

Mobilizing the Public Against the President: Congress and the Political Costs of Unilateral Action

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Abstract: *Prior scholarship overlooks the capacity of other actors to raise the political costs of unilateral action by turning public opinion against the president. Through a series of five experiments embedded in nationally representative surveys, we demonstrate Congress's ability to erode support for unilateral actions by raising both constitutional and policy-based objections to the exercise of unilateral power. Congressional challenges to the unilateral president diminish support for executive action across a range of policy areas in both the foreign and domestic realm and are particularly influential when they explicitly argue that presidents are treading on congressional prerogatives. We also find evidence that constitutional challenges are more effective when levied by members of Congress than by other actors. The results resolve a debate in the literature and suggest a mechanism through which Congress might exercise a constraint on the president, even when it is unable to check him legislatively.*

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

Existing scholarship paints a dour picture of the institutional constraints on presidential unilateral power (Howell 2003; Mayer 2001). Collective action dilemmas, supermajoritarian requirements, and steep transaction costs all but ensure that in most cases Congress will be unable to overturn an executive action (Brady and Volden 1998; Epstein and O'Halloran 1999; Moe 1994). Empirical analyses confirm that Congress rarely challenges unilateral actions legislatively, and when it does, such efforts usually fail (Howell 2003; Warber 2006).¹ Similarly, the judiciary offers at best an uneven check on unilateral power. Most unilateral actions are never challenged in court, and when they are, presidents win an overwhelming majority of the cases (Howell 2003, 151–54).

However, when deciding whether to act unilaterally, presidents consider more than the likelihood of Congress enacting legislation to overturn their order or of the courts ruling it unconstitutional. Presidents also consider the political costs of going it alone, and they weigh these against the expected policy benefits of doing so. Past scholarship has acknowledged the existence of these more informal political costs, even if it has given them little emphasis or empirical testing (e.g., Mayer 2009, 441; Moe and Howell 1999, 138). Moreover, prior research is largely silent on

what form these political costs take and how other political actors generate and shape the magnitude of these costs.

We examine one of the most important potential checks on presidential unilateral overreach—public opinion (Christenson and Kriner 2015; Posner and Vermeule 2010). Until recently, scholars have paid scant attention to how the public assesses unilateral action. Moreover, the two most recent and comprehensive analyses of these opinion dynamics have reached diametrically opposite conclusions. An analysis of broad attitudes toward unilateral power finds supermajorities opposed to general assertions of unilateral power (Reeves and Rogowski 2016). By contrast, an analysis of public assessments of presidential unilateralism taken by Presidents Bush and Obama finds little evidence of intrinsic opposition to unilateral action; rather, public opinion breaks reliably along partisan and policy lines (Christenson and Kriner forthcoming). The former suggests a strong, automatic public constraint on presidential unilateralism, whereas the latter suggests a weaker and more conditional popular check.

We seek to bridge this divide by examining the capacity of other political actors—primarily members of Congress—to activate citizens' underlying qualms

¹For critiques of this dominant view, see Chiou and Rothenberg (2013), Bolton and Thrower (2016), and Belco and Rottinghaus (2017). *American Journal of Political Science*, Vol. 00, No. 0, xxxx 2017, Pp. 1–17

concerning unilateral action and translate them into concrete opposition to policy initiatives. Through a series of five experiments embedded in nationally representative surveys, we find little evidence that the public instinctively opposes concrete instances of contemporary unilateral action *en masse*. However, we do find that members of Congress can erode public support for unilateral action by challenging the administration in the public sphere. Congressional criticism diminishes popular support for unilateral action across issue areas, both foreign and domestic, and levels of issue salience.

Our results suggest a potentially powerful, though indirect, mechanism through which legislators might influence the strategic calculations of the unilateral executive, even when Congress is unable to overturn such actions legislatively. If presidents anticipate sustained and vocal opposition to a potential unilateral action from Congress, they may rationally forgo acting unilaterally, fearing that the resulting public backlash could prevent them from achieving other aspects of their agenda in the future.

Congressional Criticism and Public Support for Unilateral Action

Congress is all but powerless to overturn unilateral actions legislatively. But can Congress raise the political costs of unilateral action by turning the public against an executive action? Although saddled with a low institutional approval rating, Congress's criticisms of presidential policies have proved quite influential over public opinion in other settings. While presidents are the actors most commonly associated with efforts to lead public opinion (e.g., Cohen 2010; Kernell 1997; Rottinghaus 2010), an extensive literature demonstrates the stark limitations hindering presidents' ability to rally the public to their side (Canes-Wrone 2005; Cohen 2008; Edwards 2006). An important reason for such failures is that members of Congress do not stand idly by; rather, they also engage the debate in the public sphere (Mayhew 2000) and offer a counter-narrative to that advanced by the White House (e.g., Jacobs 2010; Jacobs and Shapiro 2000). Indeed, congressional critics of administration policies have even been successful in moving public opinion on questions of war and peace (Berinsky 2009; Howell and Pevehouse 2007; Kriner and Shen 2014), an area where presidents are traditionally believed to enjoy significant advantages (e.g., Wildavsky 1966).

Can congressional critics also shape public assessments of unilateral action? The nascent literature on the microfoundations of support for unilateral action

suggests two reasons why Congress should be influential. Consistent with long literatures on low-information rationality (Delli Carpini and Keeter 1997; Popkin 1991), Christenson and Kriner (forthcoming) find that citizens relied heavily on partisan heuristics and personal policy preferences when assessing a range of unilateral actions taken by the Bush and Obama administrations in both the foreign and domestic sphere. Presidential co-partisans and those who agreed with a unilateral action on policy grounds mostly supported the president; partisan opponents and those who disagreed with an action on policy grounds largely opposed it. When members of Congress openly criticize an executive action, they provide new information on which citizens may update their assessments. Some may resist such information as inconsistent with their partisan or policy priors. However, for others, the new information provided by congressional elites may tilt the balance of considerations at the top of their heads against unilateral action (Zaller 1992).

In addition to simply providing new information, recent scholarship also suggests that congressional criticism may activate latent concerns held by many Americans about unilateral action. Reeves and Rogowski (2015, 2016) find widespread opposition to unilateral action in the abstract. Across multiple surveys, supermajorities opposed presidents enacting new policies by executive fiat, without seeking congressional approval. This opposition was driven both by assessments of the contemporary president and by core democratic values, such as support for the rule of law. As such, congressional challenges to unilateral action may resonate with many Americans' innate skepticism of unilateral action and concern that it threatens checks and balances, thereby seriously eroding support for executive action.

Finally, for congressional criticism of unilateral action to be influential, it must reach a wide swath of the mass public. Toward this end, congressional critics are greatly aided by the mass media (Berinsky 2009).

Although presidents enjoy significant advantages in shaping the content of media coverage (e.g., Entman 2004), an extensive literature on media indexing argues that the media adjusts the scope and tenor of its coverage in response to the level of political conflict in Washington (Althaus et al. 1996; Bennett 1990). Because journalistic norms of newsworthiness increasingly value political conflict (Cappella and Jamieson 1997; Groeling 2010; Patterson 1996), the media plays a significant role in magnifying congressional challenges to presidential unilateral actions. While (bi)partisan support for the president may go unreported, congressional challenges are likely to make the news. In sum, there are strong reasons to believe that

congressional opposition to a unilateral action can sway the public against the president.

