

Winter 12-15-2021

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If It Pleases the Court: The Impact of Late Night Political Comedy on Citizens' View of the Supreme Court

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POLS 4997W
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Honors Thesis
May 3, 2021

The potential effects of political comedy as a critic and an educator have seen increasing research in the past decades. The vast majority of this comedy focused research focuses on general politics and presidential campaigns, overlooking the role comedy can play regarding the Supreme Court, despite research examining the role of traditional news media in informing and shaping opinions about the Court. I connected these areas of research to explore the possible effects of political comedy in regards to the Supreme Court. I studied five late-night political comedy shows and determined each one's potential to be educational and potential to positively or negatively shape public opinion of the Court relative to the other shows. I found that *Last Week Tonight with John Oliver* has the highest relative educational potential while *Saturday Night Live* has the lowest. I found that the most likely show to have a positive impact on public support is *The Daily Show with Trevor Noah*, while *The Late Show with Stephen Colbert* has the most potential for a negative impact.

Introduction

The availability and popularity of political comedy programs has increased significantly in the past two decades. As a result, it has begun to be investigated as a serious source of political news information. This political comedy research is usually focused on either general political knowledge (Baek & Wojcieszak, 2009; Becker, 2013; Xenos & Becker, 2009; Young, 2004), campaign issues (Brewer & Cao, 2006; Cao, 2008; Feldman & Young, 2008; Hollander, 2005), or overall political trust (Becker, 2011; Tsfati et al., 2009). While these studies largely illustrate that people can, and do, learn from political comedy, they leave out an important aspect of American government, the Supreme Court.

It is often said that to know the Court is to love it (Gibson et al., 1998). It is also widely believed that the American public is largely ignorant of the high court, yet compared to other national high courts, the US Supreme Court generally sees strong, widespread institutional support (Gibson, 2007). Support for the Supreme Court could in part stem from *how* Americans learn about it. If the content through which people learn about the Court primarily stresses the Court as nonpolitical and playing a unique role in the balance of government, it seems probable that people would be more likely to support the Court (Gibson & Caldeira, 2009b). But what if some content does not portray the Court in this positive light?

There is research regarding the role of news media in informing the public about the Court and there is research about the role of political comedy as a source of news media, yet none of this comedy research seems to consider the Supreme Court. While Stephen Colbert's extended satire following the Supreme Court ruling in *Citizens United v. Federal Election Commission* (2010) has been studied quite a bit (Garrett, 2011; Hardy et al., 2014; LaMarre, 2013), even this research focuses on knowledge about campaign finance laws and support for

campaign finance reform rather than how the satire could have impacted perceptions or knowledge of the Supreme Court. Given this discrepancy, the question arises can late night political comedy programming promote public education of the Supreme Court or could it harm the institution and undermine legitimacy?

In this paper, I investigate five late-night political programs, doing a content analysis of each program to determine how educational they could be and if they are likely to have a more positive or negative impact on public support for the Supreme Court. Each show varies in educational potential and potential public support impact so they were comparatively ranked. In terms of potential to educate about Supreme Court decisions I found the following, ranked highest to lowest: *Last Week Tonight*, *The Late Show*, *The Daily Show*, *Full Frontal*, and *Saturday Night Live*. In terms of potential to impact public support, I found the following, ranked most positive to most negative potential impact: *The Daily Show*, *Saturday Night Live*, *Full Frontal*, *Last Week Tonight*, *The Late Show*.

Public Knowledge and Institutional Support for the Supreme Court

Claims that the public is woefully ignorant of the Supreme Court may not be entirely accurate since empirical research upon which this claim was based often used open-ended questions and very strict answering criteria, which are not indicative of practical political knowledge (Lupia, 2006). When accounting for answers that were mostly correct (i.e., responding “head judge” rather than “Chief Justice”), it was found that the public is far more informed than previously believed (Gibson & Caldeira, 2009a), and, while most people may not know about a majority of cases, they do know about the ones that most impact their lives (Hoekstra, 2000). This finding would indicate that knowledge and awareness varies, and that

while national impact does exist, the more subtle local changes are also important in determining awareness (Hoekstra, 2003).

The connection between knowledge and support for the Court is somewhat debated. Support for the Supreme Court is not strongly impacted by individual ideologies, party identification (Gibson, 2007), or agreement with decisions (Tyler & Rasinski, 1991). Support for democratic institutions, instead, is a better indicator of support for the Supreme Court (Gibson, 2007). In turn, this support for democratic values may stem from increased knowledge which indirectly accounts for increased esteem for the Court (Gibson & Caldeira, 2009a).

Perception of fairness is also a key indicator of institutional support (Tyler & Rasinski, 1991). The two main approaches to understanding the Court are the myth of legality, in which Supreme Court decisions are strictly based on legal principles, and legal realism, in which justices are influenced by a number of factors in their decision making. There is evidence that most Americans subscribe to the legal realism (Gibson & Caldeira, 2011) and that “there is widespread recognition of the effect of justices’ ideologies on their decisions” (Scheb & Lyons, 2000, p. 398). Nonetheless, most Americans still perceive the Court as making fair and legitimate decisions (Gibson & Caldeira, 2011). Even if there is bargaining in decision-making, justices are not seen as politicians since the Court maintains an appearance that it is not self-serving (Baird & Gangl, 2006; Gibson & Caldeira, 2011). Even in an increasingly polarized political sphere, Supreme Court legitimacy has remained unscathed (Gibson & Caldeira, 2009b).

This perception of fairness also connects to public acceptance of decisions made by the Court. While there is no direct correlation between perceived procedural justice, or fairness of the decision-making process, and acceptance of Supreme Court decisions (Gibson, 1989; Tyler & Rasinski, 1991), there is a connection between procedural justice and institutional legitimacy,

which in turn is associated with decision acceptance (Tyler & Rasinski, 1991). Acceptance of decisions is generally understood as necessary to maintain judicial legitimacy since the Court has no enforcement power itself, a concept which seems to be understood by the public as well (Johnson, 1967). Regardless of public acceptance, compliance within the Executive branch, which does have enforcement power, traditionally remains high (Spriggs, 1997).

The Supreme Court and the Media

Since the Supreme Court has little direct interaction with the public, it relies on the media to disseminate information regarding rulings, meaning the media can have a significant impact on what people know about decisions and how that information is presented to the public. The amount of coverage a case receives and how the case is portrayed in the media can impact public perceptions of the Court and its decisions. First and foremost, the media is the primary means by which the public learns about the Supreme Court. Times of mass media coverage also see high levels of knowledge which is predominantly retained over time suggesting that high media coverage leads to genuine learning (Gibson & Caldeira, 2009a). News media has the difficult task of balancing simplicity with accuracy in a timely and newsworthy manner (Zilis, 2015). This balance can mean news media may highlight certain elements of the case for the sake of ease or creating drama rather than strictly for the purpose of informing the public on the decisions of the high court.

Television news is particularly susceptible to inaccuracy for the sake of instant reporting in a way that print journalism is not (Zilis, 2015), yet television remains the primary source of news for most Americans (Mitchell, 2018). Network news coverage has also been found to be more negative in its depictions which can lead to decreased institutional and administrative

confidence (Moy & Pfau, 2000). While this trend of negativity impacted the Court less so than Congress or the Presidency, it remains relevant that television news coverage is predominantly negative (Moy & Pfau, 2000; Soroka et al., 2019). However, it was also noted that “television news” may be too broad of a term as various forms of television news media approach subjects differently (Moy & Pfau, 2000), which illustrates the importance of focusing research to a specific form of television news media.

It can be argued that the Court can somewhat shape public policy support as support seems to be influenced by landmark rulings, however public opinion does not always shift the same direction as the ruling would suggest (Stoutenborough et al., 2016). For example, the landmark case *Lawrence v. Texas* (2003), a ruling by the Court expanding gay civil rights, was followed by *decreased* public support for gay rights. This trend indicates that media coverage and portrayal of the decision could be the underlying influence of public opinion rather than the opinion of the decision itself, and one-sided media coverage of a Supreme Court decision appears to have a greater impact on support for the decision (Linos & Twist, 2016). Justice Scalia’s dissent was frequently cited in the media following the *Lawrence* decision, providing a legitimate source for negative public opinion regarding gay civil rights (Stoutenborough et al., 2016). Since the media serve as the primary informant regarding the Court, they are able to shape the narrative surrounding a decision, which in turn impacts public support of related policies.

Not only is one-sided media about a decision influential over public opinion, but coverage of how that decision was reached is also impactful. There are two main frameworks of decision-making that are portrayed in the media: game-frame and principled. Game-frame converge portrays winners and losers or strategic battles in decision making while principled coverage maintains that decisions are based on unbiased reason alone (Hitt & Searles, 2018).

While neither of these framings are likely to completely reverse an individual's opinion on a decision, exposure to game-frame coverage is associated with decreased agreement and acceptance of a Supreme Court decision (Hitt & Searles, 2018). It should be clarified that game-frame coverage is not necessarily the same as depicting a legal realism viewpoint and that perceptions of fairness are not significantly altered by media portrayal (Baird & Gangl, 2006). Rather, it seems to be that game-frame coverage which depicts partisan wins and losses, thus making the Court appear to be a partisan body, can negatively impact the views of the institution.

Despite the fact different media portrayals can impact public opinion, cameras continue to be banned from the courtroom. While televised proceedings could certainly make the Court more directly accessible to the public, television coverage is shown to have negative effects on public confidence at lower levels of the court system by turning serious affairs into entertainment (Moy & Pfau, 2000). Similarly, the Senate confirmation process for Supreme Court nominees changed dramatically when the proceedings began to be televised in 1981, including increasingly partisan confirmation votes (Farganis & Wedeking, 2014). It may ultimately benefit the Supreme Court to stay relatively shielded from the public and allow the media to serve as an intermediary to preserve legitimacy and maintain a relatively non-partisan appearance.

Political Comedy

Though it is often not considered a form of news media when talking about the Supreme Court, political comedy is increasingly being studied as a worthy form of media in other research surrounding the media as an educator. Late-night political comedy programs were commonly grouped in with soft news in the past, which is often critiqued as inadequate in educating the public about political issues. Political comedy, however, is not the same as programs such as

entertainment talk shows and has potential to be more educational as it tends to be more focused and go more in depth on political issues (Cao, 2008). In fact, talk shows can have the opposite effect of political comedy (Brewer & Cao, 2006; Tsfati et al., 2009). Rather than including political comedy as a form of soft news, scholars now recognize it should be investigated independently and with regard for its unique characteristics and contributions.

While the primary goal of political comedy programming is to entertain, programs intertwine serious content in a way that can inform the public (Baym, 2005). By combining humor with news, political comedy programs promote critical thinking (Baym, 2005), increase message processing (Nabi et al., 2007), and allow the public to engage with news on a deeper level, thus fulfilling a role in public journalism (Faina, 2013). Regarding learning from political comedy, there is evidence of an increased perception of knowledge (Beavers, 2011), as well as increased actual knowledge on relatively easy questions (Baek & Wojcieszak, 2009). There seems to be a greater impact for politically inattentive (Baek & Wojcieszak, 2009; Baum, 2003) and younger people (Cao, 2008; Hollander, 2005). Young viewers also have greater recall after watching political comedy than cable news (Becker, 2013). It is also important to note that there can be a third-person effect with political comedy wherein an individual perceives content to have a greater impact on others than themselves (Becker et al., 2010). This effect indicates that there may be an overall greater influence of political comedy than people may believe, and it would be particularly interesting to investigate further in a study involving direct interaction with audiences.

Educational potential can vary depending on the specific source of political comedy. For example, the two primary types of satire, Horatian and Juvenalian, are in many ways opposites as Horatian satire is lighthearted and direct form of comedy while Juvenalian satire is pessimistic

and sarcastic (LaMarre et al., 2014; Young, 2017). The lighter jokes of Horatian satire allow the audience to focus energy on the argument rather than on understanding the joke as they would need to do with Horatian satire (LaMarre et al., 2014). There may also be a difference in learning between passive and active viewership (Becker, 2011; Xenos & Becker, 2009), particularly given the different mental energy required to process arguments in different forms of satire. Horatian satire can be taken more at face value, giving passive viewers a better chance at still understanding the issues presented alongside the jokes. Juvenalian satire, on the other hand, requires deeper understanding and more active thinking to tease the argument out of the cynical and deep-seated humor.

While each of these forms of satire require different mental processing power, they also face the risk of message discounting differently. When using humor to discuss serious issues, there is a risk of misinterpretation by the viewer, which can lead to message discounting, meaning the viewer sees everything as joking and does not take the argument seriously (Nabi et al., 2007). Horatian satire sees higher levels of discounting than Juvenalian satire (LaMarre et al., 2014). Since jokes in Horatian satire are so light-hearted, this form struggles more to be taken seriously by viewers, compared to Juvenalian satire which already has darker, more serious undertones.

Furthermore, political comedy taken out of the context of the program runs the risk of not being understood to be satirical (LaMarre, 2013). For example, in 2011, Stephen Colbert—then hosting *The Colbert Report*, a show which employed Juvenalian satire—created a Super PAC in order to educate the public on campaign finance issues. Colbert received widespread media attention for this decision and engaged in an extended satire wherein he would appear in character off his own show, both publicly and on non-political morning talk shows. Viewers of

such morning talk shows did not have prior experience with Colbert and were engaging with his satirical character in a context that did not otherwise employ satire at all. As a result, these viewers did not necessarily realize that Colbert was being satirical since he was surrounded by a different context that hindered comedic perception and understanding by the audience (LaMarre, 2013). Without the context to know Colbert was speaking satirically, people took what he was saying at face value, completely misunderstanding the point he was actually trying to demonstrate. The same risk is faced with other political comedians—or clips of their shows—being taken out of context and misunderstood.

Comedy can also influence political opinions. When it comes to political trust and efficacy, network political comedy may have a positive effect while online and variety programming, such as *Saturday Night Live*, seems to be less conclusive (Becker, 2011). However, comedy programs that frequently frame political issues negatively could have a negative impact on political trust (Tsfati et al., 2009). Overall, increased exposure to news content is beneficial toward trust and efficacy, regardless of whether the content is serious or humorous (Becker, 2011).

The use of humor, even when misinterpreted, provides the opportunity for increased civic engagement (Faina, 2013) and political comedy can serve as a gateway into traditional news watching as well as it encourages interest in further learning about politics (Beavers, 2011). Evidence suggests that people are watching political comedy alongside traditional news, rather than in place of it, and that exposure to political comedy was associated with higher levels of attention toward traditional news (Feldman & Young, 2008; Xenos & Becker, 2009; Young & Tisinger, 2006). This is not to say that traditional news media is superior to comedy, but rather

that exposure to political comedy seems to encourage more broad engagement with political media content as a whole (Feldman & Young, 2008).

