

INTERNATIONAL DISPUTES, MEDIA COVERAGE, AND BACKLASH AGAINST INTERNATIONAL LAW

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ABSTRACT: How international institutions and international law affect state behavior is a core question of international relations research. Since most international institutions lack independent enforcement, a broad range of theories argue that international institutions alter state behavior by mobilizing domestic audiences. This paper puts forth a theory explaining domestic backlash against international law and institutions by connecting media coverage – specifically the bias in the news media’s selection of international disputes – to public opinion formation towards international agreements. To test our theory, we examine both the content and effects of the media’s reporting on international disputes, focusing on the increasingly controversial form known as investor-state dispute settlement (ISDS). We find that newspaper outlets in both the United States and Canada have a bias in favor of covering disputes filed against their home country as opposed to those filed by home country firms. Using a survey experiment, we further find that the bias in news story selection has a strong negative effect on attitudes towards ISDS and related agreements.

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1 Introduction

How international institutions and international law affect state behavior is a core question of international relations research. Since most international institutions lack independent enforcement, a broad range of theories argue that international institutions alter state behavior by mobilizing domestic audiences. Whether focusing on information provision, generating audience costs, or creating credible commitments, the importance of domestic mobilization is central to explaining compliance with international law and the effectiveness of international institutions. Such theories help explain compliance with international monetary rules (Simmons, 2000), the effectiveness of human rights treaties (Simmons, 2009), the influence of the International Criminal Court (Chaudoin, 2016), compliance and dispute escalation in the World Trade Organization (Chaudoin, 2014), and the effectiveness of international environmental standards (Dai, 2005). While these theories generally assume that institutions provide information or act as fire alarms that mobilize pro-compliance domestic groups, recent research has begun to decompose domestic responses to international law, noting that both pro- and anti-compliance groups are mobilized (Chaudoin, 2016). While the effectiveness of international institutions and international law often hinges on the balance of pro- and anti-compliance groups for a particular policy or dispute, the very legitimacy and stability of the international legal system relies on states' willingness to voluntarily accede to and remain a party to such institutions, which is jeopardized when anti-international law attitudes are activated. In this paper, we examine support for international law and agreements, focusing on backlash against international institutions – an issue that has received limited attention from scholars, but has taken center stage with the United Kingdom's withdrawal from the EU, President Trump's announcement to withdraw from the Paris agreement, and the renegotiation of NAFTA.¹

Existing theories on domestic mobilization and international institutions have primarily focused on compliance with specific rules or rulings. While this has provided significant insights into questions about compliance, current scholarship has relatively little to say about backlash against the legalization of the international system and the formation of broader attitudes toward international institutions, international law, and sovereignty. To better understand how international institutions affect the behavior of states, and the specific question of when domestic mobilization pressures states to exit institutions or to turn away from potential new agreements, such as the Trans-Pacific

¹For a notable exception, see Peinhardt and Wellhausen (2016), which analyzes countries' withdrawing from investment treaties and the increasing backlash against such treaties.

Partnership (TPP), we seek to explain how the actions of international institutions, such as issuing judicial rulings, affects attitudes toward international institutions and international law. We propose a theory that connects international legal rulings, media coverage of those rulings, and domestic attitudes toward international law and institutions. Rather than focusing exclusively on whether pro- or anti-compliance groups are mobilized, we argue that when states enter into international legal disputes, domestic audiences update their beliefs about whether international institutions and international law are beneficial or harmful to their and their country's interests. Importantly, not all types of international disputes are created equal, and we argue that the media plays a critical role in determining which disputes receive attention and influence domestic attitudes.

Our focus on public attitudes toward international institutions and international law comes at a time when public opinion has played a significant role in shaping important aspects of foreign policy and national elections. In the United States trade policy was a focal issue in the 2016 presidential election and a lack of public support contributed to the country's failure to ratify the TPP, one of the largest trade deals in history. Public opinion played a similar role in Japan and Canada, stalling the ratification of the TPP (Tang, 2016), even before the United States abandoned it. EU member states have seen their domestic politics and national elections consumed by debates about their countries' relationships with the EU and the application of EU law in the areas of trade, immigration, and labor. To help explain domestic reactions to the policies of international institutions and the rulings of international judicial bodies, we put forth a theory which argues that domestic attitudes toward international institutions and law are shaped, in part, by the media's coverage of those institutions and legal bodies. Consistent with existing research on media coverage, we find that domestic media outlets systematically choose to cover international disputes (or policies) that are potentially harmful to the home country, and they systematically underreport disputes where the home country stands to gain. We then theorize that this asymmetric coverage has a meaningful effect on how domestic publics view the benefits of international institutions and international law, and that the media's selection process for international news reduces support for international law.