Constitutional vs. Policy Criticism

Does the substance of congressional challenges shape their capacity to influence public opinion? A distinguishing feature of unilateral action is its susceptibility to constitutional challenges. Congressional opponents may object that an executive action constitutes an unconstitutional abuse of presidential power without having to battle the president on the merits of the policy itself. Even if constitutional concerns do not automatically trigger widespread opposition to unilateral action (Christenson and Kriner forthcoming), congressional challenges on constitutional grounds may resonate with Americans' underlying constitutional unease concerning unilateral presidential power as a threat to separation of powers (Reeves and Rogowski 2016). As a result, we hypothesize that congressional constitutional challenges will significantly lower support for unilateral action.

While members of Congress can and do routinely challenge the constitutionality of presidential unilateral initiatives, they can also criticize the president on policy grounds. By engaging the debate over whether a unilateral initiative represents good public policy, Congress can counter the dominant frame offered by the administration. Offering policy critiques of presidential arguments can transform a one-sided information flow into a competitive information environment (Chong and Druckman 2007), thereby eroding the president's capacity to marshal support for his chosen policy course. In the analysis that follows, we examine the relative efficacy of congressional constitutional versus policy challenges in eroding public support for unilateral action.

Generalizability Across Issues

While there are strong reasons to believe that Congress can erode public support for unilateral action in certain conditions, past scholarship suggests that congressional challenges may be more influential regarding some issues than others. We explore two possibilities. First, an extensive literature suggests that presidents enjoy greater leeway in foreign policy than in domestic affairs (e.g., Canes-Wrone, Howell, and Lewis 2008; Wildavsky 1966). Accordingly, the public may be more supportive of presidential unilateralism in the realm of foreign policy (Reeves and Rogowski 2016). As a new inquiry into the old two presidencies phenomenon, we examine whether Congress

is equally able to lower public support for presidential unilateral action in foreign and domestic affairs.

Second, Congress's capacity to sway public opinion on unilateral action may vary according to both the salience of the issue at hand and the extent to which it polarizes the public. Congressional opposition may have the greatest influence on smaller, less salient, and nonpolarizing unilateral actions on which most citizens lack strong priors. As a result, we examine the relative efficacy of congressional criticism across a range of unilateral actions that vary in terms of scope, salience, and level of polarization.

Source Effects

Finally, we consider whether the source of a challenge to unilateral action shapes its influence over public opinion. An extensive literature in political communication documents how the media indexes the tenor and tone of its coverage to the official debate within Washington (e.g., Bennett 1990). Indeed, a particularly strong variant of the indexing hypothesis argues that critiques not articulated in Washington, most importantly by legislators, are often systematically marginalized by the mass media (Mermin 1999).

As such, challenges to presidential unilateral actions levied by members of Congress—interbranch conflict is inherently newsworthy—may be particularly likely to generate the media coverage essential to moving public opinion. In the absence of congressional criticism, the media may ignore critiques made by other actors.

However, apart from being better able to attract media attention, are constitutional challenges to unilateral action issued by members of Congress more influential than identical charges lodged by other actors? Some previous research suggests an institutional credibility mechanism (e.g., Kriner and Schickler 2014, 523); because Congress lends an aura of institutional legitimacy to critiques of unilateral action, charges levied by Congress may be more influential with the public than identical challenges made by other actors. To look for further evidence consistent with this mechanism, we examine whether charges made by congressional actors are more influential than identical charges attributed to nongovernmental actors.

A related question concerns whether public opinion is influenced by the party identification of the members of Congress who challenge a unilateral action. Almost all of the most important unilateral actions in recent years—from domestic initiatives on immigration, gun control, and environmental protection, to the authorization of unilateral military strikes in Libya and

Syria—have attracted bipartisan pushback from Congress. However, the most vociferous critiques have often come from the opposition party. Scholars have long emphasized the power of bipartisan elite cues to influence public opinion (Berinsky 2009; Brody 1991; Zaller 1992). Similarly, because co-partisan criticism of the White House is politically costly (Baum and Groeling 2009; Calvert 1985), challenges to unilateral action from within the ranks of the president’s own party in Congress should also be influential. By contrast, some may dismiss challenges to unilateral action levied exclusively by opposition party members as mere partisan politicking. However, institutional criticisms of unilateral action, even by the partisan opposition, may nonetheless awaken latent concerns that unilateralism threatens separation of powers and therefore erode support for the president’s actions. Because they are imbued with institutional credibility (Kriner and Schickler 2016), even non-costly challenges to unilateral action by members of the opposition party may resonate with the public. We examine the influence of opposition party congressional challenges to unilateral action in the concluding experiment.

Experimental Design

To determine whether Congress can lower public support for presidential unilateral action, we conduct a series of five experiments embedded in nationally representative surveys. An experimental approach provides us with leverage over a relationship where causation is difficult to untangle in practice. In observational studies, it can be unclear whether elite rhetoric moves public opinion or whether shifts in popular sentiment are driven by other simultaneously occurring events. Moreover, changes in public support may create the environment for representatives to speak out, reversing the causal arrow. To ensure a test of top-down effects, we rely on randomized treatment assignments.

To explore Congress’s capacity to erode support for unilateral action across a range of issues varying in scope, salience, and substance, our experiments examine three concrete examples of recent unilateral action: President Obama’s Clean Power Plan, which directs the Environmental Protection Agency (EPA) to regulate carbon dioxide emissions as a greenhouse gas; the unilateral decision to launch air strikes against ISIS targets in Iraq and Syria; and Obama’s executive actions to cap student loan payments. Both the Clean Power Plan and the military response to ISIS are among the most consequential and highly salient executive actions taken during the Obama administration. The student loan mem-

oranda, by contrast, are narrower in scope and attracted considerably less media attention and scrutiny. These issues also varied in terms of the extent to which they polarized the public. The Clean Power Plan was and remains intensely polarizing. By contrast, existing polling shows virtually no partisan split in support for strikes against ISIS.²

Despite this variation, all three cases involve “significant” executive actions of tangible policy import that received attention in the mass media. As a result, our findings cannot speak to Congress’s ability to diminish public support for low-profile, less significant executive actions. However, from the standpoint of whether political costs might constrain the unilateral president, the key question is whether Congress can affect public assessments of executive actions that produce meaningful policy change.

The first experiment examining the public’s reaction to congressional challenges to President Obama’s Clean Power Plan allows us both to assess our core hypothesis that congressional challenges can diminish public support for unilateral action and to examine the relative influence of constitutional challenges and policy criticisms on popular opinion. Because the EPA experiment also examines whether Congress can erode public support for one of the most highly salient, consequential, and polarizing of President Obama’s unilateral initiatives, it represents a critical test of our argument.