Political Comedy and the Supreme Court

To understand how political comedy can be impacting public perception and knowledge of the Supreme Court, it becomes necessary to look at it as a form of media which, from time to time, discusses the Court. This approach requires combining our understanding of how people learn about the Court from traditional news media with how people understand political comedy.

Despite growing partisan divides, the Supreme Court maintains legitimacy and institutional support by maintaining public perceptions of fairness, the idea that Justices are not politicians, and that the Court is not self-serving (Baird & Gangl, 2006; Gibson & Caldeira, 2009b; Gibson & Caldeira, 2011; Tyler & Rasinski, 1991). Perceived procedural justice leads to institutional legitimacy, which leads to decision acceptance, which in turn leads to legitimacy since the Court has no enforcement power of its own and relies on public acceptance of its decisions as legitimate (Johnson, 1967; Tyler & Rasinski, 1991). However, since the Supreme Court relies on the media to disseminate information about it and its decisions, the media could have a strong influence over public support and perceived legitimacy. If the media—in this case, political comedy programs—portray the Court as fair and non-partisan, they will most likely have a positive impact on procedural justice, institutional legitimacy, and decision acceptance. However, if decisions of the Court are framed as partisan victories (game-frame coverage), the audience could begin to see the Court as a more political body, undermining institutional legitimacy and decision acceptance, creating a cycle of decreased perceived legitimacy.

Another way the media can negatively impact decision acceptance, and ultimately legitimacy, is by frequently citing a dissenting opinion, legitimizing opposition to the Opinion of the Court (Stoutenborough et al., 2016). Furthermore, more frequently portraying the Court as unfair or partisan will likely have a greater impact on perceived legitimacy since occasional negative portrayals do not have much impact as the Court maintains the overall appearance of fairness (Baird & Gangl, 2006; Gibson & Caldeira, 2011). Repeated negative portrayals are much more likely to have an impact than a one-time incident and frequent negative framing could have a negative impact on trust overall (Tsfati et al., 2009).

As for learning about the Supreme Court from political comedy, the first thing to consider is simply what the show says about the Court or a decision by the Court at face value. This discussion of the Court can have different educational impacts, however, depending on the comedic rhetoric which surrounds it (LaMarre et al., 2014; Nabi et al., 2007; Young, 2017). Shows that employ Horatian satire will have a greater surface-level learning potential as their jokes are easier to understand and require less active thought while shows that employ Juvenalian satire are more likely to promote critical thinking and the viewer works to understand the depth of the jokes. Since younger people and the politically inattentive seem to have a greater learning impact from political comedy (Baek & Wojcieszak, 2009; Baum, 2003; Cao, 2008; Hollander, 2005), shows with a larger percentage of younger viewers or that attract less politically attentive audiences will have a greater educational potential. However, depending on the delivery, Horatian satire runs a higher risk of not being taken seriously and the educational message getting lost in the humor, particularly by the politically inattentive who do not know the surrounding, real-world context, so this trend will need to be looked out for (LaMarre et al., 2014, Nabi et al., 2007).

Learning potential will also be influenced by frequency and relevancy of the discussion surrounding the Court since people learn more in times of high coverage and maintain that knowledge over time and are more likely to know about cases that impact their lives (Gibson & Caldeira, 2009a; Hoekstra, 2000). Viewer demographics will again be important to understand what percentage of the audience may find a case relevant to them. Furthermore, repeated discussion of the same case would mean a show had greater learning potential, especially if such repeated discussion was true for a variety of cases.

Case Selection

Since it would be realistically impossible to analyze every comedy show, a few select shows have been chosen to be examined. Namely, I will be investigating *The Daily Show with Trevor Noah*, *Last Week Tonight with John Oliver*, *Saturday Night Live*, *Full Frontal with Samantha Bee*, and *The Late Show with Stephen Colbert*. With the exception of *SNL*, these shows all began airing in their current form between 2014 and 2016 as they either launched in the first place or transitioned to a new host in this time. This timing makes the shows relatively new and sets a natural timeline of episodes to investigate which was imposed upon *SNL* as well for this project, with only episodes starting in season 40 (the 2014-2015 season) being considered in this paper.

Not only is it beneficial to consider a variety of programs to determine their different potential impacts, it is also necessary in looking specifically at that impact as it relates to the Supreme Court. The Supreme Court is assumed to be a relatively infrequent subject in comedy programs so it is beneficial to look across several shows. Each program will have different potential effects which can be considered in combination to understand a possible effect of

political comedy as a whole. Comedy shows can be diverse, so it is important to consider how different formats can be perceived differently and create different levels of learning environments.

There are a number of reasons these shows were chosen, such as popularity. *SNL* will regularly see around 8 million viewers (Boggs, 2020). *The Late Show* was the most watched late night show of the 2019-2020 season, averaging 3.6 million views (Friedman, 2020). *Last Week Tonight* sees somewhat lower views at the time of airing, averaging just 850,000 for the 2020 season (Bunch, 2020) likely due to the fact that it appears on HBO which requires a paid subscription. However, when I analyzed viewership on the segments these shows upload to YouTube for free, anytime viewing, *Last Week Tonight* has almost five times as many segments over 10 million views, and three times as many segments over 20 million views, as *The Late Show*. The popularity of *Last Week Tonight's* YouTube channel indicates significantly higher popularity than the strictly HBO views.

The Daily Show with Jon Stewart, Noah's predecessor who hosted the show for fifteen years, was able to turn the show into something between traditional news and traditional political comedy, focusing more on actual policy issues than just politics as other late night programs did, paving the way for other, more news or policy focused comedy programs (Popkin, 2012). The show was extremely influential and even led to other programs both directly and indirectly. *The Colbert Report*, the show for which Stephen Colbert became most prominent, was a direct spinoff of *The Daily Show*. After being a longtime correspondent, John Oliver served as a temporary host of *The Daily Show* in 2013, which eventually led to his current role as host of *Last Week Tonight*. Given how influential *The Daily Show* has been in the world of political comedy, it is only right that it is included in this study. The show had been studied fairly

frequently when it was under Stewart, so it will be interesting to see what effects it could have since the changes that have come with Trevor Noah becoming the host.

The Daily Show was often described as a fake news program which although it is described on Comedy Central's website as looking at "the day's top headlines through a sharp, reality-based lens" ("The Daily Show," n.d.). While the show was originally created in response to the shift to a 24-hour news cycle, Noah altered it to be more in response to the streaming age and the mass availability of different sources of new information. Noah brings a new spin on the historic *Daily Show*. The general format of the show remained similar to that of traditional news rather than the traditional late night talk show, and it was moderately changed in 2020 when it was expanded to a longer timeframe (Martin, 2016). Overall, *The Daily Show* maintains the classic approach to political comedy news media.

Last Week Tonight has a similar traditional news feel with several key differences. First and foremost, *The Daily Show* is, well, daily, Monday through Thursday, while *Last Week Tonight* is once weekly on Sundays. *Last Week Tonight* airs on HBO, meaning there are no commercial breaks, unlike the other programs. As a result, the show has to find another way to break up its segments. This difference could be influential since the show does not have commercials to act as a natural, content free transition, and transitions that are still part of the overall content experience can change the comedic perception of the audience. Leaving off on a serious note and going to commercial will be perceived differently than ending a segment on a serious note and then going to a randomly humorous clip, which will have to be watched for uniquely in regards to *Last Week Tonight*. Another difference resulting from *Last Week Tonight*'s status as an HBO show is it allows Oliver more free use of profanity since it is not publicly broadcast, though its YouTube uploads are generally more censored. This difference could also

impact Oliver's delivery, possibly providing him access to the particular emotions that most people associate with such language, which are also largely contextual (Jay & Janschewitz, 2008). Both humor and seriousness could be impacted by Oliver's ability to use language more freely than his counterparts.

The Late Show with Stephen Colbert is a more traditional late-night talk show that includes monologues, interview guests, and musical performances. The show has taken on a slightly more political approach since Colbert took over as host from David Letterman in 2015, with more political figure guests and influences from Colbert's time on *The Colbert Report*. This combination of factors makes it an excellent choice for this study since it's a more traditional late night talk show than other political comedy programs and its more political comedy than other late night talk shows. Though *The Colbert Report* is no longer running, it's influences remain with Stephen Colbert as the host of *The Late Show*. With a new format and different rhetoric, Colbert's potential to teach and shape opinion have changed and should be investigated in their new form.

Saturday Night Live is one of the longest running network television programs in the United States. The program is not strictly political comedy media but rather is a variety show which often includes political skits. *SNL* has been noted to have an influence in politics, most notably during the 2008 presidential campaign. The short skit format of *SNL* is different and so is the type of comedy it uses since it is more satirical in its approach. Furthermore, the variety of subject material means the program can appeal to a wider variety of audiences. These differences in format and appeal set *SNL* apart from more traditional political comedy media in a way that is worth examining.

Since *Saturday Night Live* has been on the air since 1975, a time period in which to examine will need to be imposed on this show. Of the other shows I will be looking at, 2014 is the earliest any of them began. As a result, I will only be looking at *SNL* episodes from season 40, which premiered in September, 2014, or later. This limit creates a continuity of cases over a set timeline.

Full Frontal with Samantha Bee is the only female hosted late night political comedy program. Given the male dominance of the industry, it seems relevant to consider the one female example. Furthermore, her show follows a slightly different format without the traditional news desk, which even *SNL* employs with their “Weekend Update” segment. These couple of differences could make a big difference when it comes to the impacts of the show.

I accessed these shows in various ways based on availability. *Last Week Tonight* was accessed through HBO Max and Amazon Prime Video, *The Daily Show* through the Comedy Central website, *The Late Show* and *Full Frontal* through Hulu, and *Saturday Night Live* through the NBC website. Each of these methods required either a subscription or television provider to gain full access at the time of writing.

Research Design

Combining what past literature says about impacts of political comedy with how people learn about and form opinions of the Court, I looked directly at the aforementioned sources of political comedy to determine their potential impacts as humor and as a source of news about the Supreme Court. These findings were then used to determine an overall likely impact of the show on knowledge and perception of the Court.

While a direct experiment on the public, exposing them to different comedy programs and examining their knowledge of and support for the Court before and after exposure, would be ideal, I do not have the resources to do this on the scale that I would like at the moment. As such, I acknowledge that my research is limited to discussing the potential or likely effects of each program and will not be able to determine a real-world impact with any certainty. Nonetheless, I hope this project would be able to serve as a starting point for future research regarding political comedy's depiction of the Supreme Court and the influence it may have as a source of news about the Court. My results are largely theoretical, however there are several benefits that also come with my method of study. Since I did an in-depth analysis of *how* these shows talk about the Supreme Court, I was better able to see *why* they could have certain impacts, rather than simply seeing the surface level of those impacts.

First, each show was evaluated as a whole to understand any general bias. Political satire is generally anti-establishment and the entertainment industry as a whole generally doesn't lend itself to conservatism (Gambino, 2013). As a result, political comedy is often perceived as having liberal undertones, even though the shows are not liberal establishments in and of themselves. This reality had to be considered when looking at potential biases which can influence the audience. I was able to use viewer survey information to consider how liberal each show is normally relative to other political comedy programs. I also looked for information about partisan affiliation in audience demographics, since more liberal programs are more likely to draw a more liberal audience.

I then analyze the type of comedy each show employs. Satire is most commonly known to be what is used in late night comedy as it criticizes prevailing actions and ideas that are perceived to be in some way immoral or lacking intelligence "especially as a form of social or

political commentary” (Oxford English Dictionary, 2020). However, there are many types of comedy that can be employed alongside satire. The other primary types of comedy I would expect to find in political comedy would be parody, sketch comedy, character comedy, and/or deadpan comedy. I determined whether a show employs Horatian or Juvenalian satire by listening to whether the humor is darkly critical and rooted deeply through the episodes (Juvenalian) or more light-hearted, tolerant, and witty (Horatian). This determination required watching the programs since vocal tone and body language cannot easily be expressed through transcripts but are an essential part of television satire. Finally, it was, at times, important to determine if these two forms of satire are used in tandem and how that could impact message processing and understanding.

In order to identify episodes of each show which relate to the Supreme, I first looked at episodes lists. These lists serve as a preliminary screening for episodes that definitely do, definitely do not, and potentially might, talk about the Supreme Court. Episodes which have court case names, names of justices, address issues the Court is known to have ruled on (like abortion and the status of U.S. territories), or the Court itself listed as a title or subject of the episode were noted and later verified that they do indeed discuss the Court¹. Episodes discussing Supreme Court nominees or the nomination process were not included as the nomination process focuses on the President and Congress and nominees are not members of the Supreme Court. Episodes with topics or guests which are certain to have no relation to the Court, such as segments focused on foreign issues, actors, sports, and presidential primaries or candidates, were noted as such. Remaining episodes which are unable to be determined as not discussing the

¹ For example, a 2020 episode of Last Week Tonight has a main segment titled “The Supreme Court”, however the episode actually discusses other systemic issues in the American government which lead to the situation surrounding the nomination of Justice Amy Coney Barrett and not actually the Supreme Court itself

Supreme Court based on topics were individually watched or their transcripts read in order to identify whether or not they did address the Court or Court cases at all.

Once these segments had been identified, I analyzed them for what they say about the Supreme Court and its decisions and how it is presented. I noted the case that was being discussed, time relative to the decision's release (before or after and how far from the date), if there were any Opinions cited and what was quoted, if the show indicated the decisions as being based on the myth of legality or legal realism, whether the discussion was based in game-frame or principled coverage, and if the presentation was one-sided. Not all of these considerations were applicable to every discussion since several segments state what the Court had ruled without necessarily framing how the decisions were reached or further implications of it.

To determine educational potential, I largely considered how much information a show gave about the Court, how factually accurate that information is, and, particularly in the case of parody, how easy that information was to understand. Things that increased educational potential included discussing issues currently or soon to be before the Court, describing cases the Supreme Court has already decided on, what they mean, and how they have played out, or explaining how the Court works, such as when the Court is in session, how cases come to be before the Court, and how the Court arrives at decisions.

How satire was used will also contribute to educational potential since Horatian satire is more likely to face message discounting while Juvenalian satire is less likely to be understood by passive viewers. Using the two in tandem could increase learning if the shift is to illustrate the seriousness and gravity of an issue, or decrease learning if the shift is not explained since the audience may not alter their cognition to account for the new satire, increasing the risk of misunderstanding. Since learning effects vary across age ranges (Becker, 2013; Cao, 2008;

Hollander, 2005), I also considered the viewer demographics for each show in determining educational potential.

It was also important to consider the relative frequency of the Supreme Court in political comedy media. Frequency can be determined by looking at the number of episodes that discuss the Supreme Court relative to the total number of episodes. Along with frequency, prominence and emphasis of the Court related segment were considered in shows which regularly feature segments of varying lengths.