While our theory applies to a broad range of issue areas, we test our theory on an increasingly salient form of international law — investor-state dispute settlement (ISDS). ISDS has recently garnered significant attention from a wide range of media outlets and politicians. In the public debate over whether to ratify the TPP, one of the most contentious issues was the inclusion of ISDS provisions. Senator Elizabeth Warren bluntly summed up her concern about ISDS's inclusion in the

TPP, noting that “Agreeing to ISDS in this enormous new treaty would tilt the playing field in the United States further in favor of big multinational corporations. Worse, it would undermine U.S. sovereignty” (Warren, 2015). Similar backlash has extended across the political spectrum and across countries, as became clear when a group of Republican congressmen sent a letter to the U.S. Trade Representative arguing for the removal of ISDS from NAFTA because they view it as “undermining our sovereignty and threatening our system of federalism with a form of international preemption” (Donovan, Fitzpatrick, and Joyce, 2017). Similarly, the New Zealand Prime Minister announced that after the TPP negotiations her Cabinet had “instructed trade negotiation officials to oppose ISDS in any future free trade agreements (New Zealand Government, 2017). While investor-state dispute settlement is included in more than 3,000 international agreements and has been an element of international investment governance for decades, a substantial growth in the number of claims being filed (Hafner-Burton, Puig, and Victor, 2016) and the push to incorporate investment provisions within bilateral and multilateral trade liberalization agreements has increased the attention paid to the often secretive ISDS system and has been associated with increased skepticism toward ISDS and the agreements that include it.

Our theory argues that the interaction between the nationality of the dispute participants, the expected allocation of benefits from the dispute, and media coverage of the dispute affects how respondents evaluate this form of international law and associated agreements. ISDS provisions grant new rights to firms in both home and foreign countries while exposing the governments of those countries to potential new liabilities. We predict that media coverage of disputes filed by home country firms (the beneficiaries) will increase support for ISDS and international legal agreements, while coverage of disputes filed by foreign firms against a home country government will reduce support. We find that major media outlets, specifically newspapers and television in the United States and Canada, are much more likely to report on ISDS disputes when their home country is sued, as opposed to when an home-company sues another country. We also employ a national survey experiment conducted on 544 United States registered voters to test the effect of the media’s coverage of international legal disputes. We find that respondents exposed to a news article about a Canadian firm filing a suit against the United States were on average 12.7 percentage points less likely to indicate support for ISDS provisions and 9 percentage points less likely to support the TPP compared to those exposed to a news article about a U.S. firm filing a suit against Canada. Combined with our analysis that shows the news media has a significant bias in favor of reporting

on disputes where the home country is the defendant, we find strong evidence that the media’s selective coverage of international economic disputes can significantly reduce the public’s support for ISDS provisions and the agreements that include them, showing how the actions of international institutions, filtered by the media’s selection of content, can cause a backlash against international institutions and international law.

Our theory also argues that certain types of people will be most likely to react strongly to media coverage of international disputes. Because international institutions and international law often invoke concerns about sovereignty,² we expect that highly nationalistic members of the public will react most strongly when they are exposed to media coverage of disputes filed against their country. While international investment disputes are unlikely to invoke sovereignty concerns as strong as territorial disputes or military engagements, making them a harder test of our theory, media attention over the inclusion of ISDS in the TPP exemplifies the sovereignty concerns that ISDS can spark. The *Huffington Post* ran an article with the headline “The Big Problem With The Trans-Pacific Partnership’s Super Court That Were Not Talking About,” which argued that ISDS allows foreigners to erode the sovereign laws of the home country (Dayen, 2016). Such concerns about ISDS provisions are common across countries (Ankersmit, 2016; Hamamoto, 2015), and our study presents the first research to test what activates such concerns over ISDS and who is most likely to turn against the use of international law and the actions of international institutions.

The rest of this paper is laid out as follows. Section 2 presents a theory connecting media coverage of international legal disputes — specifically investor-state disputes — to public opinion, arguing that the selection of which disputes are covered shapes beliefs about international law and international agreements, especially among those who are highly nationalistic. Section 3 progresses through a series of empirical tests, first analyzing the degree of bias in major news outlets’ reporting of ISDS cases and then testing the impact of news media’s coverage of international disputes, using a national survey experiment to measure the effect of reporting on disputes where the home country is sued versus reporting on disputes where a home firm sues a foreign country. Our final section concludes with a discussion of the implications for international law and international institutions.

²Sovereignty concerns have been an increasingly relevant component of backlash to ISDS agreements (Peinhardt and Wellhausen, 2016).

2 Theory of Media Coverage, Public Opinion and ISDS

In building our theory connecting the media’s selection of international economic and legal news coverage to the public’s attitudes toward international law and international institutions, we begin with the assumption that the media disproportionately chooses to cover stories where international law is used against the home country. We then make three major claims. First, we argue that the selection of negative coverage creates the potential for backlash against international law and international institutions. Second, we argue that media coverage provides cues to the public about who wins and loses in international legal disputes, and that coverage of international disputes is particularly salient when emphasizing an “us” versus “them” divide. Finally, we theorize that different types of people will respond differently to media coverage, and that those who are more nationalistic, with high perceptions of national superiority, will be most likely to be affected by news coverage that reports on their country being sued in international disputes. We discuss each of these points throughout the remainder of this section.