To examine the generalizability of our initial experimental results and to assess the efficacy of congressional challenges to presidential actions in both foreign and domestic affairs, we then conduct a pair of additional experiments examining Congress’s capacity to lower public support for President Obama’s unilateral air strikes against ISIS and for his executive actions to cap student loan payments. If Congress can affect public opinion across a range of issues, including major policy debates in both foreign and domestic policy realms, then the potential constraint that Congress wields over unilateral action would be strong indeed.

Finally, we look for evidence of source effects. Our fourth experiment examines the relative influence of the same constitutional objection to President Obama’s unilateral strikes against ISIS when it is attributed to three different groups of elite actors: Congress, law professors, and mass media pundits. Our fifth experiment examines whether challenges to Obama’s Clean Power Plan attributed exclusively to congressional Democrats or to congressional Republicans are able to erode support for executive action.

²For additional discussion of each issue’s salience and level of polarization, see the supporting information.

Constitutional vs. Policy Criticism

To test our core hypothesis concerning the capacity of Congress to erode support for unilateral action, as well as the relative influence of congressional objections on constitutional versus policy grounds, we embedded an experiment within the 2014 Cooperative Congressional Election Survey (CCES) conducted by YouGov/Polimetrix.³ While an experimental approach has high internal validity and allows us to precisely identify the causal impact of congressional charges on public support for an executive action, these advantages can come at the cost of external validity. To minimize such concerns, we examine the influence of congressional cues for a high-profile issue very much in the public eye: President Obama's decision to instruct the EPA to regulate carbon dioxide emissions to address the threat posed by global warming. If congressional criticism influences public opinion in this highly polarized policy realm, it should be even more influential in other policy areas where citizens possess fewer predispositions and weaker partisan priors.

Subjects were randomly assigned to one of three experimental groups. All subjects received the following prompt, which was based on actual language used by the media and politicians to bolster external validity: "President Obama has directed the EPA to begin regulating carbon dioxide from coal power plants to reduce greenhouse gas emissions, combat climate change, and improve public health."

By ensuring that all subjects receive President Obama's position first, before any information about the opinions of any other political actors, the experiment privileges the president's position, reflecting the White House's advantages in shaping the content of media coverage (e.g., Entman 2004). In no case do subjects receive a congressional challenge without first receiving an affirmative defense of the unilateral action by the administration on policy grounds. Subjects in the control group received no further information.

After learning of the president's position, subjects in the first treatment group were told that many members of Congress objected to the executive action on constitutional grounds. These subjects were told: "Many members of Congress from both parties, however, oppose the President's decision. They argue that President Obama's actions have overstepped his constitutional authority

and that a major change in energy policy requires new legislation from Congress." This treatment did not raise any specific policy objections. It did not challenge the president's frame that the executive action would combat global warming and improve public health. Rather, the congressional criticism in this cue was based solely on constitutional arguments that President Obama had overstepped legal limits on executive power.

Finally, subjects in the second treatment group—after receiving the president's position and policy justification—were told that many members of Congress objected to Obama's executive action on policy grounds: "Many members of Congress from both parties, however, oppose the President's decision. They argue that Obama's actions will increase energy prices and cost jobs."⁴ This treatment explicitly primed subjects to evaluate President Obama's executive action through the lens of job creation and pocketbook considerations—two factors that should resonate with many Americans since they are less arcane and technical than constitutional objections. As such, comparing the effect of this treatment and that of the constitutional objections treatment offers a strong test for the influence of constitutional challenges. If the effects are comparable in magnitude, this would suggest that constitutional cues may be even more influential relative to policy critiques that do not involve jobs, dollars, and cents. Following the conditions, all subjects were asked to indicate whether they supported or opposed "President Obama taking unilateral action to reduce carbon dioxide emissions,"⁵ which is the dependent variable in the following analyses.

To assess the effect of the two congressional criticism treatments on public support for executive action to regulate carbon dioxide emissions, we estimate a logit model. The independent variables of interest are two dummy variables identifying assignment to the constitutional or policy-based congressional criticism treatments, respectively (with the control group as the omitted baseline category). The model also controls for a number of additional factors that might affect support for Obama's

³The CCES is a national stratified sample conducted twice during election years with both pre- and post-election waves (see <http://projects.iq.harvard.edu/cces/home>). Sample demographics are presented in the Supporting Information.

⁴In the first four experiments, the congressional opposition is described as bipartisan because virtually all of Obama's major unilateral actions have attracted at least some criticism from members of his own party. The supporting information provides further details on the external validity of the treatments.

⁵In each experiment, support for the president's action was measured on a 4-point Likert scale. We collapse the "strongly support" and "somewhat support" categories to calculate the percentage supporting the president. Ordered logit models yield substantively similar results (see the supporting information).

TABLE 1 Influence of Congressional Criticism on Support for Unilateral Action to Reduce CO₂ Emissions

	(1)	(2)	(3)
Constitutional objections	-0.702** (0.226)	-0.689* (0.304)	-0.900 (0.525)
Policy criticism	-0.826** (0.230)	-0.856** (0.316)	-1.509** (0.513)
Constitutional Objections × Global Warming Action		-0.017 (0.456)	
Policy Criticism × Global Warming Action		0.055 (0.469)	
Constitutional Objections × Knowledge			0.056 (0.106)
Policy Criticism × Knowledge			0.186 (0.105)
Republican	-1.001** (0.229)	-1.000** (0.229)	-0.898** (0.236)
Democrat	1.315** (0.250)	1.316** (0.250)	1.395** (0.257)
Male	-0.384* (0.187)	-0.384* (0.187)	-0.318 (0.193)
Education	-0.019 (0.066)	-0.020 (0.066)	0.030 (0.071)
Age	-0.020** (0.006)	-0.020** (0.006)	-0.017* (0.007)
White	-0.280 (0.231)	-0.281 (0.231)	-0.252 (0.234)
Support action in global warming	2.225** (0.190)	2.212** (0.329)	2.226** (0.192)
Political knowledge			-0.176* (0.082)
Constant	1.190* (0.474)	1.195* (0.482)	1.368* (0.551)
Observations	990	990	990

Note: Logit models. Robust standard errors are in parentheses. All significance tests are two-tailed.

**p < .01, *p < .05.

action.⁶ Most importantly, the model controls for subjects' partisan affiliation and a proxy for their policy preferences, a measure of whether or not they believe that government action is necessary to combat global warming.⁷ The logit model also controls for gender, educational

