Television and Judicial Behavior: Lessons from the Brazilian Supreme Court

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Abstract

While much research has gone into determining the broader effects of judicial transparency, the literature is silent in investigating its effects on judicial behavior. This article explores a unique aspect of the Brazilian Supreme Court (STF); that its deliberations have been broadcast live on television since 2002, to investigate the behavioral effects of an increase in judicial transparency. I construct a novel database consisting of abstract constitutional review cases judged by the STF between 1988 and 2015 and employ a research design seldom used in the judicial behavior literature – Differences-in-Differences – to test empirically the effects of television on judicial behavior. The main result is that STF justices behave as politicians: when given free television time, they act to maximize their individual exposure. They achieve that by writing longer votes and by engaging in more discussions with their peers.

Keywords: supreme court, television, judicial behavior, differences-in-differences.

JEL classification: K40.

1. Introduction

This paper explores an idiosyncrasy of the Brazilian Supreme Court – the fact that since 2002 all of its sessions have been broadcast live on television – to investigate the consequences to judicial behavior of an increase in transparency. The main point is that when the judiciary opens itself to the public, apart from possible effects on the public image of the judiciary, the behavior of judges may change as they respond to the increased scrutiny and become more exposed to their audiences. Thus, this paper investigates an aspect of judicial behavior overlooked by the literature.

The positive effects of judicial transparency are well known. Research shows that increased transparency has effects on public trust of the judiciary (i.e. Grimmelikhuijsen and Klijn 2015) and that the exposition to judicial symbols makes the public accept the "myth of legality" (Gibson and Caldeira 2009), thus reinforcing judicial legitimacy (Gibson at al. 2014). However, little has been written on the effects of transparency on the judges themselves. On the handful of times that the literature has touched on the subject, it has been in the context of judicial reputation (i.e. Garoupa and Ginsburg 2010).

The many models of judicial behavior (i.e. those in Posner 2008) are surprisingly silent in this dimension and offer little guidance as to how judges might change their actions in response to a shift in the level of transparency. Therefore, as I will show in further detail in the next section, the answer to this question must be found elsewhere. Two separate research bodies, not connected in any way with the judiciary, provide interesting, although opposite, indications.

First, the literature on the transparency of specialized committees, along with empirical studies that explore a change in the rules concerning the publication of FOMC[1] meetings transcripts (Swank et al. 2008; Meade and Stasavage 2008), points to a retraction in the behavior of members of such committees. Meetings become more formal, discussions diminish and, generally speaking, members' behavior becomes more scripted, which has led some researchers to suggest that informal pre-meetings have emerged in reaction to increased transparency (Swank et al. 2006; 2008).

Second, the literature that investigates the effects on the behavior of politicians of the introduction of C-SPAN in the U.S. House of Representatives and in the U.S. Senate indicates a different set of consequences. Studies document the increase in the length of sessions of both houses (Mixon et al. 2001), the growth in the frequency of filibustering in the Senate (Mixon et al. 2003) and, perhaps as consequence of both effects, the reduction of turnover in the Senate (Mixon and Upadhyaya 2002). Thus, these studies show that politicians use C-SPAN as free political advertising and seek to maximize their exposition on television.

[1] FOMC is acronym for Federal Open Market Committee, the Federal Reserve Board branch that makes monetary policy decisions.

Therefore, the question that must be asked is: do judges in collegial courts behave as members of specialized committees or as politicians? If judges behave as politicians, their reaction to increased transparency would be in the direction of showing-off, grandstanding. On the other hand, if they behave as members of specialized committees, they would react differently, by avoiding discussions and sticking to the reading of votes prepared beforehand – or even by establishing informal pre-meetings.

The introduction of television in the Brazilian Supreme Court (*Supremo Tribunal Federal* in Portuguese, henceforth STF) provides a unique opportunity to test the consequences of a radical increase in transparency on the behavior of judges. In August 14, 2002, the STF became the first constitutional court in the world to broadcast its deliberations live on television. As I will show in greater detail further on, while the STF was certainly not the first court to allow cameras in their environment – the Supreme Court of Canada televises oral arguments since 1997 – it was the first (and, to the best of my knowledge, remains the only) constitutional court to allow live broadcasting of the deliberations between judges. In terms of U.S. Supreme Court proceedings, it would be equivalent to broadcasting the oral arguments, the conference and the announcement of the decision.

Using an original database and a research design little used in the judicial behavior literature – the Differences-in-Differences approach – I show that there were significant changes in the behavior of STF judges. As politicians, justices use television as free advertising and seek to maximize their exposure by writing longer votes (which are read aloud in court sessions) and by engaging in longer discussions with their peers.

The implications of this result are manifold. First, it is an indication that modelling judicial behavior as political behavior is correct in a further dimension. Not only judges have policy goals when they decide, but they also respond to other incentives the same way politicians do. Second, there are implications to the court's efficiency. If votes and discussions are longer, judges will decide fewer cases per session and the court's backlog will tend to increase. Therefore, when weighing in the pros and cons of allowing television in courtrooms, policymakers should consider unintended consequences on judicial behavior.

This paper is organized as follows. Section 2 presents the literature in greater detail, including information on previous empirical studies into the STF. Section 3 presents the institutional characteristics of the court that are relevant to this research, with special focus on the context of the introduction of television. Section 4 discusses the empirical strategy and Section 5 presents the database I use. Section 6 presents and discusses the results and, lastly, Section 7 concludes this paper.

2. Literature Review

In the context of contract theory, much has been written regarding transparency in agency relationships. For a long time, there was a general perception that agency relationships results would always

be better with increased transparency, that increasing the principal's ability to monitor the behavior of the agent would lead to greater alignment of incentives. However, Prat (2005) shows that in the context of career concerns for experts, more transparency can lead the agent to ignore valuable private signals and act in a conformist manner. In this context, the best the principal could do is to commit to keep the agent's actions secret.

If, as Posner (1993) and Epstein et al. (2013, p. 34) argue, we can model the relationship between the judiciary and the public (or the government) as a principal-agent problem, then Prat's results would lead to interesting questions regarding the optimal level of transparency of the judiciary. Would more transparency lead to "better" decisions?

Lessons can be drawn from other public agencies and committees that have been under pressure to increase their transparency and have done so in the past years, such as the Federal Reserve's Federal Open Market Committee (FOMC). One of the most radical ways through which the FOMC has increased its transparency was by the decision, in 1993, of publishing the transcripts of their meetings, albeit with a five-year delay. Interestingly, this decision included publishing the transcripts of the meetings of the past five years as well. This means that it is possible to compare the behavior of FOMC members when they believed their words would remain secret and when they knew they would eventually be made public.

This is precisely the strategy Meade and Stasavage (2008) employ to assess the impact of transparency on the incentive of FOMC members to dissent. The authors obtained dissent and concurrence data from all FOMC meetings in the 1989-1997 period and verified whether the probability of dissent is in some way associated with the increased transparency of the committee. In doing so, they explore the distinction between a "voiced dissent" and a real (vote) dissent. This distinction arises from the way FOMC meetings work. First, the chairman makes a policy recommendation. Then, the other members talk, voicing agreement or disagreement and, lastly, a formal vote is taken. Hence, members may switch position between the discussion and the final vote. In other words, disagreements voiced in the discussion do not necessarily materialize in dissenting votes.

The authors find that there is an effect of increased transparency on voiced preferences, but not on the final vote outcome. FOMC members tended to voice less dissents after the decision to publish the transcripts. Also, members became less likely to change their views between the discussion and the actual casting of the vote.

Other studies verify the emergence of pre-meetings when committees are forced to increase their transparency. Using the same data as Meade and Stasavage (2008) and supplementing it with further (anecdotal) evidence, Swank et al. (2008) argue that, after 1993, the focus shifted from the formal FOMC meeting to pre-meetings and that the formal meetings have become more "scripted", that is, less spontaneous.

Further useful parallels can be drawn from the literature that studies the effects of televising Senate and Congress sessions. Starting in 1979 in the House of Representatives and 1986 in the Senate, C-SPAN has offered broad television coverage of legislative proceedings. Mixon et al. (2001) is perhaps the first empirical attempt to assess the effects of the introduction of C-SPAN on the behavior of senators and congressman. By means of an event-based study, the authors show that the length of sessions in both houses has increased, although the effect in each house was different. They estimate the effect of C-SPAN to be, on average, of two minutes per bill introduced in the House and four minutes per bill in the Senate. The fact that the effect of television is larger on the Senate then the House is "due to the Constitutional features and specific rules of the Senate that allow senators to take better advantage of the presence of cameras than their House counterparts" (Mixon et al. 2001, p. 359).