For international institutions and international law to mobilize domestic audiences, the public must learn about and react to the actions of international institutions. Recent work by Pelc (2013, 652) used an innovative measure of behavioral responses to WTO disputes — google searches about the dispute — which showed that American constituents react strongly to disputes when their country is sued, but the results were mixed when the U.S. sued another country. Our theory’s focus on the media as a filter for information provides an explanation for the asymmetry in the public’s response to international disputes. Although there are a number of avenues through which the public can gain information about international disputes, we argue that one of the most important is through media coverage. The mass media serves as an important conduit through which individuals learn about political events (Graber, 2004). But the news media does not simply provide a stream of consumable information, the mere fact of coverage makes a particular issue more relevant for a viewer or reader (Iyengar and Simon, 1993). Moreover, media coverage “primes” individuals to draw more readily on the issues and topics being presented when forming political opinions and drawing inferences about the world (Iyengar and Kinder, 2010). The media therefore sets the terms for what information individuals will draw on when evaluating events and drawing inferences about the world. What is and is not covered affects what is and is not considered salient information. Importantly, the media does not cover every event. Just as individuals are selective about what news they consume,

media outlets are likewise selective about what issues and events they choose to cover. This means when *Buzzfeed* chose to run a 10,000 word series about ISDS provisions entitled “The Court That Rules the World” (Hamby, 2016) and John Oliver chose to have a feature story on ISDS on HBO’s *Last Week Tonight*, it raises the salience of ISDS for the public and provides cues that shape public opinion about ISDS, international law, and the agreements that include such provisions.³

In the case of international law and the policies of international institutions, we assume that the media disproportionately chooses to cover events that harm the home country, as opposed to those that benefit the home country. In the case of ISDS, major media outlets disproportionately choose to cover disputes where the home country is sued by a foreign firm, but they are much less likely to cover disputes when a firm from the home country sues a foreign country. Broadly, this is consistent with the media’s focus on negative events (Fogarty, 2005; Ju, 2008; Niven, 2001; Soroka, 2006). In other areas of international economic and legal news, similar patterns have been identified. For example, Guisinger (2017, chp 7) analyzed television coverage of the U.S. trade balance and found there to be a significant bias in favor of reporting when there was a decline in the balance of trade, as opposed to an improvement in the balance of trade. Similarly, Chaudoin (2014) found that WTO cases filed against the U.S. generated a significant increase in media coverage of the contested issues. The media not only has a bias for reporting on negative events, but also sets their agenda based off of the political agenda and politicians’ priorities, and *vice versa* (Bennett, 1990; Brandenburg, 2002; Green-Pedersen and Stubager, 2010; Kleinnijenhuis and Rietberg, 1995; van der Pas, van der Brug, and Vliegthart, 2017). Given politicians increasing concerns over ISDS and their focus on the sovereignty costs of being sued by foreign firms, politicians have provided significant fodder for the media’s disproportionate coverage of ISDS disputes where the home government is sued, as opposed to disputes where a home firm sues a foreign country. Through this selection process the media helps shape the public’s “picture” and perceptions of these issues (McCombs and Shaw, 1972; Mutz, 1992). The media’s selection process of stories is the first step in our theory connecting media coverage to a backlash against international law and persistent skepticism of international economic rules. In the next section, we test this basic assumption and find strong support for it with regard to ISDS. In the United States and Canada, investor-state disputes filed by foreign firms against a home country receive about twice as much media coverage in home country news sources relative to

³Governments have also been known to use the media to enhance the salience of ISDS (Poulsen, 2015, 201).

disputes where a home firm sues a foreign country.

The second step in our theory is connecting the media’s choice of coverage to public attitudes toward international law and international institutions. We build from studies of mass attitudes towards foreign policy and trade policy, which highlight the importance of attitudes towards in-groups and out-groups for how individuals react to international economic phenomena (Mansfield and Mutz, 2009; Mutz and Kim, 2017). We argue that in-group and out-group dynamics are present in international disputes, and are salient in ISDS, our issue area of empirical investigation. Therefore, the way in which the media covers investor-state disputes, in particular the types of disputes that they select, will have a meaningful effect on public opinion towards trade, investment, and international law. Because of their asymmetric structure, investor-state disputes highlight the “us” versus “them” divide that is commonly associated with international politics. We argue that the public uses news coverage about who initiates the dispute and who is the defendant as a cue to who ultimately wins and loses when international law is applied. When international law is employed by the home government or a domestic firm to sue foreign governments, the public will tend to interpret it as a good thing for the U.S. and view international law as working to their advantage. In contrast, when the domestic government is sued by foreign countries or companies, the public will view this negatively and is more likely to oppose international law. In this manner, even if the public has only a superficial understanding of the disputes, media coverage of international disputes provides informational cues to the public about who is able to take advantage of international law and who’s benefiting and who’s losing from international institutions.

A more nuanced understanding of ISDS also yields a similar conclusion. ISDS is an asymmetric institution – firms bring claims and states act as defendants.⁴ When faced with an ISDS claim, a state can, at best, win the case and be reimbursed its legal fees – a return to status quo ante. At worst, the state can lose and be required to pay damages averaging \$10 million (Franck, 2007) in addition to millions in legal fees.⁵ What then, do countries gain by exposing themselves to the risk of litigation? While emerging economies may see ISDS treaty provisions as a way to make credible commitments to foreign investors not to expropriate, thereby potentially increasing FDI

⁴While there have been a few ISDS cases where the claimant is a government (e.g. Government of the Province of East Kalimantan v. PT Kaltim Prima Coal and others, ICSID Case No. ARB/07/3), these cases are extremely rare and typically arise from contractual disputes between firms and state entities. Typical ISDS cases that stem from states’ treaty commitments are initiated exclusively by firms.