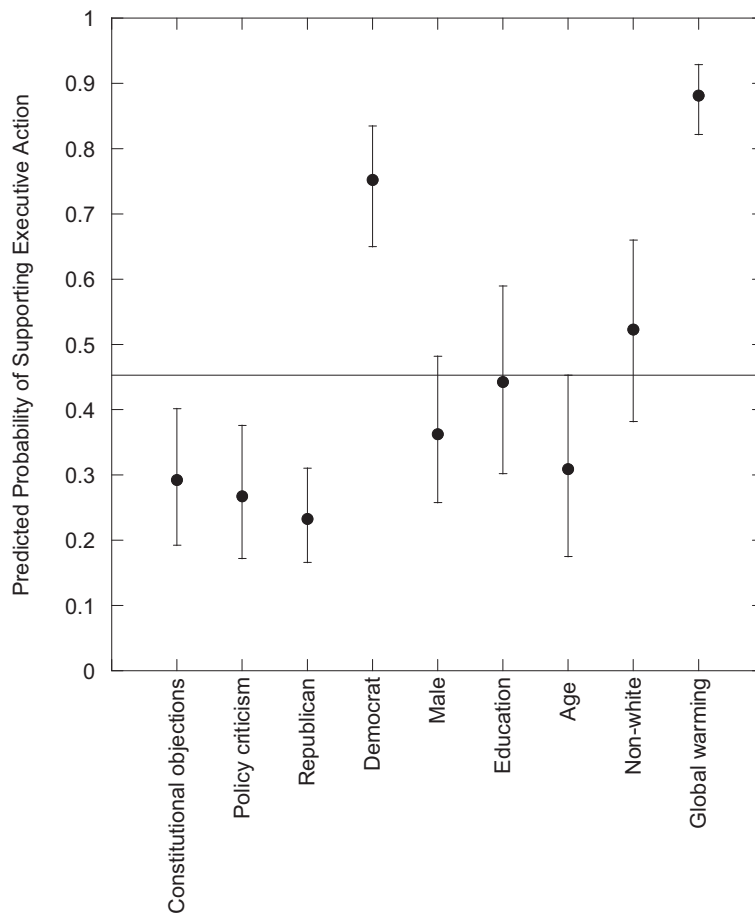
⁶Although subjects were randomly assigned to the three experimental groups, randomization checks show that there was an uneven partisan balance across the three samples. A multivariate logit model allows us to account for this uneven distribution of Democratic and Republican partisans across the three groups.

⁷Reestimating all of our analyses in Table 1 controlling for presidential approval yields virtually identical results (see the supporting information).

attainment, age, and race. The results are presented in column 1 of Table 1.

Strongly consistent with our argument, the coefficients for both the constitutional objections and policy criticism treatments were negative and statistically significant. Even after controlling for subjects' partisanship and policy preferences concerning global warming, the experiment shows that congressional challenges to President Obama's unilateral action to regulate carbon dioxide emissions seriously eroded support for his course of action. Figure 1 illustrates the effect of each treatment, as well as the effects of the control variables, on the probability of the median independent subject strongly

FIGURE 1 Effects of Congressional Challenges on Support for Unilateral Action to Reduce CO₂ Emissions



Note: The horizontal line at .45 represents the predicted probability of the median independent respondent in the control group who does not believe in global warming supporting Obama’s use of executive action. Dots present the point estimate for each factor; I-bars around each point estimate present 95% confidence intervals obtained from simulations. For each of the seven dummy variables, the figure plots the effect of increasing that factor from 0 to 1. For education and age, the figure presents the effect of a two standard deviation increase from the median value.

supporting or supporting Obama’s executive action.⁸ Both the constitutional objections and policy criticism treatments decreased the predicted probability of the median subject supporting Obama’s action by roughly .16 versus that observed for the median subject in the control group baseline. Partisanship and beliefs in global warming were the most important predictors of support for Obama; however, it is important to reiterate that both congressional treatments significantly decreased support for the unilateral action even after controlling for these

traditionally powerful factors. Substantively, a double-digit drop in public support for executive action could be politically transformative. Moreover, it is important to remember that this is the effect of a single, relatively modest congressional cue critiquing the president’s action.

We also consider the possibility that subjects who support government action to address climate change may rally behind the president’s executive action to curb carbon dioxide emissions and resist congressional challenges that are inconsistent with their policy preference priors. Accordingly, Model 2 in Table 1 adds a pair of variables interacting both congressional treatment variables with the indicator variable identifying subjects who supported action to address global warming. We find no

⁸A parallel figure illustrating the effect of each factor for the median subject who believes in global warming is reported in the supporting information.

evidence that the influence of congressional criticism was moderated by subjects' policy predispositions. The coefficients on the two interaction variables are both small and not statistically significant. Congressional criticisms eroded support for Obama's executive action among both supporters and opponents of government action to address global warming.

Finally, a common critique of experimental research is that the observed treatment effects overstate what would be observed in the real world. Experiments expose all of the subjects in the treatment group to the treatment; in other settings, many low-information Americans will not receive political stimuli. If low-information subjects are driving our results, then we may seriously overestimate the capacity of congressional elites to erode public support for unilateral action. To examine this question, the final model in Table 1 includes three new variables: a 7-point index of political knowledge and the interaction of this measure with the two congressional opposition treatments. We find little evidence that our congressional treatment effects are moderated by political knowledge. The coefficient for the constitutional objections interaction is almost zero. The coefficient for the policy criticism interaction is positive; however, it also fails to reach conventional levels of statistical significance.⁹

Influence Across Issues

To examine whether congressional challenges also erode support for unilateral action in very different policy realms—including in military affairs where we might expect the public to grant the president more leeway—we embedded a pair of additional experiments in a follow-up nationally representative survey conducted by YouGov April 24–28, 2015. In these experiments, we focus exclusively on congressional constitutional objections, which had virtually the same impact on support for unilateral action as policy criticisms in the EPA experiment. Focusing on constitutional objections allows us to examine the impact of the exact same congressional critique—that the president has exceeded his constitutional authority—on unilateral action in two very different policy spheres.

Half of our sample was randomly assigned to an experiment examining support for unilateral air strikes against ISIS. Subjects in this experiment were randomly assigned to one of two groups. All subjects received the following prompt: "As you may know, President Barack

Obama has unilaterally launched a series of airstrikes against ISIS militants in Iraq and Syria." Subjects in the control group received no further information. Subjects in the treatment group were also told of congressional constitutional objections to the president's actions: "Many members of Congress from both parties, however, oppose the President's decision. They argue that President Obama has overstepped his constitutional authority and that military action requires authorization from Congress." All subjects were then asked whether they "support or oppose President Obama's decision to unilaterally launch airstrikes against ISIS in Iraq and Syria."

The other half of our sample was assigned to an experiment examining whether congressional constitutional objections can erode public support for another unilateral action in the domestic sphere that is much more targeted and less polarizing than the regulation of carbon dioxide emissions examined in the first experiment: President Obama's executive actions to lower student loan payments. All subjects received the following prompt: "President Barack Obama has issued an executive order to unilaterally cap student loan payments at 10% of a borrower's income, and forgive any remaining debt after 20 years."¹⁰ Subjects in the control group received no further information. Subjects in the treatment group were told that many members of Congress believe that Obama has exceeded his constitutional authority: "Many members of Congress from both parties, however, oppose the President's decision. They argue that President Obama's actions have overstepped his constitutional authority, and that a major change in student loan policies requires new legislation from Congress." All subjects were then asked whether they "support or oppose President Obama's decision to unilaterally lower student loan payments." For both experiments, we estimate logit models to assess the influence of the congressional criticism treatment on support for unilateral action. Table 2 presents the results.

In the ISIS experiment, the first logit model shows unambiguously that congressional constitutional objections seriously eroded popular support for President Obama's unilateral air strikes. Figure 2 illustrates the magnitude of the effect. The constitutional objections treatment

⁹For an extended discussion on the knowledge interactions, see the supporting information.