Furthermore, televising legislative proceedings seems to have led to broader effects other than increasing the length of sessions, particularly in the Senate. Mixon et al. (2003) show that the frequency of filibustering in the U.S. Senate has increased in connection with the introduction of C-SPAN. Also, Mixon and Upadyaya (2002) show that the introduction of television in the Senate has led to lower turnover in this house. They argue that, as filibustering and grandstanding in the Senate are cheap political advertising, this gives incumbents an advantage against their opponents in electoral disputes, thus reducing the turnover of politicians in this house.

Thus, the two literatures point to different directions. The contract theory argument, supported by the empirical literature on FOMC meetings, is that an increase in transparency may have some detrimental effects in the sense that it may generate secret pre-meetings and reduce the members' freedom to disagree and to discuss with each other. On the other hand, literature of behavioral effects of television (an extreme case of transparency) in politicians shows that they use it as free advertising, leading to longer sessions, grandstanding, higher frequency of filibustering in the Senate and, consequently, to lower turnover of politicians.

However, to assess the potential consequences of increased transparency in the behavior of supreme court justices, it is necessary to analyze the incentives that are placed before them. Do judges face the same incentives politicians and committee members do? If so, can the conclusions of the FOMC and/or C-SPAN literatures be translated into assumptions regarding judicial behavior in the face of increased transparency and scrutiny? In other words, can we expect judges to behave as politicians or as committee members (or neither) in the face of increased transparency?

The set of incentives judges face, especially those of the Supreme Court, is certainly closer to those before committee members. Identically to FOMC members, Supreme Court justices are appointed by the president and confirmed by the Senate. Removal is very unlikely. Yet, while FOMC members are appointed to 14-year non-renewable terms, appointments to the Supreme Court are for life. This means that FOMC

members most likely have career considerations beyond their term, which is probably not the case for Supreme Court justices.

However, a large part of the literature argues that, in all relevant dimensions, U.S. Supreme Court Justices are political beings. According to Posner (2005), the combination of the court's constant conflict with Congress and "the lack of guidance that conventional legal materials provide in truly novel cases" (2005, p. 1277) makes the Supreme Court a political body. Thus, "analysis of the behavior of justices should parallel that of the behavior of conventional political actors" (2005, p. 1277).

Most models of judicial behavior seem to agree with the basic idea that judges are political beings. For example, in the attitudinal model (Segal and Spaeth 2002) judges are seen as political actors that seek clear policy objectives. There is a vast empirical literature that tests this model and frequently uses presidential appointment as a proxy for the judges' true political preferences. The popularity of the attitudinal model is attested by the extraordinary number of studies, in all levels of the U.S. Judiciary, with special emphasis in the Supreme Court, and also elsewhere in the world. More recently, this explanation of judicial behavior has been tested on constitutional courts of different legal traditions (i.e. Spain, Italy) and results show that political preferences are indeed a major determinant of court outcomes (see Epstein et al. 2013 p. 89-99 and references therein).

Two other models can perhaps be seen as refinements of attitudinal, for they take the same principle (judges have political preferences) but consider the existence of outside restrictions to judicial behavior. First, there is the strategic model which, in broad terms, is the idea that, to understand the behavior of judges, we must take into account how they interact with other relevant actors. That is, when judges make their decisions, they consider the (expected) behavior of their peers (in collegial courts), the judges in other instances of the judiciary (both superior and inferior), the public and Congress. One example is Caldeira et al. (1999), in which the authors develop a formal model and empirically test the existence of sophisticated voting in the U.S. Supreme Court. Sophisticated voting is the idea that, when deciding whether to grant certiorari, justices take into account the likely outcome of the case. Therefore, a justice might vote not to grant certiorari in a case he would wish to reverse if he believes the court as a whole will affirm, rather than reverse, the lower court's decision.

Then, there is the institutional (or neo-institutional) model, where judges are perceived to be constrained by the institutional characteristics of the body to which they belong. Some of the empirical studies related to this model are those that exploit differences in rules governing the appointment of judges – an institutional characteristic of the court – to explain several dimensions of variation in the judges' behavior. Examples include Brace and Hall (1995) and Choi et al. (2010).

Therefore, explanations of judicial behavior that altogether remove the role played by ideology and political preferences are rare the in the literature. Perhaps the only one is the legalist theory, which is the

somewhat naïve idea that judges are impartial arbiters of the law and that their personal traits and beliefs have no relationship whatsoever with the decisions they issue.

In Brazil, the empirical literature into the behavior of judges is still in its infancy. The few published studies have as focus the analysis of issues related with the Brazilian Supreme Court. For instance, both Ferreira and Mueller (2014) and Desposato et al. (2014) estimate ideal points for STF justices and conclude that they are highly correlated with presidential appointment. The latter study also tests the consequences of a 2004 reform that introduced a form of docket control in the STF and finds that it enabled the emergence of political cleavage on the court. Also, Arlota and Garoupa (2014) look for political alignment in the STF in cases that oppose the union and the states and find little evidence of it. Further, Oliveira (2008) shows the importance of the justice's previous careers in determining votes in the STF and Oliveira (2012) shows how the vote of the Justice Rapporteur is the single best predictor of the outcome of a case. Finally, Taylor (2004; 2008) and Nunes (2008) document how political parties use the STF to continue political battles lost in congress.

3. Institutional Characteristics

The STF is one of the world's oldest constitutional courts. Its roots can be traced to Imperial Brazil's *Supremo Tribunal de Justiça*, created in 1829. The first republican constitution, of 1891, established the basic institutional characteristics of the STF and much of it remains unaltered, with justices appointed by the President and confirmed by the Federal Senate. While clearly inspired in the U.S. Supreme Court, both in terms of institutional arrangement and legal competences, during the twentieth century the STF gradually became closer to its European counterparts, with the introduction of abstract review mechanisms typical of Kelsenian courts.

The overall assessment of the court's performance throughout the century is a somewhat contentious issue in the literature. While some (Brinks 2011, p. 147) criticize the court for being too deferent towards the executive, others (Kapiszewski 2012, p. 155-191) take a more positive view, noting that throughout the years the court has been able to create a statesman-like image, alternating between stringent checks to the executive and a more accommodating behavior.

Unlike the U.S. Supreme Court, where access to the court is limited to a single legal instrument (the request for certiorari), there are dozens of ways a dispute may end up in the STF (Falcão et al., 2011 lists 52 types of petitions, writs, etc.). There are three clearly defined groups of legal proceedings: the first is comprised of three types of petitions that seek abstract constitutional review (see Section 5 for more details); the second is comprised of concrete review appeals, it includes the Extraordinary Appeal (*Recurso Extraordinário*, in Portuguese) and a few other types of grievances and writs and, finally; the third group includes *habeas corpus* petitions, extradition requests and criminal lawsuits involving persons who only the

supreme court can judge[2] (congressmen, the president, ministers, etc.), that is, disputes that typically begin and end at the STF.

Numerically, the group which dominates the agenda of the court is the second. According to Falcão et al., 2011, over 90% of all demands to the STF between 1988 and 2009 fall into this group, while about 8% are the in third group and only less then 1% in the first group. Just to give an idea of what these proportions represent, in 2016 the court received over 57 thousand new petitions, of which over 46 thousand were in the second group.

The court issues its decisions in three ways. The first, and most numerous, is when justices decide by themselves, that is, as an ordinary judge and not in a panel (they are called *monocratic* decisions). The second is in one of the two chambers with five judges each (the president of the court belongs to neither). The third way is when the full court, with eleven judges, decides together.

The constitution, the codes of procedure and the court's internal rules of procedure regulate which kinds of cases are decided by individual judges, the chambers or the full court. Broadly speaking, justices can decide by themselves only in repetitive cases (where the full court has already established precedent), to dismiss cases that do not fulfill the most basic procedural requirements, and on injunctions where the delay to decide could lead to irreparable losses (*periculum in mora*). Monocratic decisions on injunctions must always be ratified by the full court or chamber and monocratic decisions on other issues can be appealed against (by the regimental grievance, *agravo regimental* in Portuguese).