⁵Legal fees for investor-state disputes average just under \$10 million Hodgson (2014).

inflows (Neumayer and Spess, 2005), this logic does not hold as well for states with strong domestic property rights protections and independent judiciaries. To the extent that there are domestic benefits to ISDS, they accrue to home country multinational firms who are able to directly pursue legal claims against foreign governments without needing to lobby the state to take action.⁶ Given the asymmetry of ISDS cases, in any individual case the potential benefits are concentrated in the firm that files the suit. This means that a sophisticated consumer of news who understands these intricacies will update their beliefs about who is likely to benefit based on who is the claimant and who is the defendant. However, even an unsophisticated news consumer can easily interpret the cue that it is bad when their home government is sued and better when a firm from their country sues another country. We thus expect that news coverage of ISDS disputes can have a significant impact on the mass public, regardless of the public's level of understanding of the specifics of the ISDS process.

Although the typical individual, or the company they work for, will not be directly engaged in an international dispute, a growing literature argues that concerns for the national well-being play a prominent role in shaping attitudes toward foreign policy and trade, which suggests that the public will draw inferences from international events even when they are not directly impacted. When a domestic firm sues another country using ISDS provisions, the public will see that the system is benefiting that firm. Whether due to compatriotism (Mutz and Kim, 2017) or broader sociotropic concerns (Mansfield and Mutz, 2009), we argue that the public will believe the system is benefiting their nation when one of their country's firms uses ISDS to sue another country. Conversely, when a foreign firm sues the domestic government, the public will see the system as working against their country and will have more negative views toward international economic engagement.

Hypothesis 1: Media coverage of ISDS disputes initiated against the U.S. will decrease domestic support for ISDS provisions and related international agreements more broadly, relative to media coverage of ISDS disputes initiated by U.S. firms against other countries.

We also expect there to be heterogenous effects of media coverage on members of the public. Individuals who are particularly nationalistic, specifically those high in national superiority, should

⁶This is in contrast to dispute settlement in other institutions, such as the WTO, where the government acts as a gatekeeper and firms may need to lobby the government to have disputes initiated (Brutger, 2017).

be most concerned with how U.S. firms and the U.S. as a whole are fairing in the international legal system, whereas those who have low levels of national superiority should be more likely to identify with how international law affects those in the home and foreign countries. Recent research shows that individuals with high levels of national superiority care more about who wins and loses from trade (Mutz and Kim, 2017), and we suspect that beliefs about national superiority are even more important when countries engage in legal challenges that not only affect who wins and loses, but also challenge ideas about sovereignty and whose laws are right and wrong. We theorize that an ISDS case against the U.S. will have the greatest negative effect on public opinion among those high in national superiority, since the dispute represents a direct challenge to the national government. Those who believe their nation is superior to others are most likely to respond unfavorably to “foreign” courts telling their country how to set policy, and thus we expect the greatest treatment effects among this group. In contrast, we expect a domestic firm suing another country to have a positive effect on support for ISDS provisions and economic engagement, but we expect the effect to be smaller since the home government is not directly engaged in the dispute, and thus concerns about national sovereignty and national pride are not likely to be invoked. In sum, we expect those high in national superiority to be most influenced by international disputes, and that the home country being sued in a dispute to be the most important type of suit for the formation of public attitudes toward international law, ISDS provisions, and the agreements that include such provisions.

Hypothesis 2: *Media coverage of ISDS disputes will have a greater effect on individuals high in national superiority than those who are low in national superiority.*

Given our hypotheses regarding the impact of media coverage on attitudes toward international law and international institutions, we expect the effects of different types of suits and the associated media coverage to result in a general shift toward disapproval and skepticism toward international law and international institutions. We expect the effects of media coverage to result in a backlash against international law for a number of reasons. First, the media disproportionately covers disputes that harm the home country, so the public is most likely to learn about international law when it is being used against their country. Furthermore, in the case of ISDS when the home government is being directly sued, as opposed to a home firm suing a foreign country, we expect this to have a larger impact on attitudes toward international law and related agreements for two reasons. The

first reason draws on a broad literature which shows that negative information has a greater impact on people's impressions than positive information (Meffert et al., 2006; Ronis and Lipinski, 1985; Singh and Teoh, 2000; Vonk, 1993, 1996). Since the U.S. being sued has negative implications for the home country, we expect this information to make a stronger impression than when a U.S. firm sues another country. While much of the impression-formation literature is outside political science, this type of asymmetric information processing has been shown to play a significant role in the political arena. Scholars have found that negative information plays a greater role in voting behavior (Aragones, 1997; Kernell, 1977) and that presidents are more likely to be punished for economic downturns, but not reap comparable rewards for economic upturns (Bloom and Price, 1975; Claggett, 1986; Nannestad and Paldam, 1997). The asymmetric impact of negative information has also been shown with regard to domestic economic policy, where Soroka (2006) finds that the asymmetry is further amplified by the media's selection of economic news content. Building upon this literature, we argue that domestic audiences will have a stronger reaction to learning about the event of the U.S. being sued, rather than a U.S. firm suing another country.