¹⁰President Obama first instituted (<https://www.whitehouse.gov/the-press-office/2012/06/07/presidential-memorandum-improving-repayment-options-federal-student-loan>) and then expanded (<https://www.whitehouse.gov/the-press-office/2014/06/09/presidential-memorandum-federal-student-loan-repayments>) this program through a pair of memoranda. The treatment wording follows media coverage, which frequently uses the more familiar term *executive order* to describe a range of executive actions.

TABLE 2 Influence of Congressional Constitutional Challenges on Support for Obama's Unilateral Actions Against ISIS and to Lower Student Loan Payments

	ISIS	Student Loans
Constitutional objections	-1.024** (0.204)	-0.698** (0.220)
Republican	-0.038 (0.266)	-0.850** (0.274)
Democrat	0.993** (0.265)	1.503** (0.290)
Male	0.280 (0.198)	-0.174 (0.217)
Education	0.077 (0.069)	0.034 (0.074)
Age	0.021** (0.006)	-0.024** (0.006)
White	-0.029 (0.243)	-0.326 (0.256)
Constant	-0.508 (0.445)	1.958** (0.456)
Observations	523	477

Note: Logit models. Robust standard errors are in parentheses. All significance tests are two-tailed.

**p < .01, *p < .05.

decreased the probability of the median independent supporting Obama's action by .25, from approximately .65 in the control group to .40 in the treatment group. Indeed, the effect of congressional opposition on support for the ISIS strikes was larger than that produced by any other factor in the model. This large effect contrasts with what we might expect given scholarship on the two presidencies. While Americans may be more supportive of unilateral action in the national security sphere in the abstract (Reeves and Rogowski 2016), our ISIS experiment suggests that this support is far from immune to congressional pressures. Congressional charges that the president has exceeded his powers can significantly erode support for unilateral action.

Congressional constitutional objections also significantly reduced support for Obama's executive action to cap student loan payments. The relevant coefficient is negative and statistically significant. As shown in Figure 3, constitutional objections reduced the predicted probability of the median independent backing Obama's student loans action from .66 in the control group to .50 in the treatment group. Even in the context of an uncontroversial, narrowly targeted policy initiative, a congressional

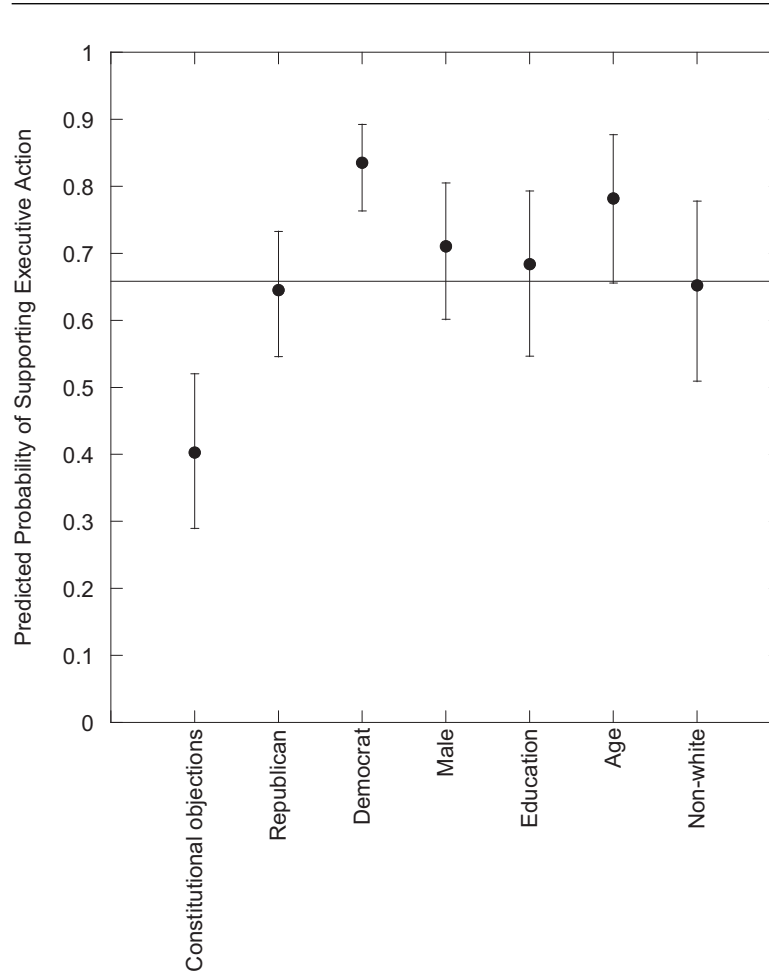
challenge significantly decreased support for unilateral action.

Exploring Source Effects

Across three very different issue areas spanning both the foreign and domestic policy realms, the preceding experiments found consistently significant evidence that congressional challenges to unilateral action undermine public support for the president's exercise of unilateral power. In practice, criticism of unilateral action from Congress may be particularly newsworthy and enjoy significant advantages in attracting the prominent attention from media outlets essential to influencing public opinion. However, Congress is not the only body capable of bringing criticisms of unilateral action into the public sphere. As a result, we explore whether congressional challenges to unilateral action are inherently more influential with the public than identical charges levied by other political actors.

To answer this question, we embedded a modified version of the ISIS experiment in a second follow-up nationally representative survey conducted by YouGov March 25–28, 2016. The revised ISIS experiment differs from the preceding version in four key respects. First, the new experiment contains four treatment groups, the first three of which allow us to investigate whether the influence of the same constitutional challenge to unilateral air strikes varies depending on the source levying the charge. Second, the wording of the first three treatments has been slightly modified from the earlier experiment. Each actor charges that President Obama has overstepped his constitutional authority; however, the final clause asserting that military action requires congressional authorization has been omitted to allow us to examine the relative efficacy of the same critique by each actor without Congress being mentioned in all three treatments. Third, in the revised experiment, the president's position enjoys even greater privilege as he gets both the first and last word. The experiment opens with the president's position and concludes with the president's rebuttal to constitutional challenges to his actions. This dual emphasis on the president's arguments stacks the deck against finding evidence of treatment effects. Finally, this follow-up survey was conducted in a very different contextual environment, just three days after the Brussels bombing. Media coverage emphasizing the threat posed by ISIS to the West and a rally around the flag dynamic may have rendered many Americans more resistant to constitutional challenges to the unilateral nature of the air strikes. Thus, any treatment effects should be considered conservative.