The two chambers decide on *habeas corpus* petitions, criminal lawsuits involving government ministers, congressman and senators, and extraditions. The full court decides everything else, from abstract and concrete review cases to internal appeals of monocratic decisions. The logic of this division is fairly simple: the full court reviews all cases which can lead to the declaration of unconstitutionality of a law or create a binding precedent to the lower courts. The chambers analyze matters that tend to have only *inter pares* effects and the justices alone only replicate decisions already taken by the full court or dismiss cases in procedural grounds, apart from granting injunctions in emergencies.

The court elects its president every two years in a non-competitive election to a non-renewable two-year term. The elected president is always the most senior judge that has not served as president before, so it is perfectly predictable who will win the election and who the next presidents are going to be. The president of the court does not participate in either chamber and is not required to vote in most cases (although he usually does), his main discretionary power is in the setting of the agenda of the full court (each chamber has its own president, who sets its agenda as well).

[2] In Brazil, certain authorities enjoy the privilege of being tried by the Supreme Court in criminal cases. For more details see Reddy et al. 2013.

3.1. The STF and Television

While the court has always been open to the public, television cameras were usually not allowed inside the building. The first time this occurred was in November 23, 1992. On that day, the court decided on an injunction filed by Fernando Collor de Mello, then President of Brazil who, facing impeachment charges in Congress, tried to stop the process by appealing to the court. The President of the STF at the time, Justice Sydney Sanches, allowed cameras into the building, as he feared the public interest would be so great that it might threaten to overwhelm the space limitations of the court. Thus, by allowing the cameras in, people would watch the session on television instead of flocking to the court[3].

The introduction of television on a permanent basis occurred only in 2002. A law enacted by Congress and sanctioned by the president on May 17, 2002 enabled the creation of a public television channel (on cable, called *TV Justiça*) dedicated to the judiciary and, more specifically, to the Supreme Court. On August 14 that same year, live broadcasting began in the STF.

It is important to highlight, however, exactly what part of the court's decision-making process is broadcast live on television. In order to do so, I must first explain how the STF decides its cases.

When a case reaches the court, it gets randomly[4] assigned to a judge, who is called its rapporteur. The main function of the rapporteur is to handle the day-to-day aspects of the case. This includes: to notify and receive briefs from all parties concerned (in abstract review cases, this includes the legislative or executive body that created the piece of legislation in debate) and to decide on preliminary matters (admission of *amici curiae*, injunctions, etc.). After this part is over, the he/she indicates to the president that the case is ready to be presented before the full court (or chamber) and distributes copies of the report of the case - hence the name rapporteur - to his peers.

In the *en banc* session (*sessão plenária*, in Portuguese), which is broadcast live on television, the process goes the following way. First, the rapporteur reads aloud the report of the case, in which he briefly summarizes the legal question in dispute and the position of all parties involved, including (or especially) that of the Prosecutor General (PGR) and Solicitor General (AGU). Then the litigants, *amici curiae* (if there are any) and the PGR have fifteen minutes each to present their views to the court. Although there is nothing that formally prohibits it, it is not usual for justices to ask questions to the lawyers. Following, the rapporteur reads his vote aloud and so do the other justices, in reverse seniority order. The president is the last to vote and he then declares the final result. It is very common for judges to interrupt each other while they are voting, asking questions, providing information and raising other issues.

At any moment after the vote of the rapporteur a judge can ask for "*vista*", which means he needs more time to consider the question at hand before voting. If such request occurs, the voting sequence is

[3] On Justice Sydney Sanches's recollections of this event, see Fontainha et al. 2015 (in Portuguese)
[4] Article 66 of the court's internal rules of procedure determine that the draw is random within each class of lawsuits.

interrupted. The judgment will only resume when the judge indicates to the court he is ready to vote and another date is set.

Hence, in the STF, a very large part of the decision-making process is televised. Only what happens in judges' chambers is left out of the public eye. This is in stark contrast to what other constitutional courts around the world have allowed the television to record and broadcast. The Supreme Court of Canada televises the part of the decision-making process known as Oral Arguments, that is, when litigants present their arguments and are questioned by the members of the court. Another example is the Supreme Court of the United Kingdom, which broadcasts the summary of the judgment (for more details, see Youm 2012, p. 2005-15).

The extent to which the STF has allowed its proceedings to be broadcast often impresses foreign observers. Justice Samuel Alito Jr. expressed his disbelief that the conference that is broadcast is the *real* conference (Alito Jr. et al. 2010, p. 39), implying that what goes on TV is just for show and the real deliberation happens behind closed doors. Others, such as Professor Nancy S. Marder, describe the STF's arrangement as "one of the most unusual" ones (Marder 2012, p. 1561).

In Brazil, the introduction of television in the STF has divided the opinions of justices, law scholars and lawyers alike. A project of oral history into the STF conducted by FGV Law Rio has interviewed many current and retired justices, thus enabling a rare glimpse into the backstage of the STF. In these interviews, one subject that is nearly always raised is the creation of *TV Justiça* and its consequences to the court. I summarize the positions of those interviewed in Table 1.

[Table 1]

From Table 1, it is interesting to notice that sometimes justices that have opposite assessments of the existence of *TV Justiça* mention the same consequences of its introduction. This happens because there are other qualities that are not related to judicial behavior, such as increased transparency and increased public awareness of the court, that weigh in their assessment of broadcasting court sessions. Some former justices, such as Carlos Velloso (Fontainha et al. 2015, p. 134-135) and Moreira Alves (Fontainha et al. 2016, p. 81-83) say they believe sessions should be recorded and edited prior to broadcasting, so that while there would still be the benefit of increased transparency and public awareness of the court, some harsher disagreements between justices could be kept from the public eye.

The most cited consequences are on the length of votes and discussions, both of which supposedly became longer after the introduction of television. Also, some justices say that the number of votes read aloud increased. This requires further explaining. In the STF, when judges are voting, they can choose either to read the vote they (or, more likely, their clerks) prepared in advance or just to say something in the line

of “I agree with the rapporteur” or “I follow the dissent started by Justice X” (naturally the first to dissent should explain his reasons). Thus, the perception of some justices is that, due to the television, judges refrain from merely agreeing or disagreeing with the rapporteur and seek to justify their votes more firmly. Other less cited, however relevant, consequences include the increased reluctance of judges to change their views and the difficulty to reach a consensus.

It is interesting to notice that, in relation to the literature presented in the previous session, justices from the STF, by their own evaluation, seem to behave more like politicians than like members of specialized committees. As politicians, when given free television time justices behave in a way to increase their exposition and public profile. Almost all the cited consequences can be linked to some form of showing off.

However, some justices do mention effects that can be associated to the literature on transparency of specialized committees. An example is Justice Barroso, who says that because of television plenary sessions have become more scripted, less spontaneous. Also, he mentions that it hinders the deliberation process in the sense that it becomes more unlikely that justices will adjust their positions and compromise with their colleagues to reach a consensus (Fontainha et al. 2016, p. 123).

Hence, the anecdotic – or testimonial – evidence given by the justices themselves provides indications, but not a conclusive answer, to which were the effects of the introduction of television in the STF. Therefore, it is the purpose of this study to verify empirically which were the effects of television broadcasting on the behavior of justices of the STF. In the next section, I explain the research design I use to do so.

4. Empirical Strategy

Evidence presented in the previous section provides a first flavor of which effects could be detected in an empirical analysis. However, before presenting the regression approach I use in this study, it is necessary to highlight some hypotheses that are important to the validity of the research design and, therefore, to the plausibility of the conclusions drawn from it. These hypotheses cannot be tested directly, but I argue that they hold true.

First, I assume that, alone, television broadcasting has no effect in the behavior of judges, that is, the simple placement of cameras in the courtroom does not affect judicial behavior. What matters is whether, in each session, judges expect people to watch them on television. Supreme Court sessions are unsurprisingly long and monotonous, with a succession of judges reading votes prepared beforehand in a language that is loaded with jargon and far beyond the comprehension of the average citizen. The only thing that sometimes breaks the monotony are discussions between judges, which can be somewhat harsh in tone

and personal in content. However, those are rare and tend to be concentrated in cases which are politically and economically sensitive.

Thus, apart from the parties directly involved in the disputes under review, few people would be interested in what is going on in the court on an average day. Also, as the court lacks docket control[5], it is compelled to rule on cases that have neither policy implications nor any sort of original legal question. Therefore, most cases handled by the STF are of little interest to the general public or even to the legal community.