The second reason we expect asymmetric effects is specific to the nature of ISDS disputes. In investor-state disputes, when an investor sues the home government, they are directly challenging the legitimacy of that country's laws and policies. Citizens who identify with their country are likely to view such a dispute as an affront to the standing of their country. This concern was articulated by the Chief Justice John Roberts when he noted that ISDS panels have alarming power to override a nation's laws and "effectively annul the authoritative acts of its legislature, executive, and judiciary" (Donovan, Fitzpatrick, and Joyce, 2017). We expect this characterization of ISDS to generate concerns about sovereignty and lead to a significant backlash against ISDS. In contrast, when a domestic firm sues a foreign country, this does not directly affect most citizens of the home country nor significantly implicate the welfare of the country as whole. Although some citizens may draw connections between themselves and the firm due to compatriotism or other reasons, such mental connections are likely to be relatively shallow.⁷ We expect this asymmetry between the home *government* being sued and home *firm* suing another country to result in the public being more responsive to ISDS disputes against the home country, as opposed to disputes against foreign

⁷We could also think of the counterfactual where the home government sues another country, such as occurs through the WTO. Although most citizens will not be significantly impacted by any individual case, they are more likely to care about the dispute because their country and government is fighting the case, which will invoke thoughts of patriotism and connection to the nation.

countries.

Taken as a whole, our theory argues that the media’s selection process, coupled with individuals’ reactions to coverage of the unfavorable news stories about the use of international law for the home country will result in decline in support for international law and international institutions. Our theory gives us leverage to explain part of the rise in skepticism toward international institutions and expanding sovereignty concerns in both the United States and abroad.

3 Media Coverage, Public Opinion, and Selection of Content

To examine the role of news media in shaping public attitudes toward international law and institutions, we focus on our empirical area of interest — attitudes toward ISDS and related international economic agreements. We conduct three types of analyses that build a strong connection between media coverage and the public’s skepticism of international economic policies. First, we begin by testing our core assumption about the selection of news coverage by the media with an analysis of leading news sources, specifically digital and print newspapers and prominent television news broadcasts in the United States and Canada, to determine whether the news media has a significant bias in selecting which types of international economic disputes they cover. Our analysis shows that there is a strong tendency of national news media sources to more frequently report on investor-state disputes when the home country is sued, demonstrating that the media plays a significant and biased role in determining what stories are covered.⁸ We connect this variation in coverage to individual attitudes using a national survey experiment that tests whether and how the media’s selection of which international investment-disputes to report on impacts public attitudes toward international law and international agreements. Taken as a whole, we find that the media exhibits a strong bias in selecting which stories to report on and, in a controlled experiment, the selection of news stories has a large impact on support for international investment dispute provisions and trade agreements.

⁸When we refer to media bias in this context, we mean the relative over-selection of disputes where the home government is sued by a foreign firm. The counterfactual where no media bias exists would be true if each dispute was equally likely to be selected for coverage, regardless of whether a home firm filed the suit or the home government was being sued.

3.1 Media Bias and ISDS

Given the potential connection between media coverage and attitudes toward international economic policies, what type of stories does the news media select? Existing research has shown that the media exhibits a bias when selecting news stories, with a preference for negative stories (Fogarty, 2005; Ju, 2008; Niven, 2001; Soroka, 2006). Before proceeding, we must confirm whether such a bias persists with regard to international law and disputes. Specifically, we want to know whether the news media exhibits a significant bias in its selection of which investor-state disputes to cover. To answer this question and test our first hypothesis, we examined the frequency with which major Canadian and U.S. newspapers and television news outlets reported on investor-state disputes filed under Chapter 11 of the North American Free Trade Agreement (NAFTA). We focus on this particular comparison as it allows us to fix the overall pool of cases to those filed under a single legal instrument while varying the nationality of the media sources and the direction of suit.

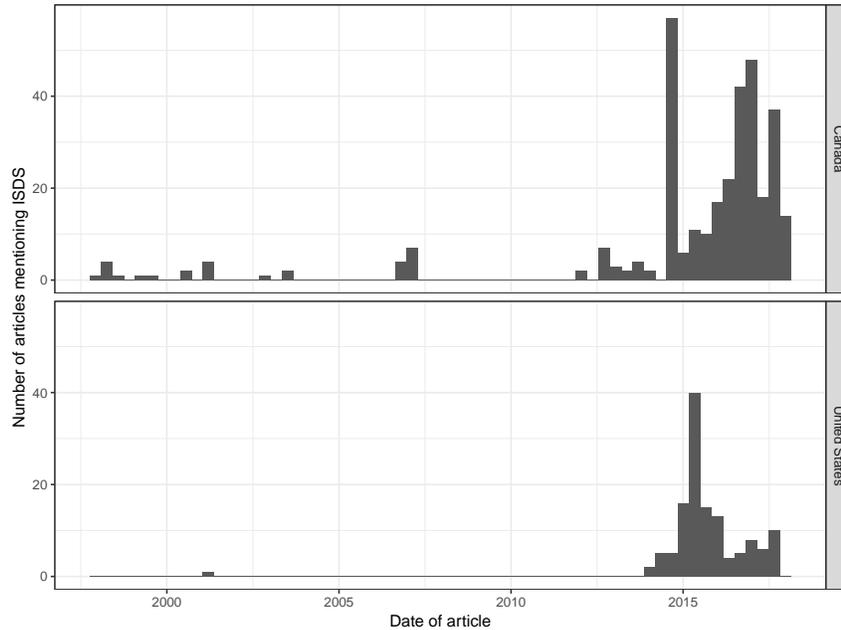
We first consider the overall magnitude of coverage of investor-state dispute settlement within the Canadian and U.S. media in general. To obtain comparable samples of high-readership newspapers in both countries, we consulted two surveys on daily newspaper circulation conducted within roughly the same timeframe: the 2013 Newspapers Canada Daily Newspaper Circulation Report and the 2013 Alliance for Audited Media’s 2013 Snapshot Report. For each list, we sampled the top-25 paid newspapers with the highest average circulation (both print and digital). We then checked whether these newspapers had accessible archives in the LexisNexis database. Eighteen of the twenty-five top Canadian papers had accessible archives along with twelve of the top United States newspapers.⁹ We also include in our national coverage samples transcripts from major television news sources that were available via LexisNexis. See the appendix, section 5.1 for details on the specific sources selected.