To determine possible impacts on public opinion, the key considerations were use of game-frame coverage and framing the court in a partisan way, statements of decision acceptance as a whole, and one-sided presentations of a case or its arguments. Increased use of game-frame coverage and framing the Court as partisan increases a show's potential to negatively impact public support and institutional legitimacy. Furthermore, since decision acceptance is key in maintaining legitimacy for a branch with no real enforcement power, statements opposing decision acceptance resulted in an increased likelihood of a negative impact. By contrast, shows had an increased likelihood of a positive impact if they use principled coverage or support decision acceptance even with outcomes they do not personally, politically agree with. Positive impacts were further bolstered by presenting the Court as non-partisan and discussing both sides of the issue before the case, while only arguing for one side could have a more negative impact.

Ultimately, the shows were ranked in order of most to least educational potential and most positive to most negative potential impact on institutional legitimacy. These determinations were in relation to the other shows and are not necessarily indicative of certain practical realities; a show ranked with the most negative relative potential impact on opinion may not necessarily

have a negative effect in reality so much as its rhetoric makes it more likely to have this impact than the other shows.

Saturday Night Live

Saturday Night Live (SNL) is debatably the most influential late-night comedy program currently on the air. The show has been running since October 1975 when it began as a comedy-variety show and, over the course of its first season, would evolve into the sketch comedy format that has persisted for the past 45 years. The show continues to have musical guest performances and a constant stream of celebrity guest hosts who appear alongside the standing cast in some of the sketches.

Though many of the sketches are not political in nature, there are also many which are political. The political sketches on SNL tend to focus on the Executive or Legislative branches rather than the Judiciary. The segment which is most likely to talk about the Supreme Court is “Weekend Update,” a standing, ten-minute segment formatted in the style tradition television news which does a comedic run-through of some of the major headlines from the past week.

However, like traditional news, the Court is still an infrequent subject of this news segment, and, when it does come up, the actual decisions that have come out of the Court are not mentioned. As a result, the show’s direct educational potential is low, although there is still the possibility of it acting as a gateway. There are also possible impacts on public support based on how the show does portray the Court and its Justices, although not much can be said about its description of Supreme Court cases since the cases themselves are not discussed on the show.

“Weekend Update” host Michael Che made a comment during one segment not only acknowledging that he should not be a primary source of news, but even going so far as to tell

the audience that they should not trust his version of news and they should check it with other news sources:

Everybody's got that aunt who has roaches and every Thanksgiving she's like "hey y'all, what should I bring?" And we're like "uh, ice. You bring the ice because we don't want to be picking 'raisins' out of the turkey" ... There's no shame in that, we all play a role. Look, sometimes kids come up to me and they'll say "Michael Che, I get all my news from you," and I say "don't do that." I bring the ice.²

He sees the show as complementary to traditional news but also not something you want to rely on for actually good information. In this way, he acknowledges that *SNL* may serve as a gateway for people who pay little attention to news to become more knowledgeable. The fact that people treat *SNL*'s weekend update as a source of news, and that the cast actively encourages viewers to further involve themselves with traditional news does give it the potential to be indirectly educative.

To connect this possibility with viewers learning about the Supreme Court, even though *SNL* does not discuss cases that come from the Court, it does semi-regularly include a portrayal of Justice Ruth Bader Ginsburg by cast member Kate McKinnon. The majority of these appearances are during the "Weekend Update" segment, although the show did also feature an "RBG Rap" in November 2018 that was not a part of the "Weekend Update".

In her portrayals on "Weekend Update," McKinnon frequently jokes about Ginsburg's small stature and old age. For example, in discussing the Kavanaugh hearings, she created calendars for Ginsburg including "turn 100" in July, 1982 and "DON'T DIE" covering the entire month of September, 2018³. She has also portrayed Ginsburg as so small she is able to "do laps in a bird bath,"⁴ "live[s] inside a kettle... it's actually [Tinker Bell's] place, she's AirBNBing it"⁵

² *Saturday Night Live*, Season 44, Episode 10 (January 19, 2019)

³ *Saturday Night Live*, Season 44, Episode 1 (September 29, 2018)

⁴ *Saturday Night Live*, Season 44, Episode 1 (September 29, 2018)

⁵ *Saturday Night Live* (July 21, 2016)

and that “[Ginsburg] can’t go on a swing, [she’s] too tiny. Last time [she] was on swing [she] ended up in space.”⁶ These jokes are not educational, but also don’t seem likely to have an impact on public support for the Court.

The closest “Weekend Update” came to discussing a Supreme Court case was through two such portrayals of Ginsburg, both discussing marriage equality. The first of these cases dealt with the Alabama Chief Justice, Roy Moore, and his response surrounding a same-sex marriage law in his state:

McKinnon (as Ginsburg): Do you know how rare it is to be 81-years-old and actually have people listen to what you say?

Jost: Okay, well, the Chief Justice of Alabama actually said he won’t listen to your ruling on marriage equality.

...

McKinnon: It doesn’t matter what Alabama does, okay? Because when I get ahold of that gay marriage ban, oof, it’s gonna fall faster than Madonna at the Brit Awards.⁷

The conversation discusses the Court’s refusal to grant a stay on same-sex marriage in Alabama, which would have effectively stopped same-sex marriages across the state. The Court effectively stated that it was currently working on addressing same-sex marriage laws—the landmark case *Obergefell v. Hodges* was on the docket to be argued in April that same year, two months after the application for stay was denied—and therefore it wasn’t going to address Alabama’s problem until the larger issue was decided (*Strange v. Searcy*, 574 U.S. ____ (2015)). Alabama Chief Justice Moore said they were going to continue allowing judges to deny marriage licenses despite the Court refusing to do so. The discussion on SNL is very surface-level and, viewed several years later, seems like it should be talking about *Obergefell*. However, it was actually before the landmark ruling legalizing same-sex marriage across the country. The segment did address that the Court had made a statement on a gay marriage ban, but the case it talked about

⁶ *Saturday Night Live*, Season 43, Episode 2 (October 7, 2017)

⁷ *Saturday Night Live*, Season 40, Episode 14 (February 28, 2015)

turned out to be a small, side statement in the larger scheme of same-sex marriage rulings. It does ultimately convey the message that gay marriage bans will be overturned by the Court, but it does so before the Court had actually made that ruling.

The other time “Weekend Update” talked about a Supreme Court case was two months later, following oral arguments for *Obergefell v. Hodges*, 576 U.S. ____ (2015)⁸. This time, the show made it even clearer that it believed the Court should, and would, rule in favor of legalizing same-sex marriage with lines like these:

McKinnon: [Oral argument] were useless... The arguments I heard, they were so weak, I just hope they weren't holding up Justice Scalia's chair.

...

Jost: Getting back on track, the issue is really whether marriage equality should be up to state or federal governments... Supreme Court Justice Ginsburg, you know, I have to say, you sound pretty confident you're going to win this case.

McKinnon: Oh, hell yeah, I'm gonna win... I gotta push same-sex marriage through before God remembers I'm still alive.

In this segment, the show does address that there is a federalism question in the same-sex marriage debate although it does not discuss the Fourteenth Amendment's equal protection argument that was also at the heart of the case. Moreover, the segment paints Justice Ginsburg as already having made her mind, saying that oral arguments are useless, and makes it clear that the show thinks the Court will and should rule in favor of same-sex marriage. The depiction also uses game-frame coverage with its discussion of specific justices winning. While traditional game-frame coverage depicts partisan wins, *SNL* framing the case as a win for certain justices is also game-frame as it suggests that the justices are battling against each other rather than that being in the dissent is equivalent to losing.

Perhaps most notably in her Ginsburg portrayal, McKinnon jokingly insults various people with what she calls “Gins-burns,” playing on the justice's last name. Though she does not

⁸ *Saturday Night Live*, Season 40, Episode 19 (May, 2, 2015)

directly explain the motivation behind these jokes and the pun name of them, one possible viewer interpretation could be that it is a nod to the scathing dissents that Ginsburg became famous for later in her career. McKinnon's portrayal could be understood as a pop culture approach to these dissenting opinions, taking them as "burns" against the arguments in the Opinion of the Court.

Even if Ginsburg's dissents are not the source for the "Gins-burn" concept, *SNL*'s portrayal of a Supreme Court justice at all is important to note. McKinnon's portrayal of Ginsburg is the only example of a Supreme Court justice being listed as a recurring depiction in the show's history. *SNL* showed a sitting member of the Court as a pop culture icon, bringing the Court to the attention of millions of viewers. Even though the content is not about opinions or the Court itself, bringing a Justice into pop culture certainly could encourage people to learn more about the Court and its decisions.

The portrayal of Ginsburg on *SNL* is particularly notable for its possible impact on the audience since the show attracts a more liberal audience and Ginsburg was seen as a liberal icon (Morning Consult, 2017). It is important to note that, while *SNL* does not directly portray the Court in a partisan way, its choice to epitomize the Supreme Court in Ginsburg could suggest that her approach is what the public should want from the Court, and that the more conservative Justices have no place on the bench⁹. Once again, this is not a clear-cut connection to how the show could be shaping support for the Court, however it is something that should be researched

⁹ In a "Weekend Update" segment during Justice Kavanaugh's confirmation hearings in 2018, McKinnon (portraying Ginsburg) said of sharing the bench with him "Oh, I'm thrilled. We're gonna be very welcoming. The guy likes drinking games so much, we got one planned for him. It's called Quarters. It's when me and Sotomayor put a roll of quarters in a sock and beat the hell out of him". This joke suggests that conservative Justices should be at the mercy of liberal justices, possibly suggesting their interpretations are invalid.

further in future as this possible one-sided portrayal of how the Court “should” be could impact audience’s perception of the legitimacy of the Court as more conservative justices are appointed.

The idealization of Ginsburg could undermine legitimacy in the long run. For example, in the “RBG Rap” in 2018, Chris Redd says “you know there’s only like one lady holding the whole [country] together, right?” as he introduces Justice Ginsburg (once again portrayed by Kate McKinnon). The rap goes on to describe Ginsburg as “running the Supreme Court” and “she should be president,” as well as saying “[the] Supreme Court’s a boys club, she holds it down.” Several of these statements would be misleading to an uninformed audience since Ginsburg does not run the Court in any actual sense (she is not Chief Justice nor the most senior and no one justice has any more say than the others in making decisions) and she is one of three female justices on the Court, together making up a third of its members. Furthermore, saying that Ginsburg should be president suggests that she is the only person holding the country together suggests that she should be in charge of the country as a whole and that her outlook on the law is crucial for the country. These statements show a clear bias in favor of Ginsburg and promote a belief that the Court and the country would be worse off without her.

Especially now, in the face of her death and the subsequent appointment of conservative Justice Amy Coney Barrett, these biased statements could undermine the legitimacy of the Supreme Court. Portraying Ginsburg as the sole person keeping the country on track through her work on the Supreme Court risks undermining legitimacy when she is no longer on the Court. Since she is no longer there to “hold it down,” viewers may imply that the Court can no longer be trusted and, by extension, now has diminished legitimacy. In the moment when the rap was aired, it could have been taken more as promoting faith in the Court. However, once again, the specific bias in favor of Justice Ginsburg and the idealization of her could ultimately be harmful

when she is no longer a member of the Court, since the promotion was centered around her role as a justice. The rap also finishes with Redd saying “Now you know we love RBG. Yo, tell them your favorite RBG decision, dog” to which Pete Davidson replies “I don’t know” acknowledging a lack of knowledge about the Court’s decisions. Once again, *SNL* openly acknowledges that it is not the best source of information, this time regarding information about decisions the Court has made. The show recognizes that, even though it is promoting public knowledge of who Justice Ginsburg is, it is not providing information about what decisions she has helped the Court to reach and what opinions she has written¹⁰.

In terms of viewers, people aged 30-44 are the most frequent watchers of *SNL* followed by people aged 18-29 with 47% and 42% of respective people reporting watching it “often” or “sometimes” (Morning Consult, 2017). Furthermore, 27.7% of the audience consists of people aged 30-44 while people aged 18-29 make up only 20.5% (Semeraro, 2018). *SNL* does attract a younger audience which would give it more potential to be educational. However, the show offers little by means of potentially educational content, particularly as it relates to the Supreme Court. The learning potential is likely capped by the content and the younger audience is not likely to dramatically change the overall educational impact.

SNL employs Horatian satire although not in the straightforward format of information followed by a joke. Rather, the information is woven in with the jokes as is the nature of sketch comedy. The cast portrays various public figures in a joking way that requires a certain baseline of knowledge (such as who the real figure is who is being satirized) to understand the joke but remains playful. Given the sketch comedy, variety format of *SNL*, it is likely that the program

¹⁰ As a quick nod to a Supreme Court decision, the end of the rap includes “credits” for it, including stating it was produced by “Hobby Lobby Records” in a subtle reference to *Burwell v. Hobby Lobby* (2014). However, this detail is likely to go unnoticed unless the viewer is already informed about Supreme Court decisions

will face higher levels of message discounting than the other programs in this study. Political messages are scattered throughout each episode's other, more randomly humorous content. This format can create a general atmosphere in which viewers are already not taking things seriously, therefore decreasing the chances of serious takeaways and learning, even from more seriously grounded segments.

Considering all of these factors, *SNL* seems to have low educational potential although a relatively neutral potential impact on audience support for the Court. The show rarely discusses decisions from the Supreme Court and acknowledges its own shortcomings in this area¹¹. It does epitomize the Court in Justice Ruth Bader Ginsburg and suggest a dislike of more conservative judicial approaches. Despite this, it does not do anything to directly suggest the Court is partisan or should not be respected and obeyed. It does not speak to procedural justice or institutional legitimacy directly. The only negative effect it could have is in placing so much weight on the now late Justice Ginsburg, the show could have unintentionally decreased support for the Court after her death as it portrayed her as essential.

Full Frontal with Samantha Bee

Full Frontal with Samantha Bee is a once-weekly, thirty-minute, news-satire program geared specifically to “[shine] a spotlight on stories inside the beltway and beyond” (TBS, 2021). Throughout a typical show, Bee stands in her studio with a screen behind her to one side which displays graphics to go with the story she is talking about. The show typically consists of three four segments on different topics which are broken up by commercial breaks. The topics are usually centered around current events and the major headlines of the week. Unsurprisingly, the

¹¹ A 2017 study found *SNL* was the fourth leading perceived source of fake news in the U.S. with 39% of people perceiving it as a source of fake news information (Katz Media, 2017)

Supreme Court or its decisions are not a very common topic on the show, although each does come up from time to time.