FIGURE 2 Effects of Congressional Constitutional Objections on Support for Unilateral Strikes Against ISIS



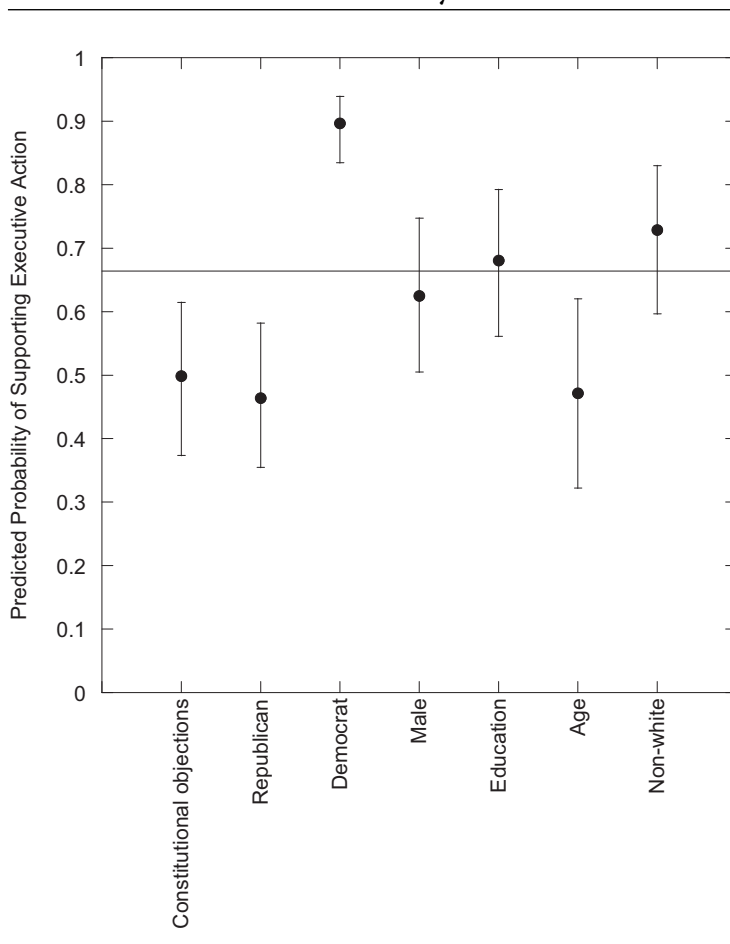
Note: The horizontal line at .65 represents the predicted probability of the median independent respondent in the control group supporting Obama’s unilateral authorization of military strikes against ISIS. Dots present the point estimate for each factor; I-bars around each point estimate present 95% confidence intervals obtained from simulations. For each of the five dummy variables, the figure plots the effect of increasing that factor from 0 to 1. For education and age, the figure presents the effect of a two standard deviation increase from the median value.

In the revised experiment, all subjects received the same prompt as before: “As you may know, President Barack Obama has unilaterally launched a series of air strikes against ISIS militants in Iraq and Syria.” Subjects were then randomly assigned to one of five experimental manipulations. Those in the control group received no further information. Those in the first three treatment groups were told that “many members of Congress from both parties” or “many law professors at leading universities” or “many newspaper editorial boards, talk radio hosts, and cable news pundits” challenged the president’s action on constitutional grounds. Subjects in these groups were told that the actors in question “oppose the

President’s decision” and “argue that President Obama has overstepped his constitutional authority.”

Subjects in the final treatment group received an expanded version of the congressional opposition treatment identical to that from the preceding experiment: “Many members of Congress from both parties, however, oppose the President’s decision. They argue that President Obama has overstepped his constitutional authority and that military action requires authorization from Congress.” Comparing this treatment and the shorter treatment in which Congress only alleges that the president has overstepped his constitutional authority allows us to investigate whether the additional information asserting that the

FIGURE 3 Effects of Congressional Constitutional Objections on Support for Executive Action to Lower Student Loan Payments



Note: The horizontal line at .66 represents the predicted probability of the median independent respondent in the control group supporting Obama’s executive order to lower student loan payments. Dots present the point estimate for each factor; I-bars around each point estimate present 95% confidence intervals obtained from simulations. For each of the five dummy variables, the figure plots the effect of increasing that factor from 0 to 1. For education and age, the figure presents the effect of a two standard deviation increase from the median value.

president has trampled on the institutional prerogatives of the legislature heightens the influence of the constitutional critique on public opinion.

Finally, to address external validity concerns that presidents in the real world are able to respond to critiques by other actors, each treatment concluded with a strong presidential rebuttal: “President Obama rejects this criticism and maintains that his actions are consistent with his constitutional authority as commander in chief.” All subjects were then asked whether they “support or oppose President Obama’s decision to unilaterally launch airstrikes against ISIS in Iraq and Syria.”

To assess the influence of each experimental treatment on support for the president’s unilateral strikes

against ISIS, we estimate a logit model. Table 3 presents the results. Each of the four constitutional challenge treatments decreased the probability of supporting Obama’s unilateral strikes against ISIS. However, the coefficients for the two congressional challenge treatments are the largest in magnitude, and they are the only two that meet conventional thresholds of statistical significance ($p < .05$).¹¹ Figure 4 illustrates the substantive size of the effect of each treatment, as well as the effects of

¹¹However, Wald tests cannot confirm that the differences in magnitude between either of the congressional treatments and the two noncongressional source treatments are statistically significant, given the small sample sizes involved.

TABLE 3 Influence of Constitutional Challenge to Unilateral Air Strikes Against ISIS by Source

	(1)
Congress	-0.583* (0.251)
Law professors	-0.439 (0.253)
Media	-0.433 (0.250)
Congress expanded	-0.837** (0.246)
Democrat	0.850** (0.186)
Republican	0.248 (0.201)
Education	0.042 (0.051)
Age	0.029** (0.005)
White	-0.461** (0.178)
Male	-0.066 (0.149)
Constant	-0.096 (0.349)
Observations	1,000

Note: Logit model. Robust standard errors are in parentheses. All significance tests are two-tailed.

**p < .01, *p < .05.

the control variables, on the probability of the median independent subject supporting Obama's unilateral strikes.

Less than a week after the terror attack in Brussels, President Obama enjoyed strong support for his unilateral air strikes against ISIS in the control group. Indeed, the median independent subject in the control group had a predicted probability of supporting the unilateral strikes of more than .71. However, this support was not unshakable. Learning of congressional opposition to the strikes and the charge that by acting unilaterally Obama had overstepped his constitutional authority significantly reduced the predicted probability of the median subject supporting the president's actions by .13. Moreover, it is worth reiterating that this effect is observed even though in this experiment President Obama rebuts the constitutional criticism and argues that his actions are fully consistent with his powers as commander in chief.

When the same constitutional challenge is levied by law professors or media elites, the estimated effect on support for Obama's action is again negative. However, the effects are not statistically significant. Thus, the results are generally consistent with the hypothesis that a constitutional challenge from Congress is more influential than the same critique made by another political actor.

Finally, the largest effect was observed for the expanded congressional treatment in which members of Congress both alleged that Obama had overstepped his constitutional authority and argued that, in so doing, he encroached on congressional prerogatives because military action requires authorization from Congress. In this treatment group, the median independent subject had a predicted probability of only .52 of supporting Obama's unilateral strikes, almost 20 points lower than that observed in the control group. While the difference in effect size across the two congressional treatments is not statistically significant, the greater effect in the expanded treatment is consistent with the hypothesis that the additional constitutional criticism asserting that the president had usurped Congress's legitimate role in war making intensified the influence of congressional opposition.