We then carried out a search for all articles mentioning either “investor-state dispute settlement,” “investor-state dispute mechanism,” or “investor-state dispute system” (with or without the hyphen) from 1994 to 2017. Figure 1 plots a histogram of the counts of articles over time. We find that the Canadian news media, in general, pays greater attention to the topic throughout most of the time period we consider. However, around late 2014/early 2015, we see a sharp spike in coverage in both Canadian and U.S. media, likely coinciding with the increasing salience of ISDS in preferential trade

⁹Newspapers whose archives could not be found in LexisNexis tended to be smaller regional papers (or, in Canada, Francophone papers) rather than major national publications.

agreements being negotiated at the time – the EU-Canada Comprehensive Economic and Trade Agreement (CETA) and the Trans-Pacific Partnership. Overall, while there has generally been very sporadic media attention to ISDS, it is a topic that has gained substantial salience over the last several years.

Figure 1: ISDS coverage over time – U.S. and Canadian Media



Note: Each verticle bar represents the amount of coverage in a 120 day period.

Next, we turn to the differences in coverage between the U.S. and Canadian news media and the bias of each country’s media. We began by collecting data on all disputes filed under NAFTA’s investment chapter (Chapter 11). This list was obtained from the United Nations Conference on Trade and Development’s dataset on treaty-based investor-state arbitrations.¹⁰ As of September, 2016, there had been 25 known notices of arbitration filed against Canada, 16 against the United States, and 18 against Mexico. Of these 59 initiated disputes, 30 have resulted in awards being rendered by the arbitral tribunal – 10 cases with Canada defending, 9 cases with the U.S., and 11 cases with Mexico. U.S. and Canadian firms are the primary users of Chapter 11, filing 41 and 17 disputes respectively. Aside from two cases filed by Canadian claimants against Mexico, nearly all of the cases involving Canadian claimants are filed against the United States. Conversely, of the 41

¹⁰This dataset is available at <http://investmentpolicyhub.unctad.org/ISDS>.

cases involving U.S. claimants, only 25 were filed against Canada.

Given a common set of disputes, we are interested in comparing how coverage in national media sources differs across claimant and respondent nationality between Canadian and U.S. news sources.¹¹ We carried out a narrower search of our media corpus to only those articles mentioning “NAFTA” and/or the “North Atlantic Free Trade Agreement” along with the term “dispute” and either “investment” or “investor.” This was deliberately designed to include terms that would be nearly guaranteed to be mentioned in any coverage of a NAFTA-based ISDS dispute. To match articles to individual disputes, we then searched through the article texts from this corpus for the name of each claimant firm from each dispute. Each match found this way was then manually inspected to confirm that the article did in fact reference the ISDS dispute in question.¹²

While the overall volume of coverage of specific ISDS disputes was higher in Canadian sources relative to U.S. sources,¹³ we find a significant bias in both countries, such that the media is more likely to report on disputes filed against the home country. Among Canadian news that covers U.S.-Canada NAFTA disputes, 74% of mentions involve a dispute where Canada is sued by a U.S. firm, while only 26% involve a Canadian firm suing the United States. While Canada has been sued more often than the U.S., only 62.5% of U.S.-Canada ISDS disputes involve a U.S. investor suing Canada. Relative to the expected coverage rates, Canadian media exhibits a tendency to cover disputes against Canada with greater frequency ($p < 0.01$).¹⁴ The U.S. media has a similar pattern of significantly over-reporting when the U.S. is sued ($p < 0.02$), with 59% of mentions involving disputes where the U.S. is being sued, and only 41% about a U.S. firm suing Canada, even though the U.S. is sued in only 37.5% of U.S.-Canada disputes.¹⁵ In total, we find that for any given NAFTA

¹¹We do not focus on coverage of disputes involving Mexico or the Mexican press as Mexican firms rarely participate as Chapter 11 claimants. Only one initiated NAFTA dispute has exclusively Mexican national claimants – *CANACAR v. United States of America*.

¹²While most of the matches were accurate, there were a few mis-matched articles. These tended to be cases where articles discussed inter-state NAFTA trade disputes, such as the softwood lumber dispute between the U.S. and Canada, in which potentially affected firms were mentioned.

¹³We reject the null ($\alpha = .05$) that the two coverage distributions are equal between United States and Canadian sources (two-sample chi-squared test, χ^2 statistic = 12.792, df=1, p-value = 0.0003481).

¹⁴A one-sample chi-squared test rejects the null ($\alpha = 0.05$) that the true proportion of mentions of disputes against Canada in the Canadian media equals the baseline expectation of 62.5% (χ^2 statistic = 24.161, df = 1, p-value = 8.86×10^{-7}).