Given the fact that the show is relatively short (just about twenty minutes once commercial breaks are factored out), each segment is limited in how in-depth it can go since they generally have to be contained to around seven minutes or less. However, the show does maintain a slightly more traditional news format of reporting, with one of the noticeable differences being that Bee stands in an otherwise open studio as opposed to having a news desk. This change is one of the features which distinguishes it as a comedy program and gives it a bit of a stand-up feeling for the audience as well.

In June 2016, at the end of the Supreme Court's term, Bee quickly reviews some of the decisions the Court released just before finishing for the year: *Whole Women's Health v. Hellerstedt*, 579 U.S. ____ (2016); *Fisher v. University of Texas*, 579 U.S. ____ (2016); and *Voisine v. United States*, 579 U.S. ____ (2016). Her brief discussion of each case did not delve into how the case was decided, but rather is made up of quick remarks clearly which summarize the outcome of the case while inserting her opinion on if the Court made the right decision.¹² Regarding *Hellerstedt*, Bee describes the case, which asked if new Texas regulations on abortion clinics created an undue burden on women seeking care, as "SOCTUS just told Texas 'no you can't use bullshit building codes to shut down abortion clinics.'" Regarding *Fisher II*, a case upholding allowing universities to use race as a factor in admissions, Bee described the Supreme Court as saying "yes, you can keep a diverse student body without being sued by mediocre white kids." Finally, to describe the outcome in *Voisine*, Bee explained the Court "told domestic abusers 'you can keep your gun or you can beat your wife, but you can't do both.'" In all of these

¹² *Full Frontal*, Season 1, Episode 17 (June 27, 2016)

cases, Bee makes it seem as though the decisions were obvious and clear cut, despite the several of the decisions being ending with close majorities. Bee also comments that the Court did “deadlock on immigration,” referring to the equally divided Court in *United States v. Texas*, 579 U.S. ____ (2016). She once again makes her opinion on this case clear, particularly in the caption for the clip’s YouTube version: “They may not be getting everything right, but at least the Supreme Court is getting stuff done” in reference to Congress.

While *Full Frontal*’s reporting on these cases is undeniably biased, Bee is still technically accurate regarding the outcome determined by the Court. It could be described as a quick, humorous, crash course on some of the major decisions that came out at the end of the term. Furthermore, it is a generally positive description of the Court even in the case which Bee does not fully support the outcome. While many details are left out, the overall message that the Court is making good and legitimate decisions and is being more useful than the legislature is a positive one. This segment is not the most informative¹³, but it is still educational and frames the Court positively.

The only other major time that *Full Frontal* discusses a Supreme Court case is in the segment “*Roe v. Wade* v. Everyone”¹⁴ which talks about several states’ new abortion restrictions and their hopes of having the Court overturn *Roe v. Wade*, 410 U.S. 113 (1973). However, most of this discussion centers around states’ actions, not actually the Supreme Court, as Bee describes:

A number of states are locked in a real race to overturn *Roe v. Wade*. Before 2019, only two states had the balls to sign six-week abortion bans into law: North Dakota in 2013 and Iowa in 2018. But already this year, Mississippi and Kentucky have passed six-week

¹³ Notably, the segment does not explain how the Court’s terms work and that the Court realistically had to release its decisions at that time in order to finish out the year. While the Court certainly was busy and productive, Bee failed to inform the audience on *why* so many opinions were being released so close together, a possibly important part of understanding the functioning of the Court as a whole.

¹⁴ *Full Frontal*, Season 4, Episode 7 (April 3, 2019)

bans with Missouri, Tennessee, and Ohio all working on their own versions. Lawmakers in all these states are feverishly stroking out bills in the hope that they'll bust all the way to the Supreme Court and they'll be the one to plant the seed of overturning *Roe v. Wade*. The discussion focuses on state actions and their aims at appealing the laws to the Supreme Court. When shifting to explain on what grounds *Roe* could be overturned, Bee simply says "It's Brett Kavanaugh" and refers to Justice Kavanaugh's dissent to the Court's decision to grant a stay and prevent Louisiana abortion laws from going into effect (*June Medical Services v. Gee*, 586 U.S. (2019)). Bee's explanation is that the Court might "decide that they are willing to wait and see if [these laws] actually hurt women." However, this statement ignores the important difference between asking the Court for a stay and having these laws actually come before the Court as a question of legitimacy. Kavanaugh's dissent was written because the laws were never given a chance to go into effect and so, he argued, there was no way to know if they were actually a burden to women or not. By contrast, for a case to be granted certiorari, a party must have standing and must be able to show there is an actual impact on them. Since granting a stay and granting certiorari (which would be needed to overturn *Roe*) are completely different, Kavanaugh's dissent would not be applicable in the way that *Full Frontal* is implying. In this instance, the show is failing to properly educate the audience and offers a possible outcome that is simply not practical with the actual functioning of the Supreme Court. While this discussion does not directly imply that the Court is going to make a "bad" decision, the audience is presented a possibility for an outcome that would not be possible in actuality.

In terms of the type of satire employed on *Full Frontal*, the show mainly uses Horatian satire in its reporting segments although in many on-location segments and interviews are closer to Juvenalian satire. A good example of Bee taking the harsher, more sarcastic tone of Juvenalian

satire is in the segment “Indian Bummer” where Bee investigates the role of tribal courts¹⁵. In the segment, she goes to North Carolina to interview Bill Boyham, Chief Justice of the Cherokee Supreme Court. The segment goes as follows, with Bee narrating:

Bee (narrating): I traveled to the Cherokee reservation in North Carolina to observe their charmingly backwoods justice system where peyote addled elders rendered verdicts in their fairly new municipal sweat lodge.

[Boyham introduces himself]

Bee: How did you learn the law? Was it passed down by your ancestor in a spirit dream?

Boyham: I went to law school at the University of North Carolina School of Law... the reality is that our court functions much like every other state or federal court in the United States.

Bee: Isn't that what you want us to believe and most certainly also the truth?

Boyham: yes, that's not saying that all tribal courts are perfect, no court is perfect. All we're asking is to be treated like any other court in the United States.

Bee (narrating): But their judicial mumbo jumbo was too confusing to white people.

Bee: Tell me about the mysterious symbols on this celestial moon chart.

Boyham: Well, this is a pretty typical court calendar.

Bee (narrating): Ah, a court cal-en-dar. Okay, this is just a [expletive] court.

In this dialogue, Bee uses heavy sarcasm to illustrate how absurd some of the beliefs about tribal courts are. However, for most of her show in the studio, *Full Frontal* more closely follows the lighter nature of Horatian satire.

The fact that Bee usually reports using Horatian satire and switches to Juvenalian for interviews could lead to misunderstanding by her audience when watching the interviews. If the audience is accustomed to the easier to process Horatian satire, this sudden shift to Juvenalian satire may not be met with the necessary shift in mental processing to understand the new style of joke. The change requires viewers to become more active for the interview segment than they would have needed to be for the rest of the show or risk not understanding the satire of the interview. This shift might limit the educational ability of segments which include an interview, although episodes which do not include such a sarcastic interview would not face this risk. Therefore, episodes that remain in the studio and consistently employ Juvenalian satire, while

¹⁵ Full Frontal, Season 1, Episode 16 (June 20, 2016)

risking message discounting, likely have a better chance of being educational since they do not also run the risk of misunderstanding.

Full Frontal's audience is generally young, democrats, and with a slight male majority. Many members of the audience self-described as “smart and cerebral” as well as sarcastic (Hiebert, 2016a). By result, the show has slightly increased chances of educating the audience since young people are more likely to learn from political comedy. The fact that the audience self-describes as “smart” will likely be associated with higher levels of third-person effect, wherein individual audience members do not think they themselves are being affected all that much.

Based on all of these factors, *Full Frontal* has some potential to be educational about the decisions the Supreme Court makes since it does summarize some outcomes, although it is severely lacking in explaining how the Court works and even misleading at times about how a decision might be reached. The stand-up format of the show makes it clear that it is not meant to be taken as news, but the changes in satirical style it sometimes employs could lead to misunderstanding, particularly among passive viewers, if the audience does not subsequently change their mental processing of the show.

When it comes to shaping public support for the Court, Samantha Bee seems likely to have a relatively neutral to slightly negative impact. She does not use game-frame coverage or principled coverage since she does not generally examine how the Court reached a decision. However, her one-sided reviews can impact support both positively and negatively, depending on the opinion. Bee does not seem to approach the issue of procedural justice directly, instead only touching upon decision acceptance in the immediate. Decision acceptance is important for institutional legitimacy as well. Bee does make statements that do not entirely encourage

acceptance of all decisions, but she also maintains that the Court should be praised and seen as legitimate over some of the other branches of the federal government.

The Daily Show

The Daily Show was foundational to many of the political comedy programs that exist today. Indeed, John Oliver, Stephen Colbert, and Samantha Bee all got their starts on *The Daily Show* when Jon Stewart was hosting. Stewart hosted the show from 1999-2015 at which time Trevor Noah took over. The show is modeled after a traditional news program with the host reporting from a desk, as well as including reports on-location by correspondents, and finishing with an interview segment. It has been very influential not only in comedy but in the world of broadcast journalism as a whole. In a reunion discussion on *The Late Show*, former *Daily Show* cast member Rob Corddry recalls “real reporters used to always say to me like ‘God, I wish we could do what you guys do but we can’t.’ I’m like ‘how come?’ And now they’re kind of doing it. Like Jake Tapper will do a video segment where he... holds somebody accountable.”¹⁶ The show stepped into the role of a watchdog to the public in a way that they felt traditional news media was failing. As a result, *The Daily Show*’s comedic display of accountability influenced actual news reporters to hold public figures accountable as well.

The impact that *The Daily Show* had on pop-culture and traditional broadcast journalism is undeniable. It stands to reason that it would, by consequence, also be influential in regards to public knowledge and perception of the Supreme Court based on its discussion. By the time Trevor Noah took over as host, *The Daily Show* had firmly cemented itself as a semi-reputable source of news. Noah did bring a slightly new take to the show to reflect changes in how people

¹⁶ *The Late Show with Stephen Colbert*, Episode 343 (May 9, 2017)

get news in an era of streaming and added more references to appeal to a younger audience, but the overall concept of the show remains the same—a parody news program.

In general, *The Daily Show* consistently employs Horatian satire, staying lighthearted and making jokes about the news material rather than in the presentation of the material. This application, along with the more traditional news desk format of the show, lends itself to greater chance of learning, especially by passive viewers. By maintaining a serious studio set with a traditional news atmosphere and setup, the show works to counterbalance the risk of message discounting that comes with its laid-back jokes.

Regarding *The Daily Show*'s portrayal of the Supreme Court as a legitimate and non-partisan body, the show generally remains neutral on Court arguments and leans toward principled coverage and the myth of legality in its reporting on Supreme Court decisions. For example, at the end of the 2015 Supreme Court Term, *The Daily Show* did a segment discussing what the Supreme Court was doing and the perceived role of Justice Kennedy as a swing vote:

The judicial branch of our government is crushing it. It's the only place where liberals and conservatives don't always do exactly what you expect them to do. That's what's so exciting about the Supreme Court...They're all wild cards. Take yesterday's ruling allowing states to ban people convicted of domestic assault from buying a gun [compilation of news clips stating Justice Sotomayor and Thomas dissented together]. How amazing is the Judicial branch? You'd think for a case about gun rights the two dissenters would be staunch conservatives, but then the hard-right, pro-gun Clarence Thomas and the left-leaning, pro-defendant Sonia Sotomayor are on the same side... You think that would ever happen in Congress?... At the Supreme Court, anyone can pair up... It's great for our country.¹⁷

This discussion acknowledges that Justices have their own views that influence their decisions, but that the Court remains non-partisan and trustworthy. The segment takes a very supportive stance on the Supreme and encourages its audience to also see the Court as a fundamentally good

¹⁷ *The Daily Show*, Season 21, Episode 125 (June 28, 2016)

thing. It gives a strong message of procedural justice, institutional legitimacy, and general support for the Court.

The Daily Show's positive portrayal of the Supreme Court continues in subsequent segments as well. In general, Noah keeps the show on course for using principled coverage to discuss decisions that have been released. In an interview with Alphonso David following the Court's ruling in *Bostock v. Clayton County*, 590 U.S. ____ (2020), the repeated message from the show was that the Court was following "the rule of law" and "respect[ing] stare decisis."¹⁸ The repetition of these terms drills into the audience the idea that these decisions are principled. Noah also supported the idea of principled coverage when he interviewed Justice Sotomayor. The Justice commented "all the news people get is from newspapers or television. The soundbite. You know, the headline. This side won. This side lost. But nobody talks about the reasoning."¹⁹ The interview, which Noah generally allowed to be led by Sotomayor, focused on the importance of understanding the arguments and not just seeing decisions as wins or losses. Through the interview, *The Daily Show* encourages viewers to seek more principled coverage and look at the arguments rather than winners and losers.

Noah also does not report with large bias when discussing upcoming or ongoing Supreme Court cases. For example, two days after oral arguments for *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, 584 U.S. ____ (2018), Noah discussed some of the biggest questions in the case and how morals and laws interact:

And now, look, for me, this case is simple. If you sell wedding cakes, and a couple wants one, then you sell them a wedding cake. It's simple; it's done. Although, I have to admit, I have to admit, the cake maker and his cake lawyers have an argument that is worth hearing. [news clips of what the baker, Jack Phillips, has said regarding why he refused to make the cake]. In terms of the Constitution, it seems like the baker's chosen a strong

¹⁸ *The Daily Show*, Season 25, Episode 118 (June 17, 2020)

¹⁹ *The Daily Show*, Season 24, Episode 169 (September 16, 2019)

argument, because his main point is that no one can legally be forced to say something that they don't believe in, a.k.a the First Amendment. So, the question is, uh, the question the Supreme Court has to decide is, can the government force you to create art that celebrates something that you despise? And I don't know how I feel about that. I won't lie... and by the way, that raises another question. Can a cake qualify as artistic expression?²⁰

Noah addresses that there are multiple questions at issue in the case and that they may not be as straightforward as they seem at first glance. He discusses how there can be repercussions since the Court sets precedents that reach beyond just the immediate case being decided. While he does still seem to be in favor of Colorado, he acknowledges the validity of the opposing arguments and the repercussions they could have. Since the Court did end up ruling in favor of the baker, the fact that Noah expressed understanding for both sides is important in encouraging his audience to see the decision as legitimate. Once again, *The Daily Show* encourages legitimacy and understanding of the arguments on all sides.

In terms of learning about the decisions of the Supreme Court from *The Daily Show*, the show usually does not report much on the decisions themselves. Instead, *The Daily Show* uses news clips to weave together an easily understandable version of what happened. This approach simultaneously allows Noah to further elaborate on the Court and its decisions while also promoting traditional news as the fundamentally educational source. For example, *The Daily Show* aired a segment following the Court's decision in *Zubik v. Burwell*, 578 U.S. ____ (2016) that went as follows:

Noah: Today's a great day for us to talk about something else, the Supreme Court. Because this week they have been dealing with a major decision... The decision this week was for the ladies.