Accordingly, I argue that for the majority of cases, the introduction of television in the STF will have no discernible effect on the behavior of the justices. Any effect will be restricted to those cases that have broader economic and political implications. I also argue that, given the characteristics of the Brazilian legal system, those groups of cases can be identified with an objective attribute: whether they challenge state laws or federal laws.

This distinction is mostly based on the population affected by a STF decision. Rulings that strike down (or uphold) federal laws have nationwide impacts, while those that challenge state laws only have statewide effects. Also, given the way constitutional control is exercised by courts in Brazil, if two states enact identical laws and only one of them is questioned and struck down by the STF, the other remains valid. This makes constitutional control of state laws in the STF a repetitive task, and one with few legal innovations.

Another hypothesis I hold to be true is that the introduction of television in the STF can be treated as an exogenous event. That is, unlike Staton (2010), which explores how the Mexican Supreme Court uses transparency and communication strategically to enhance its legitimacy and power, I assume that the introduction of television in the STF was an event exogenous to the preferences and strategic considerations of (most of) its members. While there are few records of how the decision to broadcast STF sessions was taken, two facts are known: (1) it was not an imposition of Congress – the law that created *TV Justiça* does not mention any requirement that STF sessions should be broadcast live[6] and; (2) there was no vote among justices in this matter – Justice Moreira Alves mentions that he questioned Justice Marco Aurelio (then president of the court) at the time and he replied that he did not put the question to a vote because he knew he was going to lose (Fontainha at al. 2016, p. 82). Also, Justice Nelson Jobim says he has no recollection of any discussion in the court regarding this issue, that it was Justice Marco Aurelio's decision (Fontainha

[5] The STF has no docket control in cases where it has original jurisdiction, including the abstract review cases that are the main concern here. A constitutional reform introduced some docket control for appellate jurisdiction cases in 2004. For more details, see Desposato et al. 2014.

[6] Law 10461 of May 17, 2002.

at al. 2015, p. 256). Hence, the available evidence points to the conclusion that, while president of the court, Justice Marco Aurelio used one the reserve powers of his office to implement his desired policy.

Therefore, in this research I explore these two dimensions, whether the case was heard by the court before or after the introduction of television and whether the case challenges a state or federal statute, to identify the effects of television in the behavior of justices. To verify empirically whether there are any effects, I use the research design known in the literature as Differences-in-Differences (hence, DD)[7].

The DD approach is a research design for estimating causal effects. While highly popular in economics, despite of its known shortcomings (i.e., Bertrand et al. 2004), it has rarely been used in the context of Law & Economics and, to the best of my knowledge, never in the judicial behavior literature. Typically, when estimating effects of an event (i.e., a change of law or policy), a difficulty faced by researchers is how to distinguish the real effect of this event from other underlying changes such as time trends. The DD approach overcomes this difficulty by comparing two groups before and after the event, known as treatment and control groups. Ideally, control would be similar to treatment in all relevant characteristics other than the fact that it was not affected by the event under analysis. Thus, by comparing the two groups before and after the event, this approach provides an estimate of the effect of the event on treatment that is free from interference from any underlying changes that are common to both groups.

Hence, in this study, the control group is comprised of cases that challenge state laws, the treatment group includes cases that question federal laws and, naturally, the event is the introduction of live broadcasting in August 2002. As argued, any effects of television on the behavior of judges will be restricted to cases that challenge federal laws because justices respond not simply to television broadcasting but rather to the expected audience of their sessions, which is itself a function of how broad are the implications of the case at hand. Therefore, the DD specification is given by the following equation:

$$y_i = \alpha + \beta_1 D_{TVi} + \beta_2 D_{FEDi} + \beta_3 D_{TVi} D_{FEDi} + X_i'\theta + \varepsilon_i$$

Where D_{TVi} is the dummy variable that indicates treatment, that is, whether the session where case i was discussed was broadcast on TV or not. Dummy D_{FEDi} separates treatment and control groups, that is, those that involve federal laws from those that do not. The interaction between these two dummies accordingly indicates cases that question federal laws decided on sessions which were televised. Hence, coefficient β_3 is the DD effect. Also, y_i is the generic notation given to the dependent variable. Lastly, X_i is the matrix of control variables and θ the vector of parameters associated with them. Typical control variables include time fixed effects, judge fixed effects, and other case characteristics.

Discussion in Section 2 provides some indication as to where possible changes in the behavior of judges due to the introduction of television can be identified and, therefore, to which variables are good

[7] For an introduction to the DD approach see, for instance, Angrist and Pischke, 2008 p. 221-243

candidates for the dependent variable in the DD specification. The empirical literature on FOMC meetings is mostly based on voting records – concurrences and dissents, hence the dissent rate is a natural candidate to observe changes in the behavior of STF justices. Further, the literature on the introduction of television in the U.S. Congress uses a few aspects of congressional behavior that can be quantified, namely the length of sessions (in hours) and the frequency of filibustering. While it is not possible to measure the length of STF sessions and there is no such thing as filibustering in courts, other measures in the same spirit can be used, such as the length of votes (which are read aloud in court) and the length of discussions between justices – all in terms of pages from court transcripts.

If judges from the STF, as politicians, act to maximize their individual exposure, then the shift in behavior due to television broadcasting will be in the direction of writing longer votes and engaging in more discussions. In such case, positive results for both length of votes and of discussions are expected. However, the expected outcome for dissents is less clear. A possible line of argument is that, given the context of television, dissenting may be another way of showing off, and of signaling to the public that each judge is independent and forms his convictions regardless of the view of the court's majority. In this way, the relationship between dissents and television would be positive. However, another possible argument is that dissents are mainly the result of ideological differences between judges (as in the attitudinal model) and therefore television would have no direct effect on the dissent rate.

On the other hand, if judges behave like members of specialized committees, the expected results differ. In this case, the introduction of television should have no impact on vote length and a negative impact on discussions, as judges stick to reading their votes and refrain from discussing the case in front of a live audience. Also, we would expect no effect on dissents, as Meade and Stasavage (2008) did not find it in the FOMC context.

5. Data

To estimate the econometric models proposed in the previous section, it is necessary to obtain a database with decisions from the STF's full court. As there exists no publicly available consolidated database of STF decisions, the path usually undertaken by researchers, as I do here, is to obtain them individually from the court's website. The database I created for this study includes all abstract constitutional review cases decided by the full court between 1988 and the end of 2015. It includes the three types of abstract review mechanisms available in the Brazilian legal framework, the ADI, ADC and ADPF.

Of the three, the Direct Action of Unconstitutionality (*Ação Direta de Inconstitucionalidade* in Portuguese, henceforth ADI) is by far the most common. It enables certain parties to directly challenge the validity of state or federal laws in the STF. Among the entities allowed to file ADIs are the Prosecutor General, political parties, state governors, unions and class associations (i.e. the Bar Association). The

Declaratory Action of Constitutionality (*Ação Declaratória de Constitucionalidade* in Portuguese, henceforth ADC) is the exact opposite of the ADI. While in the ADI the petitioner asks the STF to overturn a law or statute, in the ADC it asks the STF to declare its constitutionality. As such, it is clearly a defensive mechanism, in which the petitioner (usually the President or the Prosecutor General) tries to avoid legal uncertainty resulting from conflicting decisions in lower courts. Lastly, the Claim of Non-Compliance with a Fundamental Precept (*Arguição de Descumprimento de Preceito Fundamental* in Portuguese, henceforth ADPF) is a mechanism that allows petitioners to directly question laws that cannot be questioned via an ADI or ADC, which are basically laws that predate the constitution.

Of the few empirical studies into the Brazilian Supreme Court available in the literature, a large proportion of them use ADIs as I do here, such as Ferreira and Mueller (2014) and Desposato et al. (2014). The reason why this class of actions has become popular is easy to explain. First, the number of such cases decided by the court is, at the same time, small enough to permit compiling a database case-by-case and large enough to enable convincing statistic and econometric analysis. Second, all cases except those dismissed by the justice rapporteur must be decided by the full court. Decisions on the merits of a case are always taken by the entire collegiate, never by one of the chambers or by one judge individually. This is especially useful to scholars who try to study political alignment and collegial dynamics. Lastly, unlike the other main tool of constitutional review available to the court, the Extraordinary Appeal (*Recurso Extraordinário*), the ADI has not undergone any radical changes in this period.

Therefore, one innovation of this research is that I include in the database not only the ADI but also the other two instruments of abstract constitutional review, the ADC and the ADPF. While numerically it may not represent a very significant addition, these instruments have been used in the recent past to challenge important legislation and have attracted a lot of public attention, thus being good candidates to be examples of the kind of behavior one might expect from judges in highly relevant cases.