¹⁵A one-sample chi-squared test also rejects the null ($\alpha = 0.05$) that the true proportion of mentions of disputes against the U.S. in the U.S. media equals the baseline expectation of 37.5% (χ^2 statistic = 5.51, df=1, p-value = 0.01881).

dispute between the U.S. and Canada, when the home country is sued, as opposed to a domestic firm suing the foreign country, coverage is 1.71 times greater among the Canadian media and 2.36 times greater for the U.S. media.

Our core assumption about the selection of media coverage has strong support; we find that the news media in both the United States and Canada tends to report more often on disputes where their home government has a dispute brought against it rather than when a home firm is a claimant against another country. We argue that this selection process creates a negative image of the effects of ISDS provisions and the treaties that include them. In this manner the news media’s selection bias presents a skewed version of the actual landscape of disputes and use of international law, which is likely to reduce the public’s support for ISDS provisions and related international law.

3.2 How News Content Affects Support for ISDS and Trade

Does variation in which news stories the media reports on have meaningful consequences for public attitudes toward ISDS and international law? To test the effect of media coverage of international disputes on attitudes toward international law and agreements, we fielded a survey experiment in the spring of 2016 on a national American sample of 544 U.S. registered voters recruited by Survey Sampling International (SSI).¹⁶ We designed the experiment to allow us to isolate the effect of media coverage of ISDS arbitration on public attitudes. In the experiment, each respondent was presented with a news story about an investment dispute. The experiment was based on actual media coverage of investment disputes between Canada and the United States, drawing from a publicized dispute over the Keystone XL pipeline. Since the Keystone XL pipeline was a highly politicized issue, the words “Keystone XL” and “Pipeline” were stripped from the news report.¹⁷ The language for the

¹⁶SSI uses an opt-in recruitment method, after which they randomly select panel participants for survey invitations, using population targets rather than quotas to produce nationally representative samples of respondents. See appendix table 4 for sample characteristics. For political science examples of recent experiments fielded using SSI, see Berinsky, Margolis, and Sances (2014); Brutger and Kertzer (2018); Kertzer and Brutger (2016); Malhotra, Margalit, and Mo (2013).

¹⁷We find no systematic evidence that respondents were strongly cued to think about the Keystone XL project by our use of the name TransCanada or that respondents were even familiar with TransCanada. At the end of the survey, we asked respondents exposed to a condition mentioning TransCanada to explain, in an open text response, what they thought TransCanada primarily does. Of these 363 respondents, only 1 (0.2%) respondent explicitly mentioned Keystone by name. 21 (5.8%) respondents mentioned pipeline projects in general. However, even this small proportion is likely a high upper bound on the share of respondents who actually knew about TransCanada since existing research on survey respondent behavior in online panels strongly suggests that many respondents will use search engines to obtain the answers to knowledge questions (Motta, Callaghan, and

experimental text was drawn from a Wall Street Journal article (King and Mauldin, 2016). Rather than using a hypothetical experiment, we chose to use language from an actual dispute and media coverage to replicate the real-world environment in which the public learns about international events. This approach enhances the external validity of the study, while providing the benefit of allowing us to randomize key variables of interest, which is not possible when using observational data. In the experiment, respondents were told about the issue being disputed and were presented with one randomly assigned treatment condition. The treatment conditions varied who initiated the ISDS dispute and who was the defendant, which allows us to test the effect of the media’s bias in favor of reporting on disputes against the home country.

The experiment includes three conditions. Our primary quantities of interest are the change in public support for ISDS provisions and support for the TPP, a proposed agreement containing ISDS provisions, based on whether the respondent reads a news story where the U.S. is being sued in a dispute versus a news story where a U.S. firm is suing another country in a dispute. To isolate this effect, the first two treatment conditions vary whether a Canadian firm sues the U.S., or whether a U.S. firm sues Canada. We also include a third condition which has a Canadian firm suing Mexico. The third condition, which is displayed in full and discussed in greater detail in the appendix section 5.5, allows us to measure support when respondents read a news report about an international dispute, but their country has no involvement in the dispute. The numbers of respondents assigned to each condition are fully presented in appendix, section 5.2.

Respondents in the experiment were first told “You will read a brief news report about an international dispute. After reading the report, you will be asked your reaction to the dispute and related questions.” Respondents then viewed one of the three following reports. For the purpose of illustrating what was varied in each treatment, the portion of each report that changed across treatments is underlined below (underlining was not included when respondents read the report).

Condition 1 - Canadian Firm Sues the United States:

TransCanada Starts Legal Actions Over Investment Denial

TransCanada Corp., a company based in Canada, on Wednesday said it was pursuing legal actions against the United States and the Obama administration in response to its

Smith, 2016). We therefore do not think our use of TransCanada creates any significant concerns about generalizability.

refusal to issue a border crossing permit for the company's project.

TransCanada said in a statement that it would initiate an international arbitration case against the U.S. under the North American Free Trade Agreement (NAFTA). Through a process known as investor-state dispute settlement (ISDS), companies and investors from one country can challenge the acts of a foreign government and receive compensation if they can show they weren't treated in accordance with international law.

TransCanada said it would attempt to recover more than \$15 billion in costs and damages that the company said it has suffered as a result of the U.S. administration's breach of its NAFTA obligations.

The Obama administration originally responded by stating it would fight the challenge until the arbitration panel made its decision. A settlement has since been proposed granting TransCanada twenty percent of the value of the suit, and TransCanada and the Obama administration accepted the settlement.