NBC News clip: The battle over birth control at the Supreme Court, a highly anticipated decision.

CBS News clip: One of the biggest cases of the term, whether Obamacare can require religious groups to offer contraception coverage through their insurance plans.

²⁰ *The Daily Show*, Season 23, Episode 32 (December 7, 2017)

Noah: ... If these religious groups asked if they really *had* to provide their not-necessarily-religious employees with insurance for birth control, like, an issue affecting thousands of Americans, right at the tricky intersection of religious rights on one hand and the scope of government on the other hand, this is exactly what the Supreme Court is for. And everyone wanted to know how they'd decide. And then yesterday, they dropped the bomb.

MSNBC News clip: The Supreme Court expresses no opinion on any of those big questions... It's a big decision, it's a big non-decision... It's a three-page, unsigned order from the Supreme Court today sending the case back to the lower courts.

Noah: ... I love how basically what the Supreme Court justices have done here is they've gone "who am I to judge?" ... So basically, the Supreme Court has decided to do its best Congress impression by taking an important problem and, uh, doing nothing about it. The big question is why.

CBS News clip: There's a vacancy on the Court and today the justices apparently did not want to risk a four-four tie.

CNN News clip: If Scalia were still on the Court... I think the Obama administration would have lost

Noah: Oh, actually, sorry to break it to you, but if Scalia had been there, it still would have been a tie because he's dead. But this does raise some important points... The Supreme Court can deadlock.²¹

The Daily Show using news clips does not mean it is not educating at all. It is still showing its audience what the Court has ruled even though it does not directly report the outcome itself.

Rather, the show almost seems to be reminding the audience that the decision happened as they probably already saw in the news, or using it to segue into further discussion about that decision.

Based on this format, the show seems to encourage going to actual news sources for the story and to *The Daily Show* for more of a review afterwards to talk about *how* the decision was released, playing more into procedural justice and institutional legitimacy than strictly being educational about the Court's decisions.

Similar to *Full Frontal*, *The Daily Show* also mentions the Supreme Court getting things done unlike Congress, and it also fails to acknowledge that the Supreme Court follows a much stricter schedule than Congress does. Noah jokes "look at the Supreme Court getting at their

²¹ *The Daily Show*, Season 21, Episode 109 (May 17, 2016)

(bleep) done *before* they go on summer break. Right now, Congress is looking at them going, that's a thing?"²² While this joke is supportive of the Court and encourages a positive view of the Court, it also ignores that Supreme Court terms are not on the same schedule as Congressional terms. The Supreme Court starts in the fall and ends the year in June, taking the summer to select cases for the next year. Congress, meanwhile, follows more of a calendar year structure with terms beginning and ending in January. While the statement is positive for public support of the Court, it is not helpful to educate the public about how the Court operates.

A strong example of *The Daily Show* differing from *Full Frontal* and being more educational is in each show's discussion of the Supreme Court deadlocking on issues in 2016, when the late-Justice Scalia's seat was still vacant. Noah's discussion of *Zubik v. Burwell* (2016), illustrated above, explains the Court strategically avoiding making decisions on which they might deadlock so as not to prematurely rule on important issues when no real decision can be released. This explanation shows the Court as understanding its powers and limitations and strategically working within that to properly approach issues in the long run. While Noah does express dissatisfaction in the lack of opinion ("why even come into work if you're not gonna do anything?"), he quickly shifts the blame to Congress's refusal to hold a confirmation hearing for Obama's Supreme Court nominee, Merrick Garland. This approach acknowledges the nuance and power of Supreme Court decisions while saying it's not the Court's fault they are unable to properly reach a decision due to an empty seat on the bench, over which they have no control. Overall, Noah's discussion demonstrates the complexity of the Supreme Court and its decision-making process. By contrast, Samantha Bee, as previously discussed, talked about the Court as "getting stuff done" in spite of "deadlock[ing] on immigration."²³ *The Daily Show* provides a

²² *The Daily Show*, Season 21, Episode 125 (June 28, 2016)

²³ See page 30

more nuanced discussion of why the Court may deadlock and how the Court might handle that possibility, thus becoming more educational about the workings of the Supreme Court in addition to the decisions themselves.

The majority of *The Daily Show* audience is younger with 74% of regular viewers being between ages 18 and 49 (Feldman, 2017). At the end of Stewart's time on the show, the median age of viewers was 36. Trevor Noah's tenure as host has seen decreased overall viewership compared to the era of Jon Stewart, but it has also resulted in increased black viewership, particularly among older black viewers. People aged 55 and up currently make up almost 50% of *The Daily Show*'s black viewers (Feldman, 2017). Viewers also tend to be on the liberal end of the political spectrum with 34% of people with "consistently liberal political views" watching *The Daily Show* while only 1% of those consistently conservative views watched (Gottfried et al., 2015). More educated people are also more likely to watch the show with 16% of college graduated adults reporting watching in the past week compared to 12% for people with some college education and only 7% for those with a high school degree or less (Gottfried et al., 2015). Also interesting to note, as of 2015, it seems that the largest percentage of people watch the show for entertainment purposes (43%), although 10% of regular viewers cite news headlines as a reason for watching (Gottfried et al., 2015).

While much of this data is from the end of Jon Stewart's tenure on the show, the fact that Noah has kept the focus of the show relatively the same as Stewart would suggest that there have not been dramatic changes in the age, political affiliation, or educational level of viewers. If anything, it is possible that viewers would have shifted a bit younger since Noah has specifically worked to make references that appeal to millennial audiences. Overall, the audience of *The Daily Show* is relatively young, liberal, educated, and looking for entertainment over news.

Given all of these factors, *The Daily Show* is more likely to have a positive influence on institutional support for the Supreme Court. It repeatedly portrays the Court as non-partisan, making decisions in a principled way, does not itself use game-frame coverage, and presents the complexity of issues still before the Court without biasing the audience in favor of one particular outcome. Noah acknowledges the important role of the Supreme Court and supports its legitimacy in his coverage of it. In terms of educating about its decisions, the show does not go very in depth about the decision or the repercussions itself. When it does go more in depth, the segments become less about the decision and more about supporting the Court as a whole.

It is possible that *The Daily Show* chooses not to focus on educating about the outcomes of cases since it already has a more informed audience and most of the audience does not watch for news purposes. In a segment about the Court, the show will often use clips from news organizations to review what happened and then will go into the institutional support of the Court more. It seems as though the writers understand their viewers already know about the decision on some level and are giving them a quick reminder of what happened before going into what it means for the institution, rather than focusing on the facts and outcome of the case itself. There is still a risk for message discounting given the Horatian satire that the show employs, but the consistent message of support for the Court seems likely to leave a positive impact on the audience's view of the Court as legitimate.

The Late Show

Following the format of a more traditional, late-night talk show, Colbert generally opens with a monologue, interviews between one and three people or groups, and has a musical guest performance. Colbert's opening monologues generally address current events, giving a comedic

rundown of the main news stories. *The Late Show* shifted into more political satire when Stephen Colbert took over as host in September 2015. Colbert had previously worked on *The Daily Show* and hosted the spinoff show *The Colbert Report*, so he was well immersed in the world of political satire when stepping into the new role. He brought elements of it with him to *The Late Show*, making it more political than similar late-night talk shows. Government officials are frequent interviewees, including three Supreme Court Justices, and Colbert's opening monologues are often political.

The Supreme Court and its decisions do come up on the show from time to time. Older decisions are more likely to come up in interviews while new decisions or the Court denying to hear a case may be presented in the opening monologue or in an interview if the decision somehow relates to a guest. Between these different ways a case may come up, *The Late Show* does provide some opportunity for the audience to learn about decisions coming from the Court. However, the educational opportunity is limited by not consistently including a discussion beyond the ruling (such as the one minute, sketch style segment called "Straight Cakes Bakery" that the show aired following the Court's ruling in *Masterpiece v. Colorado*²⁴) and by a significant amount of bias in discussions.

The Late Show often uses, or at least alludes to, game-frame coverage when discussing Supreme Court decisions. For example, in an opening monologue from December 2020, Colbert quotes a CNN article stating "Supreme Court rejects Pennsylvania Republicans' attempt to block Biden victory" (De Vogue & LeBlanc, 2020).²⁵ This headline leans into game-frame coverage as it depicts a Republican defeat at the hands of the Supreme Court. Similarly, the show discussed the Court's ruling in *Department of Homeland Security v. Regents of University of California*,

²⁴ *The Late Show* (June 4, 2018)

²⁵ *The Late Show* (December 7, 2020)

591 U.S. ____ (2020), quoting a *Washington Post* headline calling it “a win for undocumented ‘Dreamers’ brought to the U.S. as children.” While this statement is game-frame it is not a partisan framing until Colbert mentions Trump’s tweet: “these horrible & politically charged decisions coming out of the Supreme Court are shotgun blasts into the face of people that are proud to call themselves Republicans or Conservatives”²⁶. By including the president’s response, the discussion becomes more focused on game-frame coverage and more strongly depicts the decisions as a partisan loss for Republicans.

In using game-frame coverage, the show often also presents the Court as a partisan body itself. For example, Colbert made a direct statement about the Court’s partisanship following its decision in *Republican National Committee v. Democratic National Committee*, 589 U. S. ____ (2020): “The ruling went up to the U.S. Supreme Court and the conservative majority there blocked extended voting in Wisconsin by a vote of 5-4.”²⁷ Colbert directly calls the Court partisan in declaring the case was decided by a “conservative majority”. The rhetoric of this statement nearly turns the Justices into politicians. By portraying the Court as a partisan body, the show can decrease perceptions of fairness within the Court which can, in turn, reduce institutional legitimacy.

Some of the game-frame coverage and partisan depiction of the Court that occurs on *The Late Show* comes through interviews. For example, Senator Bernie Sanders discusses Supreme Court decisions using game-frame coverage on multiple occasions. In 2016, Senator Sanders discussed *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010):

If not Trump himself, people around Trump are saying “hmm, let’s see. We’ve got the House, the Senate, we’ve got the White House, we’re going to have the Supreme Court. We’re going to change the rules of the game so we don’t lose anymore.” Now what does that mean? It means right now you have this disastrous *Citizens United* Supreme Court

²⁶ *The Late Show* (June 17, 2020)

²⁷ *The Late Show* (April 7, 2020)

decision which allows billionaires to buy elections. They can make it even worse by doing away with all campaign finance laws ... That is what the Koch brothers and the leadership of the Republican Party want.²⁸

Here, Sanders portrays the Court as a partisan body that can be controlled by one of the political parties, as well as describing *Citizens United* as a victory for Republicans that they want to further expand upon. The Senator made similar remarks in May 2020 after the Court's ruling in *Republican National Committee v. Democratic National Committee*:

The governor tried to do the right thing, tried to delay the election. The Republicans, for their own - I guess their own perceived political gains, forced that election to go forward and they got a right-winged Supreme Court there that okayed what they did.²⁹

Once again, Sanders portrays the decision as a victory for conservatives/Republicans and depicts the Court itself as a partisan body. This kind of rhetoric certainly could decrease support and acceptance of the decisions and, subsequently, decrease the perceived legitimacy of the Supreme Court.

The Late Show does also present the Court as following legal realism; however, this too is done in a way that depicts the Court as partisan and biased. For example, after the Supreme Court denied the application for injunctive relief in *Kelly v. Pennsylvania*, 592 U.S. ____ (2020), Colbert remarked:

Woah, Justice Samuel Alito, Mr. *Citizens United* himself, rejected the case? Well, I guess that makes sense. If you start taking constitutional rights away from citizens, what's next? Taking constitutional rights away from corporations?³⁰

Colbert's expression indicates that Supreme Court rulings are not always made on strictly legal grounds and that there are ideologies behind them. Similar remarks are made by Mayor Pete Buttigieg in an October 2020 interview. The interview took place two days after the Court denied certiorari to *Davis v. Ermold* (2020) in which Justice Thomas, joined by Justice Alito, agreed on the denial but reiterated issues that they found with the Court's decision in *Obergefell* and

²⁸ *The Late Show* (November 14, 2016)

²⁹ *The Late Show* (November 7, 2020)

³⁰ *The Late Show* (December 8, 2020)

seemingly expressed a wish to revisit the issue in a future case. In response to this opinion, Buttigieg stated “the idea that these Justices who ascribe to a judicial philosophy, or claim to, that’s about precedent and about not legislating from the bench, to now be, as I understand it, between the lines, threatening marriage equality.”³¹ With this statement, Buttigieg appeals to the realist idea of understanding that Justices do have a certain view on how the Court should rule while also calling out what he perceives as hypocrisy³² in the opinion.

Colbert does interview politicians on both sides of the political aisle, but he does have more guests on the show who are Democrats than Republicans. In terms of the Supreme Court, Colbert has had three Justices on his show: Breyer,³³ Ginsburg,³⁴ and Sotomayor.³⁵ Up until Ginsburg’s death in 2020, these people accounted for three of what people considered the four liberal Justices on the Court, with only Kagan remaining. Of course, talking about the workings of the Court or pending Court cases is prohibited in these interviews, so there is no direct impact on institutional support. However, the fact that Colbert has met with three so-called liberal Justices and none of the conservatives certainly shows a liberal bias in his show.

Furthermore, following the death of Justice Ginsburg, *The Late Show* published Colbert’s opening monologue to YouTube as a video entitled “Saying Goodbye to Justice Ruth Bader Ginsburg, An American Hero”. This kind of rhetoric surrounding a Supreme Court justice does leave the audience with an impression of how a Justice should be and what they should want to

³¹ *The Late Show* (October 7, 2020)

³² In the Dissent, this perceived hypocrisy is explained as Thomas takes issue with Obergefell since he believes it already was legislating from the bench. From this perspective, the dissenters are not trying to legislate from the bench by eliminating marriage equality, but they are trying to undo what they see as the Court already legislating from the bench. This important distinction is not explained on the show other than that it “threatened the future of marriage equality”. By overlooking the details, *The Late Show* limits its ability to educate in this case.