It is important to highlight that only final decisions by the full court are included in the database. In other words, I exclude rulings that are temporary (injunctions - *medida cautelar*) and on internal appeals (more notably, the *agravo regimental* and *embargos de declaração*). I also exclude from the sample cases which were dismissed on procedural grounds by the justice rapporteur and thus never reached the full court.

Hence, I collected data on all ADIs, ADCs and ADPFs decided by the full court between the end of 1988 and the end of 2015. This sums up to 1678 decisions: 1649 ADIs, 11 ADCs and 18 ADPFs. For each one, I obtained the full decision from the court's website and some other information from the case webpage. The full decision – in Portuguese, *Acórdão* – contains the report of the case, the vote from each justice and the transcript of their discussions. It also has a cover page where the main elements of the case and legal arguments of the decision are summarized and a final sheet where the vote tally is described.

From each *Acórdão* I extracted information concerning its length, that is, its full length, of the report, of each vote and of the discussions (all in terms of pages). I also obtained the identity all justices that participated in the case and their position – if they agreed or disagreed with the rapporteur. Finally, from the case webpage I obtained all relevant dates (petitioning, rapporteur assignment, judgment session), the outcome of the case and the identity of the petitioner.

5.1. Descriptive Analysis

Table 2 summarizes the basic statistics (mean and standard deviation) of the main variables of interest: length of decision, of discussions, of votes, of the report and the dissent rate (defined here as the number of dissents per case). It also provides the number of cases in each group. The first thing to notice is that, overall, cases that involve federal laws tend to have longer decisions, with longer votes and discussions, as well as a higher dissent rate, when compared to cases that challenge state laws. Second, it is important to consider the orders of magnitude. On average, decisions on cases that question federal laws are over three times longer than those concerning state laws, and both discussions and votes are nearly four times longer. Also, dissents are over twice more frequent in federal cases.

[Table 2]

It is also important to observe the differences over time. Before live television was introduced in the STF, decisions on cases that challenged federal laws were, on average, 37.09 pages long. After television, this number jumped to over 80 pages long - it more than doubled. In those cases, the length of votes nearly tripled. Perhaps more impressively, the average length of discussions jumped from 1.17 pages to 12.19 pages, an increase of over 1000%. However, the same differences are not observed on cases that deal with state laws. The average length of decisions remained virtually stable, going from 20.65 to 20.78 pages, although we would not reject the hypothesis of no change. The length of the report and votes display a slight decrease, along with the dissent rate. The only variable that behaves in the opposite direction is the length of discussions, which increased from 0.31 to 2.50 pages.

A final comment on data presented on Table 2 is regarding the frequencies of each type of case. Cases challenging state laws correspond to nearly 80% of cases, while those that question federal laws are just over 20%. Lastly, even though the time frame is roughly balanced (12 years between the first ADI decided under the new Constitution and the start of TV broadcasting and 13 years since then), cases are not evenly distributed over those two periods. Roughly two thirds of cases were decided after the introduction of television in August 2002, and this pattern is consistent over cases that question state and federal laws.

To illustrate the behavior of these variables over time, Graph 1 and 2 present the yearly means and smoothed trends of the length of votes and discussions for each group of cases, that is, those challenging state laws and federal laws. In Graph 1 it is clear that, while the average length of votes in cases that question state legislation has been fairly stable over the twenty-five year period, for cases that question federal laws the behavior is much more erratic, with a clear increasing trend starting in the early 2000s and then decreasing slightly after 2013.

[Graphs 1 and 2]

Graph 2 tells a slightly different story. The average length of discussions was practically zero for both groups of cases until the late 90s, when it started to grow slowly for federal law cases. For state law cases, the average length of discussions remained close to zero until 2003, after which it grew to about 5 pages per case and remains roughly in the same level. However, for federal laws, growth is more rapid after 2003, reaching a peak in 2012. Although discussions in cases that question federal laws declined after 2012, they remain in a much higher level than in cases that challenge state laws.

6. Results

As explained in Section 4, the empirical strategy I adopt in this study entails the division of cases decided by the STF in two groups, according to which type of legislation each particular case questions. If a case challenges a state law it is considered to be in the control group, as the potential legal/policy implication of such cases is considerably narrow. On the other hand, if a case challenges federal law, it is placed in the treatment group, as the potential consequences of those cases are greater.

Here, I test whether the introduction of television produced changes in the behavior of STF justices in three measures: length of votes, of discussions and the probability of dissent. The first two measures are inspired by the literature that measures changes in the behavior of politicians due to the introduction of CPAN; the latter comes from the literature on the transparency and publicity of FOMC meetings. In the first and third measures, the unit of analysis is the vote of the individual justice; in the second, the unit is the case.

For each dependent variable, there are at least six regressions. The first is the simplest, where the basic differences-in-differences (DD) model is tested without the inclusion of any control variables. Regression (2) includes year fixed effects, that is, dummies that indicate in which year the case was judged. Following, regression (3) includes judge fixed effects, regression (4) includes information on the outcome of each case, regression (5) adds information on the proponent of each case and, finally, regression (6) includes type of case (ADI, ADC or ADPF), *vista* requests, and dissents (where plausible). In the regression

for vote length, the unit of analysis is the individual vote, hence there are two further specifications. Regression (7) includes controls to account for the nature of each vote, that is, whether the it is a rapporteur vote, a concurrence, dissent, the first dissent (due to the sequential nature of voting at the STF) or a "vista" vote. Lastly, regression (8) is identical to (7) except for clustering on the justice rather than on the case.

[Table 3]

Table 3 shows the regression results for the length of votes. The first thing to notice is that the DD coefficient has the expected signal and is statistically significant in all seven regressions. Also, the coefficient associated with the dummy variable that indicates cases that challenge federal legislation is positive and statistically significant. This means that the average vote length was already larger for cases that question federal legislation before the introduction of television and the DD coefficient shows that what television did was to magnify this difference. The fact that the coefficient associated with the television dummy is consistently negative, although not always statistically significant, is an indication that for the control group – cases that question state laws – the effect of television was in the opposite direction, making votes slightly shorter. Taken together, these results seem to suggest a kind of substitutability. As justices allocate their time and effort between cases, they prioritize those they believe will attract larger audiences to their TV channel, thus making judgments on unimportant cases even more brief and summary.

[Table 4]

Results for the length of discussions are shown in Table 4. While there are many similarities between these results and those for the length of votes, some important aspects differ. First, while the DD coefficient has the expected signal and is significant in all regressions, the coefficient associated with Federal Laws loses significance in the more complete specifications. This indicates that, in this aspect, there were no significant differences between cases that challenge state laws and those that question federal laws before the introduction of television in the court. Further, just as in the regressions for vote length, the coefficient associated the television dummy is usually negative (except for regression (1)) and significant, again suggesting a trade-off in the justices' allocation of time between cases.

[Table 5]

Following, Table 5 shows regression results for dissents. Here, as the dependent variable is binary (dissent=1; concurrence=0), I use the logit model to estimate de various specifications. Results are similar to those presented in previous tables. The coefficient associated with the DD dummy has the expected (positive) signal and is statistically significant in all six regressions. Also, the coefficient associated with Federal Laws is positive and significant in the first four regressions, indicating that, before the introduction of television, the likelihood of dissenting was already larger in cases that question federal laws. Furthermore, the coefficient associated with the television dummy is negative and significant in most regressions, pointing to a decrease, on average, of the likelihood of dissents in cases involving state laws after the introduction of television in the court.

The above result on dissents merits further comments. In the literature, dissents are considered to impose costs to both the dissenter and the collegiate (see Epstein et al. 2011, p. 103-104), in the sense that there is an effort cost of writing a dissent and a reputation cost to the collegiate that gets to be seen as a less united body[8]. In constitutional courts of European tradition, there are stronger incentives to avoid dissents and some courts even keep them from being published (see Garoupa and Ginsburg 2011). All characteristics of the STF would point to it having an extremely low dissent rate: no docket control, enormous workload and small number of judges. However, almost half of abstract constitutional review cases have at least one dissenting vote, which is a rate comparable to that of the U.S. Supreme Court and much higher than that of its European counterparts. Also, the effect of television on the probability of dissent points to the notion that dissents are costly to the dissenter, since the increase in dissents in federal law cases due to the introduction of television was accompanied by a slight decrease in state law cases.