Purely Partisan Opposition

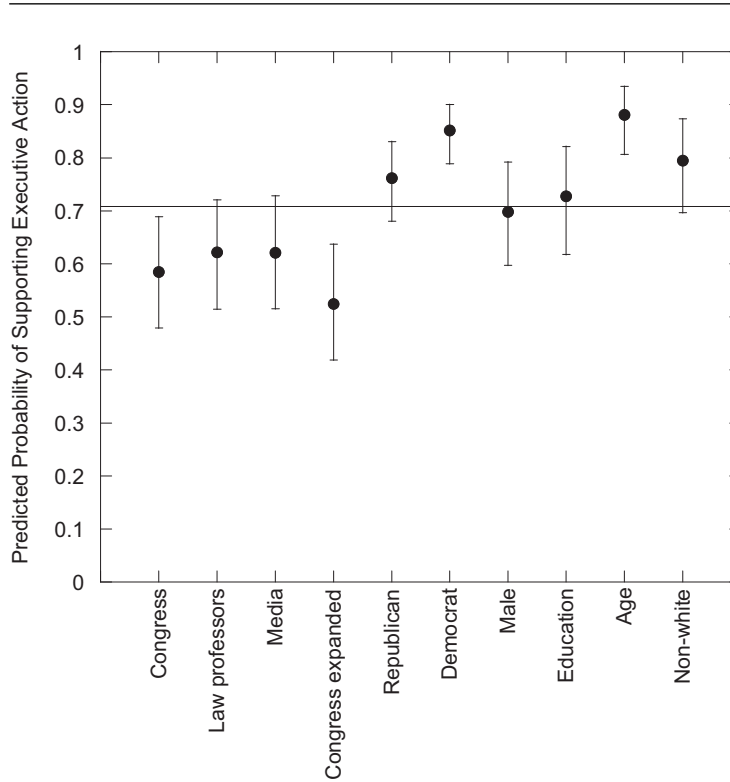
In the preceding experiments, the congressional challenge to unilateral action was a bipartisan one. On virtually every major executive action taken by both Presidents Obama and Bush, at least a small number of presidential co-partisans have joined opposition party critiques of executive actions.¹² Presidential critics are quick to claim bipartisan support for their position, even when joined by only a handful of presidential co-partisans. Furthermore, the media, which highlights opposition from presidential co-partisans (Groeling 2010), freely repeats such claims. However, given the intense levels of partisan polarization in modern politics, it is important to investigate whether criticisms of unilateral action levied only by members of the partisan opposition can similarly erode support for the president's actions.

Toward this end, we embedded a revised version of our EPA experiment in a third follow-up nationally representative survey conducted by YouGov April 16–20, 2015.

Subjects were again randomly assigned to one of three experimental groups. All subjects received an initial

¹²For additional discussion, see the supporting information.

FIGURE 4 Effects of Constitutional Challenge to Unilateral Strikes Against ISIS by Source



Note: The horizontal line at .71 represents the predicted probability of the median independent respondent in the control group supporting Obama’s unilateral use of air strikes against ISIS. Dots present the point estimate for each factor; I-bars around each point estimate present 95% confidence intervals obtained from simulations. For each of the eight dummy variables, the figure plots the effect of increasing that factor from 0 to 1. For education and age, the figure presents the effect of a two standard deviation increase from the median value.

prompt identical to that in the first EPA experiment informing them of Obama’s Clean Power Plan. Subjects in the control group received no further information. Subjects in the first treatment group were told that many congressional Republicans objected to Obama’s unilateral action on both constitutional and policy grounds.¹³ This treatment combined the constitutional objections and policy criticism of the prior experiment: “Some congressional Republicans, however, oppose the President’s decision. They argue that President Obama’s actions have overstepped his constitutional authority and that a major change in energy policy requires new legislation from Congress. Moreover, these Republican members of

Congress argue that Obama’s actions will increase energy prices and cost jobs.” Finally, subjects in the second treatment group received an identically worded prompt. However, in this treatment, “some congressional Democrats” were identified as the source of the challenge to Obama’s action. Thus, the two treatment conditions differed only in terms of the partisanship of the members of Congress expressing opposition. All subjects were then asked the same question: whether they supported or opposed “President Obama taking unilateral action to reduce carbon dioxide emissions.”

Table 4 presents the results of a logit model similar in specification to the baseline model employed in Table 1. The coefficients for both the Republican and the Democratic congressional challenges to Obama’s unilateral action on carbon dioxide emissions are negative and statistically significant. Regardless of the partisan affiliation of those making the challenge, congressional challenges to a unilateral action on constitutional and policy grounds

¹³To ensure adequate subgroup sample sizes for our partisan interactions, our treatments in this experiment combine constitutional objections and policy criticisms, which were equally influential in the first EPA experiment. As discussed in the supporting information, this choice also reflects much congressional criticism of unilateral actions.

TABLE 4 Influence of Partisan Congressional Challenges on Support for Unilateral Action to Reduce CO₂ Emissions

	(1)
GOP challenge	-1.001** (0.201)
Dem challenge	-0.898** (0.206)
Republican	-1.188** (0.202)
Democrat	2.116** (0.211)
Male	-0.179 (0.163)
Education	0.0408 (0.0551)
Age	-0.018** (0.005)
White	-0.204 (0.202)
Constant	1.549** (0.360)
Observations	1,000

Note: Logit model. Robust standard errors are in parentheses. All significance tests are two-tailed.

**p < .01, *p < .05.

significantly erode public support for the executive initiative. Figure 5 illustrates the substantive effects. For the median independent subject, congressional criticism of the president's EPA action—regardless of whether it was attributed to Republicans or Democrats—decreased the predicted probability of supporting Obama's unilateral action by approximately .25.¹⁴ The stronger effects in the follow-up experiment can be attributed to the stronger treatments, which—like most actual congressional challenges to presidential unilateral actions—critiqued the president's decision on both constitutional and policy grounds.¹⁵

¹⁴The higher estimated base level of support for the EPA action in Figure 5 versus Figure 1 is a result of this model not including a measure of subjects' beliefs about global warming (which was not included in the follow-up survey). In Figure 1, this variable was set equal to 0, hence the lower base level of support. The percentage supporting Obama's EPA action in the control group was virtually identical across the two surveys: 67.5% in the 2014 CCES versus 68.6% in the April 16–20, 2015, survey.

¹⁵For additional discussion and models with partisan interactions, see the supporting information.

