our experiment, like most, is not well-suited for directly estimating the effects of potential mediators (on this topic, see Green, Ha, and Bullock 2010). Instead, we use an indirect approach. If Americans' commitments to constitutional principles drive their skepticism of executive power, as we argue, then we would expect to find that respondents' beliefs in the rule of law will moderate the negative effects of the unilateral condition.

Before respondents received the experimental vignettes, we measured their support for the rule of law using a battery similar to that reported in Chapter 4. Respondents answered the first four items described in Table 4.1 along a four-point scale that ranged from "strongly disagree" to "strongly agree." The fifth item was not asked on the YouGov survey. These items were scaled to create an index of support for the rule of law, which ranged from zero to three.[3] As with our analyses in Chapter 4, larger values of this variable indicate respondents with stronger commitments to the rule of law. The mean value was 2.16, and the median was 2.25.

We evaluate whether the rule of law moderates the treatment effects of the unilateral condition using our within-respondent analyses. This analysis allows us to evaluate the overall relationship between the rule of law and our treatment effects for each dependent variable. We again use linear regression to model each dependent variable as a function of an indicator for assignment to the *Unilateral condition* and its interaction with respondents' support for the rule of law. Note that our regression model includes respondent-level fixed effects and the rule of law varies between individuals but not between vignettes. Therefore, our model does not recover a constituent term for the *Rule of law* variable. Instead, the regressions estimate whether the effect of assignment to the *Unilateral condition* varies among respondents on the basis of their level of support for the rule of law. If our argument is correct, we would expect to find that the effects of unilateral action are more negative among individuals with stronger support for the rule of law. Therefore, we expect that the coefficients for the *Unilateral condition* are negative, indicating that the effects of the treatment are negative among individuals with the strongest support for the rule of law. We further expect that the coefficients for the interaction terms are positive, which would indicate that the magnitude of the effects attenuates among individuals with less support for the rule of law.

Table 6.7 shows the results and supports for our expectations. The first column shows the results for the dependent variable that measures respondents'

[3] The Cronbach's alpha was 0.74.

approval of the president's handling of the policy area. The coefficient for assignment to the *Unilateral condition* is positive yet not statistically significant, indicating that the unilateral action may have increased evaluations of the president among respondents with the least support for the rule of law, although the coefficient is not reliably estimated. The coefficient for the interaction term, however, is negative and statistically significant. It indicates that the treatment effects of the unilateral conditions among respondents with higher values on the rule of law scale—which, here, corresponds to weaker commitments to the rule of law—were increasingly negative. Given the magnitude of the interaction term, the results suggest that the treatment effect was approximately zero among people with a value of one on the rule of law scale (which applies to about 4 percent of respondents), and was negative among the 60 percent of respondents with values on the rule of law scale greater than that. The results for the approval dependent variable are equivalent. The magnitude of the effect of the unilateral condition was increasingly negative among respondents with stronger commitments to the rule of law.

Table 6.7 *Model of Costs of Unilateral Action vis-à-vis Inaction: How Attitudes toward the Rule of Law Moderate the Effect of Unilateral Action*

	Handling	Approval
Unilateral condition	0.07	0.05
	(0.04)	(0.04)
Unilateral condition ×	-0.07*	-0.05*
Rule of law	(0.02)	(0.02)
Individual Fixed Effects	✓	✓
Issue Fixed Effects	✓	✓
Observations	11,884	11,809
Respondents	3,981	3,979

Robust standard errors clustered on respondent are in parentheses. Data are weighted to national population parameters. Dependent variables are shown at the top of each column. * $p < 0.05$.

Consistent with our theoretical perspective, we find that Americans' commitments to the rule of law affect how they evaluate presidential power. Individuals with stronger commitments react more negatively to the use of power, while these effects attenuate among individuals who feel less strongly that the rule of law is inviolable. This pattern provides powerful evidence that Americans do not merely fall back on their partisan, ideological, or policy commitments when evaluating presidential power, but that their constitutional commitments also shape how they view the institution of the presidency.

6.5 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 (Bolton and Thrower 2016; Howell 2003; Mayer 1999; Rudalevige 2012; Thrower 2017a). Using a framework that emphasizes political accountability, we study how the public reacts to unilateral action by presidents and establish how public opinion may affect a president's use of power.