6.1. Robustness Checks

The main robustness check I conduct here entails the elimination of ten years of the timespan of analysis: the earliest five years and the latest five years. This timespan cut resulted in the removal of around 27% of the cases but, most importantly, it eliminated two potentially problematic periods that might have been contaminating the results. First, the earliest period was one when the court adapted to a brand-new constitution and crafted the first precedents that would guide future decisions. Therefore, it is only natural that those first decisions were more hotly debated and thoroughly considered, with longer votes, discussions and more dissents. Even though the STF is not bound by its own precedent, the court's high workload means justices are unlikely to keep revisiting questions they already decided, as pointed out by Garoupa and Ginsburg (2011), so the first decisions under the new constitution were particularly important. Second, the

[8] The other – more direct – cost on the majority mentioned by Epstein et al. 2011, that judges may have to rewrite parts of the majority opinion to address criticisms in the dissent, doesn't exist in the STF, as votes are mostly written before judges know who will compose the majority and if there are going to be any dissents at all.

latest period includes the problematic year of 2012, when the court dedicated a full semester to hear an important corruption case, thus judging only a handful of other cases.

[Table 6, 7 and 8]

Tables 6, 7, and 8 display results for the same set of regressions for the length of votes, of discussions and dissents respectively, with the timespan reduced in ten years. As per Table 6, results for the length votes remain mostly unchanged. The coefficient associated with DD is positive and significant in all six regressions, although it decreased in magnitude when compared with those for the full sample. The same applies for the results on the length of discussions on Table 7: the coefficient remains positive and statistically significant, although with a smaller magnitude.

However, the results for dissents shown on Table 8 tell a different story. Here, even though the coefficient for DD remains positive, it loses statistical significance and, especially in the final three regressions, is numerically very close to zero. Note also that the coefficient associated with the federal laws dummy remains positive and significant. Hence, the effect of television broadcasting on dissents has not survived the removal of ten years of data. This may be an indication that what the DD dummy was capturing was an increase in dissents in cases that challenge federal laws that occurred much later, distorting the results. However, there is no simple explanation as to why there would be an increase in dissents between 2010 and 2015. The attitudinal model, for instance, isn't likely to produce a satisfactory answer. Even though there were many changes to the court's composition during this period, they just tended to increase the Worker's Party (PT) domination of the STF (it already had a majority since June 2006), which would lead to greater ideological homogeneity and, therefore, a decrease in dissents, not an increase.

Other changes were conducted in the regressions and have not altered substantially the results, therefore I omit displaying and discussing them in depth. They include: running the regression for the length of votes in logs instead of level (it is not possible to do that for the length of discussions because there are cases in which there were no discussions at all) and removing the 10% most extreme cases.

6.2. Timing of Effects

The above analysis shows that there are measurable effects of the introduction of television on the behavior of STF judges in two dimensions: judges write longer votes and engage in more discussion with their peers. However, a question that remains unanswered is on the timing of this effect. It seems natural to presume that any effects of television in the behavior of judges are not instantaneous. Frequently, changes in policy take time to achieve its intended (and unintended) effects.

As I have argued, STF judges respond to the expected audience of their channel. At first, as the transmission of *TV Justiça* was restricted to just a couple of cable providers, hence their expected audience was very limited. With time, more cable providers added *TV Justiça* to their channel listings and the largest broadcast television networks started selecting short clips of important cases to use in news reports. This greatly increased the exposure of the STF and, therefore, the expected audience of the court when deciding relevant cases.

Thus, to identify the moment when television began to have a measurable effect on the behavior of judges, I estimate several DD regressions for the length of individual votes. I take the most complete specification (regression (7) in Table 3) and vary the inclusion of data after the start of broadcasting. In this way, the first regression includes data until the end of 2002 (less than six months of television). The following includes data until the end of 2003, and thus successively until the most complete one, with the entire database, totaling fourteen regressions. On Table 9, I report the DD coefficient, its p-value and the sample size for each of them.

[Table 9]

Results on Table 9 show that television began to have a significant effect on the behavior of judges by the end of 2005, two and a half years after the start of broadcasting. Interestingly, in the regressions that include data only up to the end of 2002 and 2003 the DD coefficient is negative, which might indicate that the short-term effects of the introduction of television are in the opposite direction of long-term effects. However, as those coefficients are non-significant, it would be ill-advised to draw any conclusions from them.

To summarize, the results presented here indicate that the introduction of television in the STF had effects on the behavior of judges on two measurable dimensions: longer votes and longer discussions. Also, that those effects were not instantaneous. The effect on dissents, while significant in the regressions that include the full sample, does not survive the robustness checks. Thus, to answer the question posed on the introduction to this paper, results from the empirical analysis indicate that STF justices behave as politicians. The increase on vote length and discussions points to judges attempting to maximize their personal exposure on television, just as politicians do.

7. Conclusion

In the U.S. Supreme Court, deliberations among justices are the most secret part of the decision-making process. In conferences, no one other than the justices – not even clerks – is allowed inside the room. The few glimpses researchers have of the dynamics of the discussions are obtained from interviews and, occasionally, when retired justices give access to their private papers. The Brazilian Supreme Court is

unique among constitutional courts in the sense that it allows an unprecedented level of scrutiny of its deliberations. Not only transcripts of the discussions are part of the published decisions, but everything is broadcast live on television.

In this research, I explore this drastic increase in transparency – the decision to broadcast court sessions on television – to show how the behavior of judges responds to transparency and scrutiny. I find that it does so in two measurable dimensions. First, justices write longer votes. Second, they engage in more discussions with their peers. Taken together, these results point to the notion that justices seek to maximize their exposition on television and, in this sense, behave as politicians.

These findings raise relevant questions to countries that are considering measures to increase the transparency of their judicial systems. While there is ample evidence that more transparency has positive impacts in the legitimacy of the justice system, the results of this paper suggest that there is a trade-off involved in this decision. As transparency increases and judges are more exposed to public scrutiny, they respond to this change by engaging in actions that reinforce their exposure. In other words, judges do not shy away in response to exposure and scrutiny, they revel in it. This fact has potential consequences in terms of court dynamics, as judges compete for the spotlight, and of court efficiency, as decisions take longer and therefore demand more court resources.

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Table 1 – Summary of interviews

Justice	Status	Overall Assessment	Cited consequences on judicial behavior
Rafael Mayer	Retired	None	None
Aldir Passarinho	Retired	None	None
Sepúlveda Pertence	Retired	Ambiguous	Longer votes, grandstanding
Cezar Peluso	Retired	Negative	Less willingness to change point of view, more discussion between justices
Sydney Sanches	Retired	Positive	More discussion between justices
Célio Borja	Retired	None	None
Carlos Velloso	Retired	Positive	Longer votes, more votes read aloud
Néri da Silveira	Retired	Positive	None
Nelson Jobim	Retired	Negative	Strong change in behavior, longer votes, more votes read aloud
Eros Grau	Retired	Negative	Change in the purpose of debate: not to add knowledge, but to show off
Roberto Barroso	Active	Positive	Less spontaneity, longer votes, less consensus
Luiz Fux	Active	Negative	More discussions, harsher discussions
Moreira Alves	Retired	Negative	Longer votes, grandstanding
Ilmar Galvão	Retired	Ambiguous	Longer votes, more votes read aloud
Francisco Rezek	Retired	Ambiguous	Longer votes, more votes read aloud

Notes: Information taken from interviews conducted by researchers from FGV Law Rio. See references.