³³ *The Late Show* (September 14, 2015)

³⁴ *The Late Show* (March 21, 2018) (rebroadcast August 2, 2018)

³⁵ *The Late Show* (November 16, 2018)

see in a Justice. This bias can decrease institutional support and legitimacy as more conservative Justices are now being appointed. It is particularly evident that *The Late Show* is showing bias in this instance when comparing Ginsburg's death to Scalia's death in February, 2016. Colbert dedicated his entire twelve-minute opening monologue to Ginsburg and how her seat will be filled. However, following Scalia's death, Colbert did not have any notable recognition of the justice's passing until October when he noted that the Supreme Court was back in session with only eight justices after Congress continued to refuse to confirm Merrick Garland to fill the late-Justice Scalia's seat.³⁶ Even in this moment of recognizing Scalia's death, Colbert showed a preference for Ginsburg as he said "we need to appoint only Supreme Court justices who live forever, like Justice Galapagos Turtle, Justice Redwood, and Justice Ruth Bader Gins-borg [a cyborg version of Justice Ginsburg]." *The Late Show* has a clear bias for Justice Ginsburg and her notably more liberal stance than justices like Scalia.

Part of the decision to have Colbert succeed David Letterman was to appeal to a younger audience (Castillo, 2015). Colbert already had a strong following from his time hosting *The Colbert Report* (Heimlich, 2010). Despite this association, *The Late Show* was not able to surpass top competitor *The Tonight Show* until 2017, shortly after former President Trump's inauguration. *The Late Show* maintained a slightly older audience until, in 2019, it surpassed *The Tonight Show* in viewership for those aged 18-49 (Kolin, 2019). *The Late Show* also has the most liberal audience of the main three late-night talk shows³⁷ with 52% of the audience identifying as liberal and only 12% identifying as conservative (Hiebert, 2016b). Since the show has generally appealed to a range of ages, it does not seem to have any particular boost in educational potential for having a younger audience. However, the fact that it has a significantly more liberal audience

³⁶ *The Late Show* (October 28, 2016)

³⁷ The other two being *The Tonight Show* and *Jimmy Kimmel Live*

than its direct competitors is likely reflective of more liberal content on the show, which may be relevant in assessing the potential impact on legitimacy that the program could have.

On *The Late Show*, Colbert generally employs more Horatian satire during his monologues and may or may not use satire at all during interviews. Colbert's use of satire was actually a point of issue when he was transitioning from working on *The Colbert Report* to hosting *The Late Show* since the former used Juvenalian satire and created a character of Colbert as a satirical conservative pundit. There were questions as he changed to being his true self for *The Late Show* on how audiences would receive such a dramatic change in character and humor style. Colbert has even made fun of the situation himself by including several segments in which he portrays his old *Colbert Report* persona³⁸. Based on this shift, it is possible that audiences were not sure how to take Colbert at first, however after five years his new role and current satirical style should be understood by general audience members.

The Late Show is certainly trying to bring the Supreme Court more into mainstream media as it has had three Justices as guests on the show in five years. However, all of these Justices have been liberal, indicating an ideological bias that could impact the audience's bias and perception of the Supreme Court³⁹. Furthermore, *The Late Show* frequently alludes to game-frame coverage, depicts the Court as partisan and biased, and expresses its own bias on how the Court should act. Overall, the show does have some potential to educate, however it has a much stronger chance of negatively affecting support for and acceptance of the Supreme Court and its

³⁸ Strictly speaking, for legal reasons that emerged after the first of these portrayals, Colbert cannot claim to be portraying the Colbert Report version. As a result, he now acts as the "identical twin cousin" of that Stephen Colbert (also named Stephen Colbert). He has also changed details such as now referring to the former "The Word" segment as "The Werd".

³⁹ Colbert also jokes about *Bostock v. Clayton County*, 590 U.S. ____ (2020) surprisingly being written by Justice Gorsuch, indicating his negative view of the Justice but also giving him credit for siding with and writing what Colbert views as a good opinion. Colbert maintains a bias against the more conservative Justice while acknowledging support for a decision written by one.

decisions. The show often uses game-frame coverage and frequently portrays the Court as a partisan body, decreasing its perceived legitimacy with the audience. The audience does already skew liberal as a whole, so Colbert may be reinforcing beliefs already held by the audience, however he certainly does not conspire to change that belief if it is already held.

Last Week Tonight

Unlike any of these other shows, the format of *Last Week Tonight* is centered around a 15-25 minute deep-dive into a single issue. As a result, the show is able to get much more in depth with its discussions. Episodes do not normally have an interview segment and, since it is on HBO, do not have to adhere to certain blocking rules to allow for commercial breaks. As a result, Oliver is more easily able to focus a longer portion of the episode on a single issue. The studio is set up to resemble a traditional newsroom with Oliver seated at a desk and a graphic related to the discussion displayed to his side. The show airs weekly on Sunday at 11pm.

Despite the show's name, *Last Week Tonight* often does not focus on current events in general, choosing instead to discuss one or two specific issues which may not be in the public's attention at the time. The show often aims to draw attention to larger, systemic issues and how they relate to politics and the law. Given this aim, the show has more opportunity to be educational than the other political comedy programs. By doing an in-depth look at a particular issue, Oliver is able to educate not only about recent Supreme Court cases as they are decided, but also reveal some of the long-term repercussions of past Supreme Court decisions and how they fit into the modern political scheme.

Oliver is able to more thoroughly explore a topic and break it down in a way that the other shows are not able to. For example, leading up to the Court's decision in *Burwell v. Hobby*

Lobby Stores, Inc., 573 U.S. 682 (2014), Oliver explained that Hobby Lobby was not the only company that had raised the issue of religious freedom and the contraception mandate: “That’s right, in addition to Hobby Lobby, the government is also being sued by Mennonites... cabinetmaking pacifists who argue that they don’t want to pay for something that could take a human life.”⁴⁰ This detail that the case also involved Conestoga Wood Specialties Corp. was widely overlooked by other media outlets which focused on the more prominent Hobby Lobby, which also became the first case name listed. *Last Week Tonight* takes the time to explain more fully the cases that the Court is deciding on, thus becoming more educational than other programs who focused solely on Hobby Lobby itself.

Last Week Tonight also shows the evolution of case law on an issue fairly frequently. In 2016, *Last Week Tonight* did a segment on abortion laws in which it talked not only about the infamous *Roe v. Wade*, 410 U.S. 113 (1973), but also about *Planned Parenthood v. Casey*, 505 U.S. 833 (1992). Oliver begins the discussion by talking about recent abortion restrictions:

These four states [points to a graphic of North Dakota, Mississippi, Missouri, and South Dakota] are down to exactly one abortion clinic each. That’s right, Mississippi now has four times as many S’s as it has abortion clinics. And if you’re thinking ‘how is this possible?’ well, it’s in no small part because the key Supreme Court decision concerning abortion is no longer *Roe v. Wade*, it’s the 1992 *Planned Parenthood v. Casey* decision that says states can create restrictions as long as they don’t place ‘an undue burden’ that places ‘a substantial obstacle in the path of a woman seeking an abortion.’⁴¹

Oliver correctly explains that *Roe* is not the current precedent for abortion laws and rather it is *Casey*. Most rhetoric surrounding abortion law centers around *Roe*, leaving many people unaware that the Court has heard cases on abortion since its decision in 1973. Indeed, there have been cases pertaining to abortion in the years since *Casey* as well, although most of these cases have either dealt with other questions that happen to be in the context of abortion clinics (i.e.,

⁴⁰ *Last Week Tonight*, Season 1, Episode 9 (June 29, 2014)

⁴¹ *Last Week Tonight*, Season 3, Episode 2 (February 21, 2016)

Schenck v. Pro-Choice Network of Western New York, 519 U.S. 357 (1997)) or referred back to *Casey* as the standing precedent. By elaborating on the case law surrounding abortion, Oliver is able to educate his audience further on the issue and the Court's history on the subject.

Oliver further uses these cases to indicate how the Court might rule in what was then the upcoming *Whole Woman's Health v. Hellerstedt*:

Now, that specific provider, Whole Woman's Health, is actually at the center of a Supreme Court case that will be heard next month. If it's a 4-4 tie, the Texas law stands. So, the best hope is that Justice Kennedy... will see Texas regulation as an "undue burden"⁴²

Though there are further cases that could have also been mentioned (such as *Gonzales v. Carhart*, 550 U.S. 124 (2007) in which Ginsburg's dissent argued the Court was undermining both *Roe* and *Casey*), *Last Week Tonight* does provide more education on the Court's decisions in this area than any other show would. It also notes the possibility of a deadlock which would cause the restrictions to stand, although he importantly does not say this would mean the Court finds in favor of them, and how Justice Kennedy, a known swing vote, is the best chance of overturning the law in this case.⁴³ The show does indicate that it believes the laws should be overturned, indicating a bias, but it does so in a way that is also educational.

Similarly, in a 2020 segment about juries, Oliver cited *Batson v. Kentucky*, 476 U.S. 79 (1986) and how it paved the way for *Flowers v. Mississippi*, 588 U.S. ____ (2019):

In a trial, lawyers have two ways to remove jurors. The first is a so-called challenge for cause. That's where they can show that a juror can't be impartial because of some connection to the trial or because they were somehow unfit to serve. The second is a peremptory challenge where they can remove a limited number of jurors with no explanation. Although, since a 1986 Supreme Court ruling [graphic showing "*Batson v. Kentucky*"], they can't exclude jurors purely based on race... But, while the Supreme Court said that you can't strike jurors based on race, it turns out that's a pretty easy rule to get around... If you want to see the lengths to which prosecutors are willing to go, just look at the multiple murder trials of Curtis Flowers in Mississippi. His case made it all

⁴² *Last Week Tonight*, Season 3, Episode 2 (February 21, 2016)

⁴³ This outcome was, indeed, how the case ended up going. Kennedy voted to strike down the laws and the Court declared the laws imposed an undue burden relative to the medical benefits of the regulations.

the way to the Supreme Court which decided that his prosecutor had repeatedly, and blatantly, tried to whitewash the jury.⁴⁴ In this instance, Oliver did not only explain the fairly recent decision in *Flowers*, released about one year prior to the episode, but also explained the evolution of the Supreme Court's decisions. He actually chose to start by explaining what the issue is and how the Court has approached in the past in order to demonstrate how the Court continues to handle the subject today. Not only does this discussion educate the audience on the Court's history and recent decisions, but it also promotes legitimacy by showing the Court's use of precedent.

While John Oliver is able to more extensively explore a topic, he often makes it clear to the audience how he thinks things should be. For example, while Oliver's discussion of the issue beyond *Hobby Lobby* the night before the Opinion of the Court was released was informative, it also had a strong bias in favor of the government. To lead off the discussion, the show displayed news clips saying the case boils down to the question of whether or not private corporations have religious freedom. Oliver answers this question saying "No, no they don't. Okay, are we done? Are we done here? Oh, we're not. I feel like we're— Apparently we're not done."⁴⁵ Oliver's description and rebuttal of the arguments in the case presented to the audience that the Court should obviously not side with corporations. He even offers an analogy for why the case should not end in favor of the companies:

What these companies are arguing is that the sincerity of their beliefs should allow them a line-item veto over federal law, but government is not an ala carte system where you can pick and choose based on your beliefs. Taxation is more of an all-you-can-eat salad bar. You don't get to show up and go "look I know it costs \$10.99 but I'm only paying \$7.50 because I have a moral objection to beets, because of course you do, they're an abomination of a root vegetable. Their bland flavor and slimy texture is an affront unto the Lord. And if you can persuade enough people of that, then you can have a referendum to remove beets from the salad bar in the future. But, until such time, you're paying for those [expletive] beets because everyone has their own version of beets [various news

⁴⁴ *Last Week Tonight*, Season 7, Episode 21 (August 16, 2020)

⁴⁵ *Last Week Tonight*, Season 1, Episode 9 (June 29, 2014)

segments along the lines of “I don’t want my tax dollars going to…” or “that’s not the best use of my tax dollars”]⁴⁶

Now, this analogy is not entirely accurate to the legal questions at issue in *Hobby Lobby* as the scenario suggests not paying taxes on the basis of a belief that some part of it is unconstitutional, a situation which the Court addressed in *Cheek v. United States*, 498 U.S. 192 (1991).

Nonetheless, these statements, and the entire segment, strongly indicate that the Court should not find a religious rights violation on behalf of a company for a number of reasons. However, the Supreme Court did end up ruling in favor of Hobby Lobby that there was a religious freedom violation. For Oliver to present the arguments as obviously favoring one outcome and then for the Court to find the opposite could impact the audience’s support and perceived legitimacy of the Court, especially if they do not read the Opinion of the Court and understand why it was not an obvious decision. This behavior of presenting arguments so that the outcome seems obvious is a pattern for Oliver. In the segment discussing abortion laws, Oliver mentions the upcoming Supreme Court case for *Whole Women’s Health* (2016). Throughout his discussion, Oliver makes it clear that he believes the Court should strike down the new abortion regulations. To counter argue that the regulations are to protect women’s health, Oliver remarks:

If admitting privileges are so important for continuity of care, it is weird that you don’t need them in Texas to run a birthing center even though one study found that 12% of women admitted to birthing centers wound up being transferred to a hospital.⁴⁷

In fact, Oliver seems to argue that he thinks the current precedent set by *Casey* is not necessarily good and perhaps should not be as strict, describing it as “women can be asked to jump through a few hoops, just not too many, which might sound a little less insulting if those weren’t also the rules for a dog agility course.” With this joke, Oliver suggests that abortions should be more

⁴⁶ *Last Week Tonight*, Season 1, Episode 9 (June 29, 2014)

⁴⁷ *Last Week Tonight*, Season 3, Episode 2 (February 21, 2016)

easily available than the current Supreme Court standard makes them. He does not say the standard should immediately be changed, but the comment does express a dissatisfaction with the current standard.

Furthermore, although *Last Week Tonight* will often do a short follow-up segment on a topic if something changes after a recent segment, it has not always done so for important changes in judicial decisions. In 2015, the show presented on what would eventually become *Masterpiece v. Colorado* (2018), before the case had been accepted by the Supreme Court⁴⁸. At the time, the case had been decided in favor of the couple, protecting them from discrimination. In the segment, Oliver stated:

Courts have already decided there are limits on religious freedom. For example, they found that you can't discriminate on race based on your religious beliefs. And there are limits on free speech, you can't yell fire in a crowded theatre. The Constitution isn't the star in *Super Mario Brothers*. It doesn't make you invincible so you can just do whatever the [expletive] you want. Now, just so you know, that baker lost his case because Colorado happens to be one of the states that has a law banning discrimination on sexual orientation.⁴⁹

Oliver never followed up on this case, even after it had gone to the Supreme Court, nor did he mention that the baker was appealing the case to the Supreme Court at all. The Court would ultimately reverse the decision although in doing so it did not entirely deny civil rights protections to members of the LGBTQ+ community or overturn the Colorado law to which Oliver referred. Nonetheless, it did declare that religious objections to same-sex marriage were also protected and, therefore, the law must be applied neutrally and could not force Masterpiece to make a wedding cake for a same-sex couple. It is possible that audience members may not be aware that the Supreme Court reversed the lower ruling that Oliver reported, or they may be

⁴⁸ *Last Week Tonight*, Season 2, Episode 26 (August 23, 2015)

⁴⁹ *Last Week Tonight*, Season 2, Episode 26 (August 23, 2015)

confused if they watch the segment now without looking at the date and have already heard about the case after it has gone through the Supreme Court.