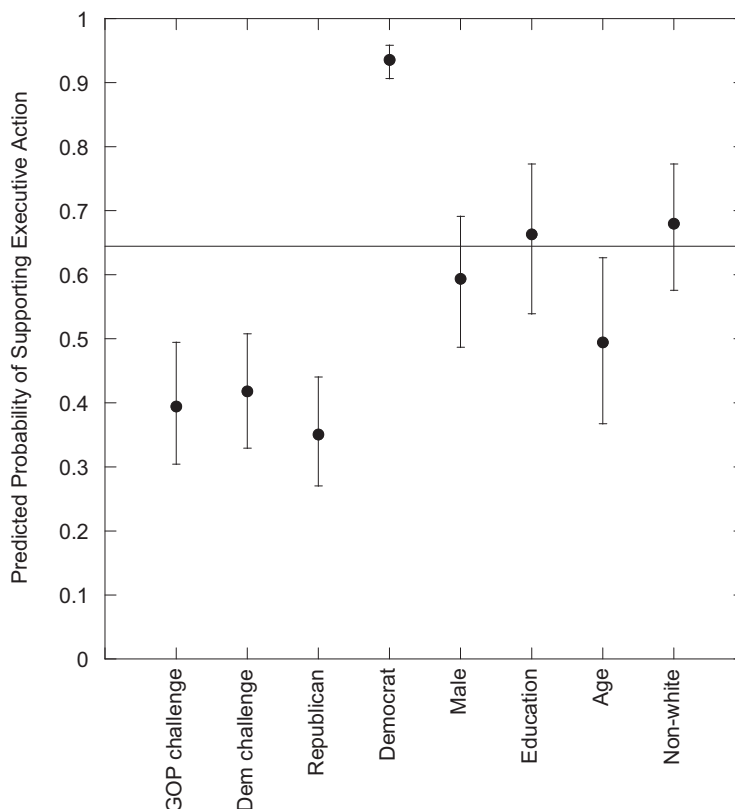
Discussion

Recent research on the microfoundations of public assessments of unilateral power presents something of a paradox. A supermajority of Americans appears wary of presidential unilateral power in the abstract, and much of this opposition appears to be driven by underlying core beliefs in adherence to the rule of law (Reeves and Rogowski 2016). However, when evaluating many of the most important unilateral actions of contemporary politics, Americans appear to abandon those constitutional mores to support actions taken by a co-partisan president or that advance their own policy preferences, and to oppose those that do not (Christenson and Kriner forthcoming). The results of our experiments examining support for unilateral action across policy areas suggest a resolution to this tension. On real issues with real presidents, Americans do not instinctively oppose unilateral actions on constitutional grounds. However, other political actors—most importantly, members of Congress—can activate underlying constitutional concerns. By challenging the constitutionality of executive action, members of Congress can significantly erode public support for the president's unilateral initiatives. Thus, our experiments not only help resolve a debate in the nascent literature on the dynamics driving public evaluations of unilateral action, but they also suggest a potential mechanism through which members of Congress might exercise some measure of constraint on the president, even when they are unable to check him legislatively.

Presidents' anticipatory calculations when taking unilateral action involve more than estimating the likelihood of Congress enacting legislation over their veto to undo an executive action or the probability of the federal courts striking it down. Presidents must also consider how the political costs of unilateral action in one sphere may undermine their capacity to pursue other elements of their agendas in the future. The magnitude of these political costs is significantly shaped by the response of other actors to executive action. While Congress can rarely overcome the institutional barriers that limit its ability to overturn a unilateral action legislatively, our experiments demonstrate that it retains an important capacity to increase the political costs of acting unilaterally by mobilizing public opinion against the president and executive action.

Across a diverse range of policy areas in both the foreign and domestic realms, our experimental evidence suggests that the political costs generated by congressional challenges to executive action—on both constitutional and policy grounds—may be substantial. Members of

FIGURE 5 Effects of Republican and Democratic Congressional Criticism on Support for Unilateral Action to Reduce CO₂ Emissions



Note: The horizontal line at .64 represents the predicted probability of the median independent respondent in the control group supporting Obama’s use of executive action. Dots present the point estimate for each factor; I-bars around each point estimate present 95% confidence intervals obtained from simulations. For each of the six dummy variables, the figure plots the effect of increasing that factor from 0 to 1. For education and age, the figure presents the effect of a two standard deviation increase from the median value.

Congress have multiple tools at their disposal to voice their displeasure with administration policies and to keep charges of presidential abuse of power or reckless policy decisions in the public limelight. Oversight hearings, formal investigations of executive branch misconduct, floor fights over legislation crafted not to pass, but to embarrass the president, and making the rounds on the Sunday talk shows—all afford members opportunities to provide the media that which their norms deem newsworthy: political conflict in Washington (Fowler 2015; Kriner and Schickler 2016; Mayhew 2000). And when members of Congress use these tools to challenge unilateral executive action in the public sphere, our experiments consistently show that they can erode popular support for the president and his actions.

Future research is needed to determine the extent to which Congress’s capacity to impose political costs on the

unilateral executive by mobilizing the public against his policies serves as a significant constraint on unilateral action. The general finding here is simply that if public opinion were a constraint felt by the president, Congress has the ability to turn it against him. However, recent research into President Obama’s surprising 11th hour reversal not to order unilateral military action against the chemical weapon-wielding Assad regime in Syria suggests that calculations about Congress’s likely reaction—specifically, its capacity to influence public opinion—factored greatly into Obama’s decision (Christenson and Kriner 2015).

More generally, we argue that our emphasis on Congress’s capacity to raise the informal political costs that presidents stand to pay should they act unilaterally sheds new insight into one of the most puzzling empirical patterns in unilateral order issuance observed

by previous research. While on most metrics presidents are increasingly reliant on unilateral tools to effect major changes in public policy, the raw number of major unilateral actions remains far smaller than what pivotal politics approaches emphasizing the institutional weakness of Congress would suggest. According to the two metrics for identifying significant executive orders in Howell (2003), between 1969 and 1985 presidents averaged just six or seven significant executive orders per year.¹⁶ For most of the modern era, it is difficult to conceive of many unilateral actions a sitting president might want to take for which he could not attract 34 votes in the U.S. Senate to sustain his veto and block any legislative effort to overturn it from becoming law. And yet, presidents appear routinely to forgo unilateral action when a pivotal politics approach suggests they should carry the day in Congress. Anticipations about Congress's response, its influence on public opinion, and the resulting political costs informal institutional challenges can generate may help explain the relative paucity of major unilateral actions.

We must be careful not to push this emphasis on informal political constraints on unilateral action too far. Plainly, if presidents decide that the policy benefits of acting unilaterally exceed the political costs of doing so, as President Obama did regarding immigration, they can almost always carry the day and defeat legislative efforts to constrain them. With little prospect of securing legislative action on his priorities and insulated from electoral pressures in the final 2 years of his presidency, President Obama may rationally have concluded that achieving a major policy victory unilaterally was worth almost any political cost. However, in many other cases and political environments, presidents may decide that the political risks of executive action provoking congressional condemnation that may sour public support for the administration and its initiatives outweigh the immediate benefits of unilateral action.

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¹⁶Of course, executive orders are not the only instrument in the president's unilateral toolkit. For example, recent presidents have increasingly relied on executive memoranda (Lowande 2014). Some of these executive actions have produced important policy changes. However, given the alleged institutional weakness of Congress and the courts, the number and range of significant executive actions remains smaller than theory would predict (Christenson and Kriner 2015).

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Supporting Information

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

SI Figure 1: Effects of Congressional Challenges on Support for Unilateral Action to Reduce CO₂ Emissions

SI Figure 2: Moderating Influence of Political Knowledge on Effect of Treatments, EPA Experiment

SI Figure 3: Effects of Partisan Congressional Challenges on Support for EPA Action

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SI Table 8: Political Knowledge as a Moderating Factor of Congressional Challenges in EPA Experiment

SI Table 9: Partisanship as a Moderating Factor of Partisan Congressional Challenges, Revised EPA Experiment