Table 2 – Summary Statistics

		Before TV	After TV	Total
Federal Laws	Decision length	37.095	85.932	64.067
		(3.730)	(6.852)	(4.319)
	Report length	7.329	6.592	6.922
		(0.589)	(0.355)	(0.356)
	Vote length	2.623	6.465	4.740
		(0.204)	(0.306)	(0.194)
	Discussions length	1.173	12.199	7.262
		(0.268)	(1.327)	(0.794)
	Dissent rate	1.065	1.413	1.257
		(0.112)	(0.111)	(0.079)
	N	167	206	373
State Laws	Decision length	20.652	20.788	20.743
		(0.961)	(0.718)	(0.575)
	Report length	6.176	4.369	4.974
		(0.225)	(0.078)	(0.095)
	Vote length	1.253	1.204	1.221
		(0.059)	(0.040)	(0.033)
	Discussions length	0.318	2.502	1.770
		(0.061)	(0.225)	(0.153)
	Dissent rate	0.629	0.437	0.501
		(0.055)	(0.030)	(0.027)
	N	437	868	1305
Total	Decision length	25.198	33.283	30.373
		(1.277)	(1.634)	(1.146)
	Report length	6.495	4.796	5.407
		(0.231)	(0.097)	(0.105)
	Vote length	1.644	2.254	2.033
		(0.073)	(0.072)	(0.053)
	Discussions length	0.554	4.362	2.991
		(0.087)	(0.333)	(0.220)
	Dissent rate	0.750	0.625	0.669
		(0.051)	(0.034)	(0.028)
	N	604	1074	1678

Table 3 – Regressions for Vote Length

Y = Vote Length	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
DD	3.891***	3.526***	3.551***	3.288***	3.170***	2.293***	2.229***	2.229***
	(0.660)	(0.635)	(0.639)	(0.631)	(0.625)	(0.559)	(0.548)	(0.676)
Federal Laws	1.370***	1.270***	1.265***	1.718***	1.547***	1.204***	1.184***	1.184***
	(0.340)	(0.371)	(0.372)	(0.373)	(0.378)	(0.338)	(0.331)	(0.310)
Television	-0.0488	-1.160**	-1.297***	-1.549***	-1.428***	-0.776*	-0.804*	-0.804**
	(0.103)	(0.460)	(0.462)	(0.496)	(0.502)	(0.470)	(0.466)	(0.304)
Year FE	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Judge FE	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Case Outcome FE	No	No	No	Yes	Yes	Yes	Yes	Yes
Petitioner FE	No	No	No	No	Yes	Yes	Yes	Yes
ADCs						1.329	0.776	0.776
						(2.133)	(2.040)	(1.128)
ADPFs						8.668***	8.816***	8.816***
						(2.289)	(2.286)	(2.188)
Dissent Rt.						1.114***	0.967***	0.967***
						(0.123)	(0.127)	(0.110)
Rapporteur							7.720***	7.720***
							(0.283)	(0.818)
Dissent							-0.130	-0.130
							(0.281)	(0.430)
First Dissent							1.904***	1.904*
							(0.418)	(0.942)
Vista							11.88***	11.88***
							(1.030)	(1.352)
Constant	1.253***	3.248***	2.553***	1.478**	2.027*	1.595*	1.216	1.216
	(0.0880)	(0.683)	(0.701)	(0.739)	(1.074)	(0.946)	(0.943)	(0.819)
Observations	15,583	15,583	15,583	15,583	15,583	15,583	15,583	15,583
R-squared	0.069	0.094	0.104	0.109	0.112	0.165	0.330	0.330

Robust standard errors in parentheses (clustered on the case in (1) - (7); on the judge in (8)).
Significance of regression coefficients: *** p<0.01, ** p<0.05, * p<0.1

Table 4 – Regressions for Length of Discussions

Y = Discussions Length	(1)	(2)	(3)	(4)	(5)	(6)
DD	8.841***	7.157***	6.606***	6.884***	6.667***	5.339***
	(1.372)	(1.256)	(1.134)	(1.167)	(1.129)	(1.027)
Federal Laws	0.856***	0.901***	0.605**	0.726**	0.624	-0.0702
	(0.275)	(0.313)	(0.297)	(0.340)	(0.398)	(0.449)
Television	2.184***	-1.873***	-3.615***	-3.791***	-3.648***	-2.994***
	(0.233)	(0.524)	(0.773)	(0.799)	(0.800)	(0.678)
Year FE	No	Yes	Yes	Yes	Yes	Yes
Judge FE	No	No	Yes	Yes	Yes	Yes
Case Outcome FE	No	No	No	Yes	Yes	Yes
Petitioner FE	No	No	No	No	Yes	Yes
ADCs						7.282
						(8.499)
ADPFs						2.863
						(2.956)
Vista						2.812***
						(0.894)
Dissents						2.259***
						(0.257)
Constant	0.318***	4.874***	-16.55***	-18.06***	-12.65**	-10.14
	(0.0617)	(1.296)	(5.147)	(5.083)	(6.398)	(7.110)
Observations	1,678	1,678	1,678	1,678	1,678	1,678
R-squared	0.156	0.265	0.325	0.336	0.348	0.444

Robust standard errors in parentheses

Significance of regression coefficients: *** p<0.01, ** p<0.05, * p<0.1

Table 5 – Regressions for Dissents

Y = Dissent	(1)	(2)	(3)	(4)	(5)	(6)	(7)
DD	0.704***	0.726***	0.810***	0.709***	0.667***	0.653***	0.653***
	(0.186)	(0.208)	(0.225)	(0.226)	(0.228)	(0.231)	(0.221)
Federal Laws	0.527***	0.429**	0.461**	0.349*	0.266	0.252	0.252**
	(0.148)	(0.171)	(0.184)	(0.189)	(0.190)	(0.189)	(0.126)
Television	-0.375***	-0.728*	-0.740	-0.846*	-0.791*	-0.781*	-0.781**
	(0.117)	(0.439)	(0.457)	(0.444)	(0.443)	(0.437)	(0.376)
Year FE	No	Yes	Yes	Yes	Yes	Yes	Yes
Judge FE	No	No	Yes	Yes	Yes	Yes	Yes
Case Outcome FE	No	No	No	Yes	Yes	Yes	Yes
Petitioner FE	No	No	No	No	Yes	Yes	Yes
ADCs						0.727	0.727*
						(0.470)	(0.386)
ADPFs						0.185	0.185
						(0.431)	(0.343)
Constant	-2.616***	-2.385***	-2.902***	-3.565***	-3.693***	-3.680***	-3.680***
	(0.0923)	(0.503)	(0.638)	(0.709)	(0.811)	(0.806)	(0.662)
Observations	15,583	15,573	15,573	15,573	15,573	15,573	15,573
Pseudo-R^2	0.029	0.048	0.151	0.167	0.171	0.172	0.172

Robust standard errors in parentheses (clustered on the case in (1) - (6); on the judge in (7)).
Significance of regression coefficients: *** p<0.01, ** p<0.05, * p<0.1

Table 6 – Regressions for Vote Length (limited sample)

Y = Vote Length	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
DD	2.325***	2.072***	2.068***	1.904**	1.776**	1.603**	1.502**	1.502**
	(0.774)	(0.769)	(0.771)	(0.751)	(0.742)	(0.675)	(0.663)	(0.715)
Federal Laws	1.507***	1.654***	1.665***	1.830***	1.691***	1.139***	1.136***	1.136***
	(0.467)	(0.497)	(0.497)	(0.488)	(0.499)	(0.429)	(0.426)	(0.362)
Television	0.111	-0.880**	-1.005**	-1.148**	-1.112**	-0.660	-0.676	-0.676**
	(0.0851)	(0.429)	(0.431)	(0.463)	(0.469)	(0.438)	(0.437)	(0.282)
Year FE	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Judge FE	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Case Outcome FE	No	No	No	Yes	Yes	Yes	Yes	Yes
Petitioner FE	No	No	No	No	Yes	Yes	Yes	Yes
ADCs						-1.195	-1.463	-1.463
						(1.804)	(1.836)	(1.945)
ADPFs						8.122***	8.246***	8.246***
						(2.898)	(2.921)	(2.430)
Dissent Rt.						0.963***	0.869***	0.869***
						(0.166)	(0.171)	(0.106)
Rapporteur							6.998***	6.998***
							(0.326)	(0.826)
Dissent							-0.315	-0.315
							(0.254)	(0.501)
First Dissent							2.069***	2.069*
							(0.392)	(1.030)
Vista							10.30***	10.30***
							(1.257)	(1.416)
Constant	0.984***	3.413***	2.914***	2.412**	1.458	-1.114	-1.122	-1.122*
	(0.0681)	(1.010)	(1.087)	(1.096)	(1.054)	(0.799)	(0.787)	(0.593)
Observations	10,980	10,980	10,980	10,980	10,980	10,980	10,980	10,980
R-squared	0.048	0.061	0.072	0.074	0.078	0.126	0.291	0.291

Robust standard errors in parentheses (clustered on the case in (1) - (7); on the judge in (8)).
Significance of regression coefficients: *** p<0.01, ** p<0.05, * p<0.1

Table 7 – Regressions for Length of Discussions (limited sample)