Last Week Tonight's bias on how the Court should rule is also apparent in how Oliver presents the legal realism employed by Supreme Court Justices. Oliver acknowledges that Justices do not always make perfect legal decisions and do have their own biases in how they interpret the Constitution and their role on the Court. However, Oliver expresses clear dissatisfaction with some of the Justices as a result. One notable example of the show demonstrating the Court's use of legal realism while expressing dissatisfaction with its manifestation is during an episode about U.S. territories. Oliver discusses the Insular cases, noting that "the man who wrote the lead decision in the first of those rulings [Downes v. Bidwell 182 U.S. 244 (1901)] was Justice Henry Billings Brown, who, fun fact, also wrote the famous 'separate but equal' decision in *Plessy v. Ferguson*," and later states that "when it comes to denying Americans the right to vote, we have to find a better reason than citing a 100-year-old legal decision written by a racist that was always supposed to be temporary."⁵⁰ By calling Justice Brown a racist, Oliver simultaneously acknowledges legal realism while inserting his own opinion about the merits of the Justice's subsequent reasoning. Since most Americans already subscribe to legal realism, it is possible that the audience would already have this associated belief themselves. However, it is also possible that essentially calling Supreme Court opinions "racist" will decrease support for the Court as it suggests a lack of real procedural justice in some decisions.

John Oliver employs both Horatian and Juvenalian satire in his delivery. He will frequently make lighthearted jokes, like when talking about American Samoa and saying "you

⁵⁰ *Last Week Tonight*, Season 2, Episode 5 (March 8, 2015)

cannot mispronounce ‘American Samoa,’ there’s a [expletive] Girl Scout cookie named after it. Think about it this way, would you forget the name of the state of ‘Thinmintissippi?’ No, that would be ridiculous,”⁵¹ or displaying playfully photoshopped graphics. At other times, Oliver will be deeply, cynically sarcastic such as an August 2020 episode on the Republican National Convention and the events in Kenosha, Wisconsin, in which Oliver said:

A 17-year-old vigilante with a rifle trying to maintain order is himself the definition of disorder. Except of course if you are a regular viewer of *Tucker Carlson*, a show that exists to teach you precisely three things: property damage is violence, homicide is order, and pillows are for sale.⁵²

These satirical styles will be used in tandem in some episodes, requiring an alert and thoughtful audience to distinguish the humor styles and understand the jokes. By using both forms of satire, Oliver is also able to convey to his audience which issues he finds more deeply troubling by using more Juvenalian satire in that episode. However, non-regular or passive viewers are less likely to understand the difference in Oliver’s delivery and be able to separate out the information. Furthermore, the longer, no-commercial format of the show makes it harder for viewers to tune in only for a few minutes as they need to understand the larger context of the story to understand specific information or jokes in the moment.

Last Week Tonight generally has a younger audience, appealing towards millennials. Though the show originally airs on HBO, the main segment is uploaded to the show’s YouTube page after each episode, allowing a large part of the content to be accessed by millions of viewers beyond those who pay for HBO⁵³. The show is also known for its social media presence, once again appealing to younger audiences (Oh, 2020). The massive appeal to younger viewers will likely have a positive impact on the show’s ability to educate.

⁵¹ *Last Week Tonight*, Season 2, Episode 5 (March 8, 2015)

⁵² *Last Week Tonight*, Season 7, Episode 23 (August 30, 2020)

⁵³ The LastWeekTonight YouTube channel currently has 8.64 million subscribers compared to the roughly 1 million people who watch the show on HBO itself.

John Oliver has the highest potential to educate on the Supreme Court and the impacts of its decisions, largely thanks to the format of the show as a deep-dive into one or two issues in each episode⁵⁴. However, since *Last Week Tonight* does not often talk about current events and does not regularly do a review of news headlines, it may be less informative about Supreme Court decisions as they come out compared to other shows. *Last Week Tonight* promotes a deeper understanding of the issues addressed by past cases, but may not often report on the outcome of a recent case even though it does numerically discuss more cases than any of the other shows). Most of the time, it is either discussing an upcoming case and what is at stake in it, or it is discussing current repercussions of past Supreme Court cases. Furthermore, the show's young audience is more likely to be learning from the content in the first place, further increasing the overall chances that the audience will learn about the Court from the content.

In terms of shaping public opinion, Oliver's presentation is often very biased, either suggesting the need for a past case to be overturned or presenting an upcoming case as having an obvious outcome⁵⁵. Oliver often does not follow up on how a case was actually decided after he talks about what he thinks should happen. This reality could lead to audiences not only not knowing what decision actually comes out of the case, but could also result in decreased support

⁵⁴ To possibly indirectly add to educational potential, *Last Week Tonight* expressed a desire in 2014 for people to pay more attention to the happenings of the Supreme Court. In order to encourage people to listen to oral arguments because "what happens in the Supreme Court is way too important not to pay attention to," the show created a dog version of the Supreme Court, with each Justice being represented by a different breed of dog. It released footage to the public with the request that it be used "to make Supreme Court arguments more compelling to watch". The show has continued to reference the animal court, such as when Scalia died, and has added new representations to it with the appointments of Justices Gorsuch and Kavanaugh.

⁵⁵ Like Colbert, Oliver also remarks at one point on his support for a decision while maintaining his dislike of a particular Justice. In this case, Oliver expressed disapproval for Justice Kavanaugh and approval for the Court's decision in *Flowers v. Mississippi*, 588 U.S. ____ (2019): "You know you're doing something wrong when it's so flagrant, even Brett Kavanaugh has a problem with it. A man who's done exactly two good things in his life: this decision and making it acceptable to spend your entire job interview screaming and crying" (*Last Week Tonight*, Season 7, Episode 21 (August 16, 2020)).

for the Court's decisions and the Court as a whole when it rules contrary to the narrative presented on *Last Week Tonight*. Oliver has also shown a remarkable propensity for encouraging political participation—something that has been dubbed the John Oliver Effect (Luckerson, 2015)—which could translate into altering support for the Supreme Court if Oliver indicates that it should not be followed. It is important to also note however, that even though Oliver generally presents a case clearly in favor of one outcome, he does not generally employ game-frame coverage in his depiction. Given these competing factors, it is hard to say, based on current literature, exactly how impactful *Last Week Tonight* might be in shaping the audience's perceived legitimacy of the Supreme Court

Conclusion

Each show brings different formats, approaches, biases, aims, and audiences which each shape their individual potential to inform about the Court and its decisions. Shows which more frequently discuss the Court or Opinions of the Court are more likely to be educational. Furthermore, educational potential is increased by appealing to a younger audience who is more likely to learn from the content. Some shows further increased their learning potential by explaining the issues and arguments presented in a case or by explaining the case history that contributed to a decision since both of these aspects more deeply educate on a particular case than merely stating the outcome. Given all of these factors, I have ranked the shows as follows, in order of most to least potential to be educational: *Last Week Tonight*, *The Late Show*, *The Daily Show*, *Full Frontal*, *SNL*.

The format of *Last Week Tonight* as a deep dive into an issue gives it space to be more educational than the other programs. Not only did it more frequently discuss Supreme Court

cases, but it also did so in a more in-depth manner. On multiple occasions, the show discussed the arguments or issues present in a case, the potential or actual subsequent ramifications of a decision, and/or the case history which may be contributing to an upcoming case. The show's biggest fault in terms of education is that it talks about cases either before they are decided and does not follow up⁵⁶ or talks about cases that were decided many years ago. As a result, it does not always educate on cases as they are released, but it does educate on cases that are having real impacts today even if they are not currently being decided.

The Late Show and *The Daily Show* have fairly similar educational potential, largely due to many similarities in their formats and reporting styles. One of the key distinctions that gives *The Late Show* an advantage is that it did discuss Court cases more often than *The Daily Show* did. However, the daily show was more likely to explain some of the arguments more when it did talk about some upcoming cases. By contrast, *The Late Show* has had three Justices on the show promoting knowledge about the Supreme Court in general. If *The Daily Show* started including more Supreme Court decisions in its review of news headlines, the order of these two shows could switch, but for now *The Late Show* seems to have the educational advantage.

One the biggest notes against *Full Frontal* was not only how infrequently it reported on the decisions of the Court, but also how it reported when it did so. The show would make such blanket statements, painting the decisions as black and white, that it lost the chance to show what the question before the Court really was. Furthermore, *Full Frontal*'s change between satirical styles increases the risk of misunderstanding by the audience, and decreases the potential to be educational. Finally, the show was simply misleading at times about how the Court works or

⁵⁶ It could be argued that *Last Week Tonight* is deliberately attempting to serve as a gateway in this instance by explaining what is at stake in the case beforehand in hopes that the audience will follow up on their own after the fact.

how a decision might be reached in a way that could undermine what educational potential the show does have.

Given the format and intentions of *SNL*, it is unsurprising that it has the least educational potential. The show almost never mentions decisions that the Supreme Court has made even when it portrays one of the Justices. The information that it gives on the Court outside of its decisions (such as in the RBG rap) is also misleading. *SNL* acknowledges that it does not intend to be informative and is meant to supplement information that the audience already has.

Each show also has varying potential to shape, positively or negatively, public support for the Court and institutional legitimacy. This potential can be determined by considering each show's use of game-frame or principled coverage, one-sided coverage, rhetoric around procedural justice of the court as non-partisan, and acceptance of decisions. Based on these factors, I have ranked the shows in order of most positive to most negative potential impact as follows: *The Daily Show*, *SNL*, *Full Frontal*, *Last Week Tonight*, *The Late Show*.

The Daily Show consistently portrays the Court as non-partisan, contributing to the audience's perception of procedural justice. It acknowledges the personal ideologies of the Justices while portraying the Court as a place where partisanship is not a factor. It also does the best job remaining unbiased in presenting the issue before the Court, even highlighting how hard of a decision it may be. The show refers to principled coverage and the Court's use of stare decisis in its decision-making process. Overall, *The Daily Show* promotes a very positive view of the Supreme Court, likely improving the audience's perception of the Court as legitimate and deserving support.

Since *SNL* does not say very much about Supreme Court decisions, it does not have much influence on decision acceptance at all, nor does it have an opportunity to use game-frame or

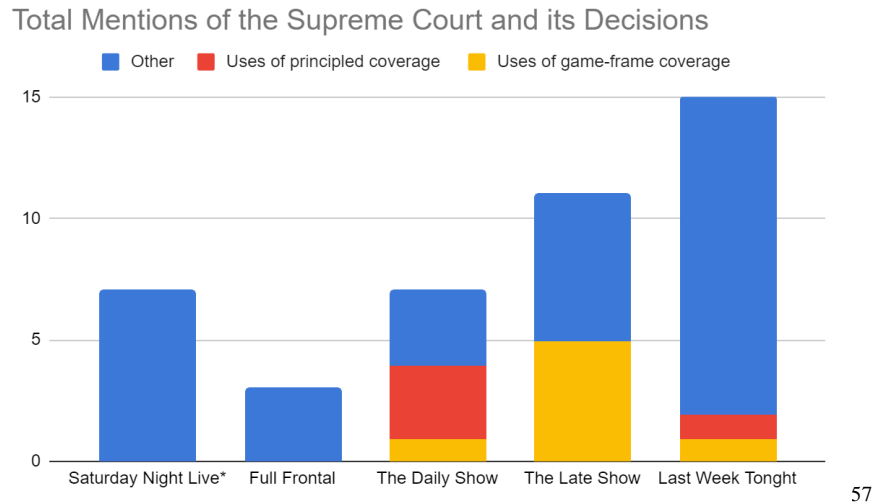
principled coverage. *SNL* does epitomize the Supreme Court in Justice Ginsburg in a way which could promote support for the Court if people subsequently see the real Ginsburg as a source of judicial authority. However, particularly in the wake of her death, the show could also unintentionally undermine legitimacy since they portrayed Ginsburg as the one holding the Court down. Overall, the show seems to have a relatively neutral effect as far as the Court is concerned.

Similarly, since *Full Frontal* did not mention the Supreme Court very often, it is hard to say it really has a particularly positive or negative influence on support for the Court. The one aspect that pushes this show toward a negative impact on support is Bee's portrayal of some Opinions as not entirely deserving of acceptance. The show still supports the Court over other branches of the government, but it does not entirely encourage support and acceptance of the Court's decisions either. As a result, it seems to have a neutral to slightly negative effect on public support.

Last Week Tonight is frequently fairly one-sided in its presentation of arguments for upcoming Supreme Court cases, potentially leading audiences to believing the outcome should be obvious and possibly not supporting a decision if the Court rules contrary to that image. The show will also point out what it sees as large problems with some cases, encouraging eventual re-evaluation of some precedents. While these aspects could negatively contribute to the audience's support for some decisions, the show is also careful to not suggest that the Court as a whole is illegitimate or partisan, and rarely employs partisan game-frame coverage. As a result, *Last Week Tonight* may be more likely to discourage decision acceptance in particular cases, it does not seem likely to discourage institutional legitimacy as a whole.

Not only does *The Late Show* have a strong liberal bias, it was the biggest user of game-frame coverage of any of the shows and frequently portrayed the Court as partisan or under

partisan control. This kind of repeated rhetoric can undermine judicial legitimacy as it begins to portray the Justices as politicians. By consequence, *The Late Show* is the most likely of these programs to negatively impact its audience's perception of and support for the Supreme Court.



Discussion

The findings of this paper are purely theoretical interpretations of possible outcomes for various comedy programs in educating and shaping public opinion surrounding the Supreme Court. This work can be used as a basis for further research testing the actual effects of each show. For example, a more longitudinal study exposing some people to one of the shows and seeing how their perception of the Supreme Court changes over time or how knowledgeable they are about Court decisions compared to a control group. Certainly, there is a lot that can be built upon from this research. This paper merely attempts to lay some groundwork.

It may also be important to note that the majority of the content analyzed in this paper emerged during the Trump Administration when the government was largely, if not completely,

⁵⁷ *SNL numbers are based on appearances of McKinnon portraying Justice Ginsburg. These episodes do not necessarily include discussion of cases, as discussed in the *Saturday Night Live* section of this paper (see page 21). This number was used for convenience since there are no clear examples of the show talking about the Supreme Court or its decisions outside of these portrayals and the appearance of the character is indicative of some form of discussion surrounding the Court in some way.

controlled by the Republican Party. It would be interesting to see if the same patterns determined in this paper continue now under the Biden Administration with democratic control. A possible direction for future research on this subject could be if political comedy portrayals of the Supreme Court are significantly different during different political administrations.