We find that the public assesses presidents beyond mere partisanship and ideology. Citizens also judge how presidents govern while in office. We present evidence that, despite the certainty with which presidents may order and implement a unilateral action, it is "costly" to both "the aims in whose defense it is employed" as well as "objectives far afield" (Neustadt 1990, 28). Unilateral action is costly to a president's public standing, and the threat of public backlash may constrain a president in its use (Bruff 2015; Posner and Vermeule 2010). By addressing potential biases due to strategic selection in related empirical work (Christenson and Kriner 2017a, 2019), we provide new evidence that both means and ends affect how Americans evaluate their presidents.

Accounts of the modern presidency emphasize the need for presidents to exercise leadership and to take decisive action. Scholars frequently assert that the public expects presidents to attend to all issues (Neustadt 1990) because the political costs of failing to do so are too high (Howell 2013). We find little support for these claims. While legislative gridlock may offer opportunities for strategic presidents to advance their policy interests unilaterally, our survey evidence demonstrates that presidents suffer a public cost for doing so. This penalty exists even among segments of the public who support the president's position. Our findings suggest that, while it is important to the public for presidents to share their policy views, it is not necessary—and may even be detrimental—for presidents to take direct action to advance them. The public may instead prefer to forgo a policy they support rather than have it implemented via means they find inappropriate.

Our findings in this chapter illustrate the political consequences of Americans' political values on presidential power that we presented in earlier chapters. Americans have attitudes about the nature of presidential power, and they apply these attitudes when evaluating how presidents deploy those prerogatives. Despite claims that the public wants presidents to "break constitutional rules and find ways to exercise their will" (Howell 2013, 106), we find evidence that the public is concerned about how presidents exercise the powers of

the office. The public wants presidents to endorse policy goals that they share, and they also have preferences about how presidents seek to achieve them. Americans' deference to the rule of law shapes their tolerance for presidents who abide by a limited understanding of presidential power as inherited from the Founding.

The experiments we report in this chapter enable us to evaluate the effect of unilateral action relative to complementary counterfactuals. In the first experiment, we study how unilateral action affects presidential evaluations relative to a legislative initiative that accomplishes the same outcome. In the second, we study the effect of unilateral action relative to a scenario in which no policy change occurrs. Together, the results characterize how the use of unilateral power interacts with the public's policy preferences to affect presidential evaluations. Among individuals who support the president's policy views, the penalty for pursuing policies via unilateral action rather than legislation are just as great—if not greater—than among individuals who oppose the president's policy goals. Supporters of the president's policy goals react less negatively to unilateral action when a policy would not be changed without its use. Even in this latter scenario, however, our results provide no evidence that presidents have incentives to wield unilateral powers to advance the policy goals shared by their supporters.

Our findings have implications for how voters exercise accountability with respect to the presidency. When presidents use unilateral power to achieve their policy goals, the public's policy views gain importance for how they evaluate the president. Conditional on the president's expressed policy goals, the public's evaluations of the president more strongly reflect their ideological agreement with the president when unilateral action is used to achieve those goals. This finding suggests at least two important implications. First, strategic presidents have incentives to consider public opinion when issuing unilateral directives. Our evidence indicates that unilateral action more strongly links presidents to their policy views in the minds of the public. The president's public standing is more likely to suffer when unilateral action is used to advance unpopular policy views, yet may be rewarded if unilateral power advances popular policy goals. Second, our respondents were provided with full information about the president's use (or not) of unilateral power. If presidents were to use unilateral power but at least some voters were uninformed about this action, the accountability relationship would be weaker than if all voters were fully informed. Therefore, presidents may have strategic incentives to obfuscate about using unilateral power depending on their expectations about the likely public response.

Our experimental approach helps to address biases associated with issues of

strategic selection. But it also omits features of the real world that may have implications for the politics of unilateral action. 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 after legislative attempts have failed. 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—even though Trump had previously expressed support for similar positions while campaigning for president. The adverse reaction to President Trump is consistent with the findings presented in this chapter. While unilateral action may be a president's best opportunity to realize their policy goals, exercising it comes at a cost.

Appendix D

Appendix to Chapter 6

Table D.1 *Question Wording for Policy Preference (TAPS Instruments)*

Issue	Wording
Marijuana	Marijuana use should be legal in all states.
Taxes	Large business corporations pay less than their fair share in taxes.
Defense	The federal government should spend more money on national defense.

Table D.2 *Question Wording for Policy Preference (YouGov Instruments)*

Issue	Wording
Immigration	Do you support or oppose a proposal to allow undocumented immigrants to legally continue living in the United States if they meet certain criteria?
Health care	Do you support or oppose a proposal to reform the Affordable Care Act to reduce health care costs for small businesses?
Sanctions	Do you support or oppose imposing sanctions on foreign nations that are sponsoring terrorist acts, even if it hurts the economy by reducing opportunities for trade?