Y = Discussions Length	(1)	(2)	(3)	(4)	(5)	(6)
DD	4.132***	3.752***	3.588***	3.631***	3.536***	2.991***
	(1.159)	(1.118)	(1.053)	(1.076)	(1.059)	(0.993)
Federal Laws	1.587***	1.593***	1.314***	1.144***	1.250***	0.392
	(0.461)	(0.458)	(0.425)	(0.443)	(0.474)	(0.462)
Television	2.100***	-1.244***	-1.930***	-2.056***	-2.032***	-1.644***
	(0.234)	(0.437)	(0.650)	(0.683)	(0.704)	(0.582)
Year FE	No	Yes	Yes	Yes	Yes	Yes
Judge FE	No	No	Yes	Yes	Yes	Yes
Case Outcome FE	No	No	No	Yes	Yes	Yes
Petitioner FE	No	No	No	No	Yes	Yes
ADCs						-1.306
						(2.575)
ADPFs						8.190*
						(4.452)
Vista						2.823***
						(0.921)
Dissents						1.724***
						(0.247)
Constant	0.230***	5.981***	-7.600***	-7.675***	-13.12***	-6.311
	(0.0560)	(1.918)	(2.199)	(2.094)	(3.216)	(4.421)
Observations	1,187	1,187	1,187	1,187	1,187	1,187
R-squared	0.124	0.178	0.221	0.239	0.244	0.358

Robust standard errors in parentheses

Significance of regression coefficients: *** p<0.01, ** p<0.05, * p<0.1

Table 8 – Regressions for Dissents (limited sample)

Y = Dissent	(1)	(2)	(3)	(4)	(5)	(6)	(7)
DD	0.219	0.230	0.281	0.139	0.0312	0.0141	0.0141
	(0.231)	(0.243)	(0.266)	(0.264)	(0.264)	(0.264)	(0.219)
Federal Laws	0.924***	0.894***	0.979***	0.804***	0.738***	0.725***	0.725***
	(0.187)	(0.200)	(0.216)	(0.220)	(0.222)	(0.221)	(0.132)
Television	-0.0582	-0.579	-0.568	-0.609	-0.565	-0.536	-0.536
	(0.141)	(0.417)	(0.438)	(0.419)	(0.423)	(0.411)	(0.356)
Year FE	No	Yes	Yes	Yes	Yes	Yes	Yes
Judge FE	No	No	Yes	Yes	Yes	Yes	Yes
Case Outcome FE	No	No	No	Yes	Yes	Yes	Yes
Petitioner FE	No	No	No	No	Yes	Yes	Yes
ADCs						0.577	0.577*
						(0.438)	(0.312)
ADPFs						0.684	0.684
						(0.536)	(0.431)
Constant	-2.912***	-1.815***	-11.91***	-12.11***	-12.82***	-12.87***	-12.87***
	(0.113)	(0.460)	(1.120)	(1.216)	(1.378)	(1.385)	(1.130)
Observations	10,980	10,980	10,895	10,895	10,895	10,895	10,895
Pseudo R2	0.031	0.046	0.163	0.181	0.190	0.191	0.191

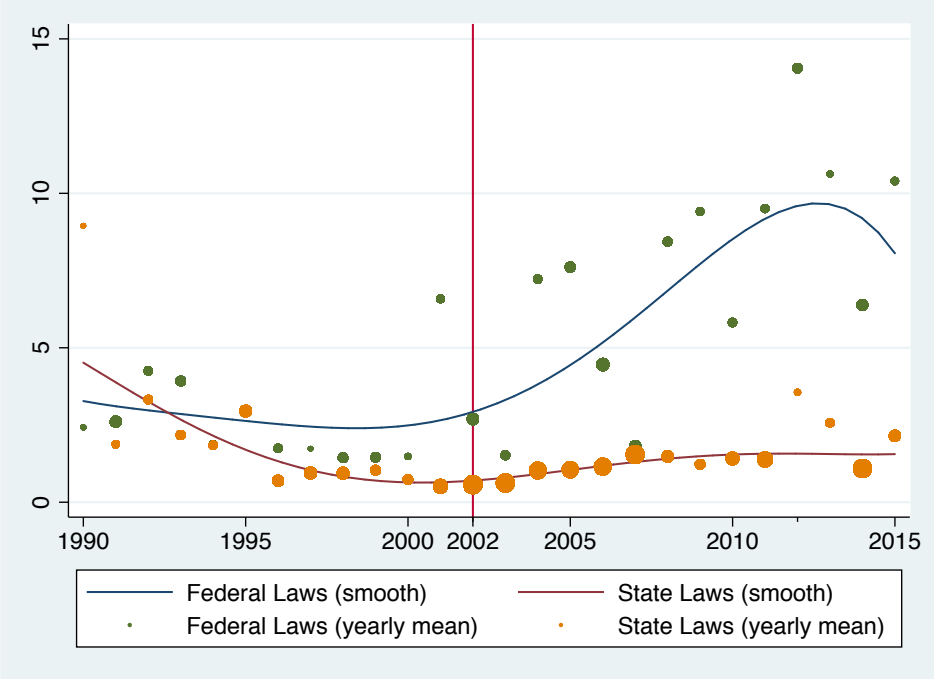
Robust standard errors in parentheses (clustered on the case in (1) - (6); on the judge in (7)).
Significance of regression coefficients: *** p<0.01, ** p<0.05, * p<0.1

Table 9 – Timing of effect

	DD	P-Value	N Votes	N Cases
2002	-1.156	0.089	6339	679
2003	-1.138	0.122	7377	794
2004	0.184	0.831	8254	866
2005	1.267	0.022	9140	977
2006	1.485	0.018	10190	1088
2007	0.944	0.045	11324	1212
2008	1.220	0.011	11800	1262
2009	1.284	0.011	12134	1299
2010	1.397	0.003	12702	1363
2011	1.642	0.001	13414	1443
2012	1.767	0.000	13636	1465
2013	1.887	0.000	13867	1490
2014	2.043	0.000	14960	1610
2015	2.229	0.000	15583	1678

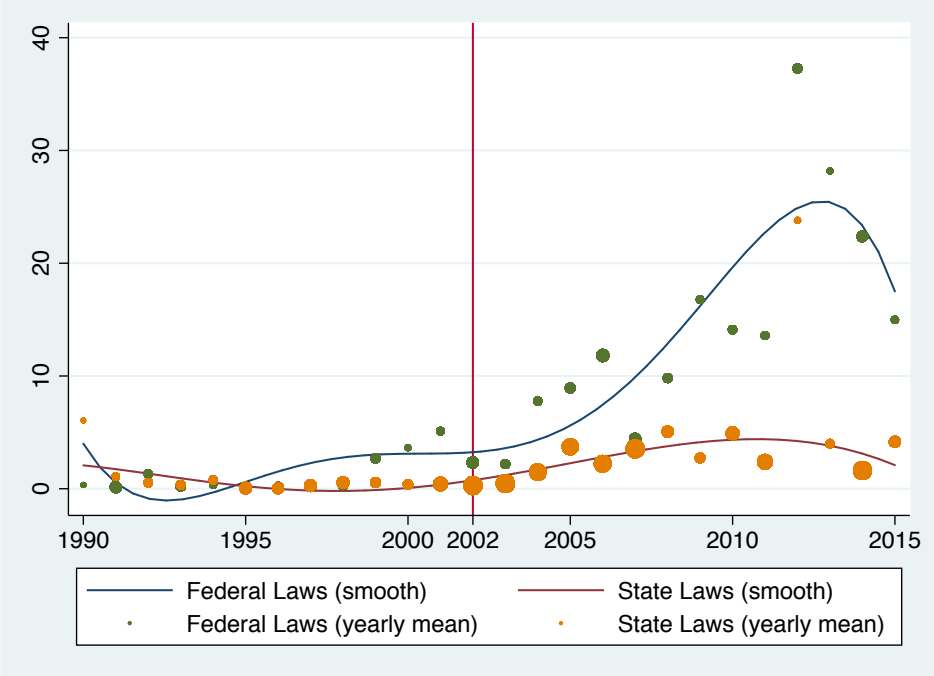
Note: DD is the Differences-in-Differences coefficient for regression (7) in Table 3 including data up to the end of the year reported in the first column. The dependent variable is the length of the individual vote. Standard errors are clustered by case.

Graph 1 – Vote Length



Note: Yearly means weighed by frequency. The vertical line indicates the year television was introduced in the Supreme Court.

Graph 2 – Discussions Length



Note: Yearly means weighed by frequency. The vertical line indicates the year television was introduced in the Supreme Court.