Former President Trump also had three Supreme Court appointments during this time, a topic which was popular on the shows but not relevant to the issue in this paper. Future studies could choose to focus on how the confirmations were covered by each of these shows and how that may have impacted the audience.

There is certainly much more work that can be done to explore the relationship between political comedy and the Supreme Court. This paper aimed to begin exploring this relationship by examining potential impacts of various comedy shows in educating their audiences about Supreme Court decisions and each show's potential to shape support for the Court and promote or undermine its legitimacy.

References

- Baek, Y. M., & Wojcieszak, M. E. (2009). Don't expect too much! Learning from late-night comedy and knowledge item difficulty. *Communication Research*, 36(6), 783-809.
- Baird, V. A., & Gangl, A. (2006). Shattering the myth of legality: The impact of the media's framing of Supreme Court procedures on perceptions of fairness. *Political Psychology*, 27(4), 597-614.
- Baum, M. A. (2003). Soft news and political knowledge: Evidence of absence or absence of evidence?. *Political Communication*, 20(2), 173-190.
- Baym, G. (2005). The Daily Show: Discursive integration and the reinvention of political journalism. *Political Communication*, 22(3), 259-276.
- Beavers, S. L. (2011). Getting political science in on the joke: Using the Daily Show and other comedy to teach politics. *PS: Political Science & Politics*, 44(2), 415-419.
- Becker, A. B. (2011). Political humor as democratic relief? The effects of exposure to comedy and straight news on trust and efficacy. *Atlantic Journal of Communication*, 19(5), 235-250.
- Becker, A. B. (2013). What about those interviews? The impact of exposure to political comedy and cable news on factual recall and anticipated political expression. *International Journal of Public Opinion Research*, 25(3), 344-356.
- Becker, A. B., Xenos, M. A., & Waisanen, D. J. (2010). Sizing up The Daily Show: Audience perceptions of political comedy programming. *Atlantic Journal of Communication*, 18(3), 144-157.
- Bee, S., Jones, J., Hernandez, T., Khan, M., Camillo, A., & King, P. (Executive Producers). (2016-2020). *Full frontal with Samantha Bee* [TV series]. Randy & Pam's Quality Entertainment, Jax Media, Studio T; TBS.
- Boggs, J. (2020, January 19). *Saturday Night Live ratings 1975-2017*. The TV ratings guide. <http://www.thetvratingsguide.com/2020/01/saturday-night-live-ratings-1975-2017.html>
- Brewer, P. R., & Cao, X. (2006). Candidate appearances on soft news shows and public knowledge about primary campaigns. *Journal of Broadcasting & Electronic Media*, 50(1), 18-35.
- Bunch, R. (2020, September 14). *Last Week Tonight with John Oliver renewed for three seasons*. The TV ratings guide. <http://www.thetvratingsguide.com/2020/09/last-week-tonight-with-john-oliver.html>
- Cao, X. (2008). Political comedy shows and knowledge about primary campaigns: The moderating effects of age and education. *Mass Communication & Society*, 11(1), 43-61.

- Castillo, M. (2015, September 9). *Will Colbert bring in younger audience for brands?*. CNBC. <https://www.cnn.com/2015/09/09/will-the-late-show-with-stephen-colbert-bring-in-younger-audience-for-brands.html>
- Colbert, S., Stewart, J., Licht, C., Purcell, T., & Julien, B. (Executive Producers). (2015-2020). *The late show with Stephen Colbert* [TV series]. Spartina Productions, CBS Studios; CBS.
- De Vogue, A. & LeBlanc, P. (2020, December 8). Supreme Court rejects Pennsylvania Republican's attempt to block Biden victory. *CNN*. <https://www.cnn.com/2020/12/08/politics/supreme-court-pennsylvania-trump-biden/index.html>
- Faina, J. (2013). Public journalism is a joke: The case for Jon Stewart and Stephen Colbert. *Journalism*, 14(4), 541-555.
- Farganis, D., & Wedeking, J. (2014). *Supreme Court confirmation hearings in the US Senate: Reconsidering the charade*. University of Michigan Press.
- Feldman, D. (2017, September 14). Trevor Noah signs on to host 'The Daily Show' until 2022. *Forbes*. <https://www.forbes.com/sites/danafeldman/2017/09/14/trevor-noah-signs-on-to-host-the-daily-show-until-2022/?sh=530d47926d87>
- Feldman, L., & Young, D. G. (2008). Late-night comedy as a gateway to traditional news: An analysis of time trends in news attention among late-night comedy viewers during the 2004 presidential primaries. *Political Communication*, 25(4), 401-422
- Friedman, W. (2020, September 25). *Late night TV: CBS' 'The Late Show' on top for 2019-20, Down 4% from last season*. Mediapost. <https://www.mediapost.com/publications/article/356249/late-night-tv-cbs-the-late-show-on-top-for-201.html>
- Gambino, M. (2013, August 8). Is there a liberal bias to political comedy?. *Smithsonian Magazine*. <http://www.smithsonianmag.com/arts-culture/is-there-a-liberal-bias-to-political-comedy-26572895/>
- Garrett, R. S. (2011). Seriously funny: Understanding campaign finance policy through the Colbert super PAC. *Louis ULJ*, 56, 711.
- Gibson, J. L. (1989). Understandings of justice: Institutional legitimacy, procedural justice, and political tolerance. *Law and Society Review*, 469-496.
- Gibson, J. L. (2007). The legitimacy of the US Supreme Court in a polarized polity. *Journal of Empirical Legal Studies*, 4(3), 507-538.
- Gibson, J. L., & Caldeira, G. A. (2009a). Knowing the Supreme Court? A reconsideration of public ignorance of the high court. *The Journal of Politics*, 71(2), 429-441.

- Gibson, J. L., & Caldeira, G. A. (2009b). *Citizens, courts, and confirmations: Positivity theory and the judgments of the American people*. Princeton University Press.
- Gibson, J. L., & Caldeira, G. A. (2011). Has legal realism damaged the legitimacy of the US Supreme Court?. *Law & Society Review*, 45(1), 195-219.
- Gibson, J., Caldeira, G., & Baird, V. (1998). On the Legitimacy of National High Courts. *The American Political Science Review*, 92(2), 343-358. doi:10.2307/2585668
- Gottfried, J., Matsa, K. E., & Barthel, M. (2015, August 6). *As Jon Stewart steps down, 5 facts about The Daily Show*. PEW Research. <https://www.pewresearch.org/fact-tank/2015/08/06/5-facts-daily-show/>
- Haider-Markel, D. P., Allen, M. D., & Johansen, M. (2006). Understanding variations in media coverage of US Supreme Court decisions: Comparing media outlets in their coverage of Lawrence v. Texas. *Harvard International Journal of Press/Politics*, 11(2), 64-85.
- Hardy, B. W., Gottfried, J. A., Winneg, K. M., & Jamieson, K. H. (2014). Stephen Colbert's civics lesson: how Colbert Super PAC taught viewers about campaign finance. *Mass Communication and Society*, 17(3), 329-353.
- Heimlich, R. (2010, February 2). *Colbert nation*. PEW Research. <https://www.pewresearch.org/fact-tank/2010/02/02/colbert-nation/>
- Hiebert, P. (2016a, August 3). *A look into the male fanbase of Samantha Bee*. YouGov. <https://today.yougov.com/topics/entertainment/articles-reports/2016/08/03/fans-samantha-bee-men>.
- Hiebert, P. (2016b, September 30). *The political leanings of late night's big three*. YouGov. <https://today.yougov.com/topics/media/articles-reports/2016/09/30/late-night-talk-shows-politics-audience>
- Hitt, M. P., & Searles, K. (2018). Media coverage and public approval of the US Supreme Court. *Political Communication*, 35(4), 566-586.
- Hoekstra, V. J. (2000). The Supreme Court and local public opinion. *American Political Science Review*, 89-100.
- Hoekstra, V. J. (2003). *Public reaction to Supreme Court decisions*. Cambridge University Press.
- Hollander, B. A. (2005). Late-night learning: Do entertainment programs increase political campaign knowledge for young viewers?. *Journal of Broadcasting & Electronic Media*, 49(4), 402-415.
- Jay, T., & Janschewitz, K. (2008). The pragmatics of swearing. *Journal of Politeness Research*, 4(2), 267-288.

- Johnson, R. M. (1967). Compliance and Supreme Court decision-making. *Wisconsin Law Review*, 1967(1), 170-185.
- Katz Media. (2017, February 2). *Most likely sources of fake news stories in the United States as of January 2017* [Graph]. In *Statista*. Retrieved from: <https://www.statista.com/statistics/697774/fake-news-sources/>
- Kolin, J. (2019, March 5). Colbert beats Fallon for first time in key ratings demographic. *New York Times*. <https://www.nytimes.com/2019/03/05/business/media/colbert-fallon-ratings-nielsen.html>
- LaMarre, H. (2013). Breaking boundaries| when parody and reality collide: Examining the effects of Colbert's super pac satire on issue knowledge and policy engagement across media formats. *International Journal of Communication*, 7, 20
- LaMarre, H. L., Landreville, K. D., Young, D., & Gilkerson, N. (2014). Humor works in funny ways: Examining satirical tone as a key determinant in political humor message processing. *Mass Communication and Society*, 17(3), 400-423.
- LastWeekTonight. (2020, December 8). *Home* [YouTube Channel]. YouTube. <http://www.youtube.com/user/LastWeekTonight>
- Linos, K., & Twist, K. (2016). The Supreme Court, the media, and public opinion: Comparing experimental and observational methods. *The Journal of Legal Studies*, 45(2), 223-254.
- Luckerson, V. (2015, January 20). How the 'John Oliver effect' is having a real-life Impact. *Time*. <https://time.com/3674807/john-oliver-net-neutrality-civil-forfeiture-miss-america/>
- Lupia, A. (2006). How elitism undermines the study of voter competence. *Critical Review*, 18(1-3), 217-232.
- Martin, J.D. (2016). The Daily Show. In *Encyclopedia Britannica*. Retrieved from <http://www.britannica.com/topic/The-Daily-Show>
- Michaels, L. (Executive Producer). (2014-2020). *Saturday night live* [TV series]. Broadway Video; NBC.
- Mitchell, A. (2018). *Americans still prefer watching to reading the news – And mostly still through television*. Pew Research Center Journalism & Media.
- Morning Consult. (2017). *Morning Consult National Tracking Poll #170205* [data set]. Retrieved from: https://morningconsult.com/wp-content/uploads/2017/02/170205_crosstabs_Brands_v3_AG_SNL.pdf
- Moy, P., & Pfau, M. (2000). *With malice toward all? : the media and public confidence in democratic institutions*. Praeger.

- Nabi, R. L., Moyer-Guse, E., & Byrne, S. (2007). All joking aside: A serious investigation into the persuasive effect of funny social issue messages. *Communication Monographs*, 74, 29–54.
- Noah, T., Flanz, J., Katz, J., & Melkman, J. (Executive Producers). (2015–2020). *The daily show with Trevor Noah* [TV series]. Ark Angel; Comedy Central.
- Oh, D. J. (2020, January 31). *Why Last Week Tonight's Social Media Team is Digital Marketing Gold*. Perfect Search Media. <https://www.perfectsearchmedia.com/blog/why-last-week-tonight-s-social-media-team-digital-marketing-gold>.
- Oliver, J., Carvell, T., Stanton, L., Taylo, J., & Thoday, J. (Executive Producers). (2014–2020). *Last week tonight with John Oliver* [TV series]. Avalon Television, Partially Important Productions; HBO.
- Oxford English Dictionary. (2020). Satire. In *Oxford English Dictionary*. Retrieved from <http://www.oed.com/viewdictionaryentry/Entry/171207#:~:text=A%20poem%20or%20>
- Popkin, M. E. (2012). The Role and Impact of "The Daily Show with Jon Stewart": Taking Satire Seriously On A "Daily Show" Basis. *Inquiries Journal*, 4(09).
- Reed, R. (2020, September 14). *John Oliver's 'Last Week Tonight' renewed through 2023 on HBO*. Rolling Stone. <http://www.rollingstone.com/tv/tv-news/john-oliver-last-week-tonight-renewed-hbo-1059644/>
- Scheb, J. M., & Lyons, W. (2000). The myth of legality and public evaluation of the Supreme Court. *Social Science Quarterly*, 928–940.
- Semeraro, E. (2018, May 4). Here's Who's Watching 'Saturday Night Live'-and Where They're Watching It. Broadcasting Cable. <https://www.nexttv.com/news/heres-whos-watching-saturday-night-live-where-theyre-watching-it>.
- Soroka, S., Fournier, P., & Nir, L. (2019). Cross-national evidence of a negativity bias in psychophysiological reactions to news. *Proceedings of the National Academy of Sciences*, 116(38), 18888–18892.
- Spriggs, J. F. (1997). Explaining federal bureaucratic compliance with Supreme Court opinions. *Political Research Quarterly*, 50(3), 567–593.
- Stoutenborough, J. W., Haider-Markel, D. P., & Allen, M. D. (2006). Reassessing the impact of Supreme Court decisions on public opinion: Gay civil rights cases. *Political Research Quarterly*, 59(3), 419–433.
- TBS. (2021). *About Full Frontal with Samantha Bee*. <https://www.tbs.com/about/full-frontal-with-samantha-bee>

- Tsfati, Y., Tukachinsky, R., & Peri, Y. (2009). Exposure to news, political comedy, and entertainment talk shows: Concern about security and political mistrust. *International Journal of Public Opinion Research*, 21(4), 399-423.
- Tyler, T. R., & Rasinski, K. (1991). Procedural justice, institutional legitimacy, and the acceptance of unpopular US Supreme Court decisions: A reply to Gibson. *Law and Society Review*, 621-630.
- Xenos, M. A., & Becker, A. B. (2009). Moments of Zen: Effects of The Daily Show on information seeking and political learning. *Political Communication*, 26(3), 317-332.
- Young, D. G. (2004). Late-night comedy in election 2000: Its influence on candidate trait ratings and the moderating effects of political knowledge and partisanship. *Journal of Broadcasting & Electronic Media*, 48(1), 1-22.
- Young, D. G. (2017). Theories and effects of political humor: Discounting cues, gateways, and the impact of incongruities. *The Oxford Handbook of Political Communication*, 871, 884.
- Young, D. G., & Tisinger, R. M. (2006). Dispelling late-night myths: News consumption among late-night comedy viewers and the predictors of exposure to various late-night shows. *Harvard International Journal of Press/Politics*, 11(3), 113-134.
- Zilis, M. (2015). *The limits of legitimacy: Dissenting opinions, media coverage, and public responses to Supreme Court decisions*. University of Michigan Press.