Condition 2 - American Firm Sues Canada:

Bilcon Starts Legal Actions Over Investment Denial

Bilcon, a company based in the United States, on Wednesday said it was pursuing legal actions against Canada and the Trudeau administration in response to its refusal to issue a border-crossing permit for the company's project.

Bilcon said in a statement that it would initiate an international arbitration case against Canada under the North American Free Trade Agreement (NAFTA). Through a process known as investor-state dispute settlement (ISDS), companies and investors from one country can challenge the acts of a foreign government and receive compensation if they can show they weren't treated in accordance with international law.

Bilcon said it would attempt to recover more than \$15 billion in costs and damages that the company said it has suffered as a result of the Canadian administration's breach of its NAFTA obligations.

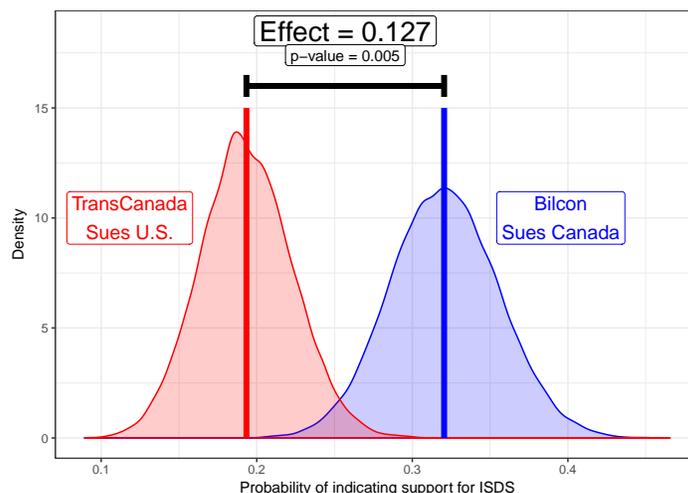
The Trudeau administration originally responded by stating it would fight the challenge until the arbitration panel made its decision. A settlement has since been proposed granting Bilcon twenty percent of the value of the suit, and Bilcon and the Trudeau administration accepted the settlement.

After reading the full news report, a bulleted summary of the report was displayed and then respondents were asked a series of questions about ISDS, the TPP, and related topics. The primary questions of interest asked the respondents their level of support for the U.S. signing more agreements with investor-state dispute resolution provisions and their support for the U.S. ratifying the TPP. The study also included a set of demographic and individual characteristic questions.

In order to assess support for investor-state dispute settlement mechanisms, we first reminded respondents of the basic definition of ISDS, describing it as a mechanism "whereby investors from one country can sue foreign governments in private arbitration." We also told respondents that, "In recent years, countries have signed numerous agreements containing investor-state dispute settlement

provisions.” Afterwards, we asked respondents whether they “support or oppose the U.S. signing more agreements with investor-state dispute resolution provisions.” Respondents could select from a seven point scale ranging from strongly oppose to strongly support.

Figure 2: Effect of exposure to news coverage on ISDS support



Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).

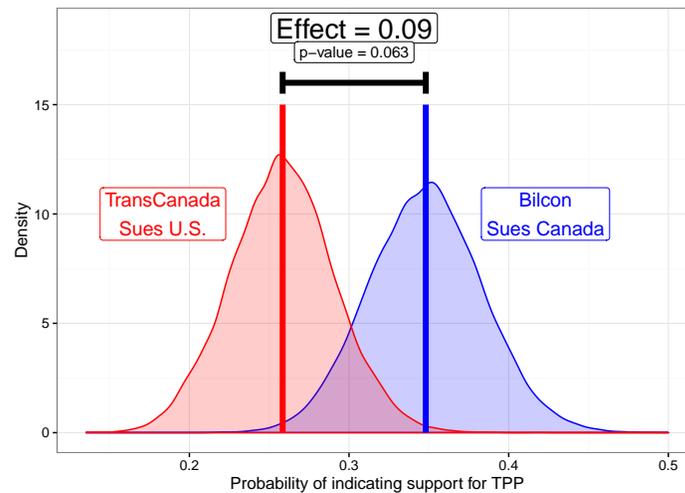
In our analysis our primary quantity of interest is support for for ISDS provisions. Although we measured support on a seven-point scale, we created a simplified measure of support by grouping respondents who selected “slightly support,” “support,” or “strongly support” as being in favor of ISDS being incorporated into future U.S. treaties and the remainder (including the neutral group) as being not in favor of ISDS.¹⁸ Figure 2 plots the shares of respondents that indicated they support ISDS based on whether they were in the treatment condition where the U.S. firm (Bilcon) sued Canada or the condition where the Canadian firm (TransCanada) sued the U.S. Our primary concern is the change in support between the news stories where TransCanada sues the U.S. versus Bilcon suing Canada (displayed in Figure 2). We estimate that respondents who read about TransCanada suing the U.S. were on average 12.7 percentage points less likely to indicate support for ISDS relative to the baseline treatment of Bilcon suing Canada ($p < 0.01$). These results provide strong support for our first hypothesis. Overall, the results point to a sizable shift in negative sentiment towards ISDS provisions when respondents were exposed to a story featuring the U.S. as defendant as opposed to

¹⁸Comprable results are achieved when using the full seven-point scale.

a U.S. firm acting as complainant. This shift is evidence that media coverage of the home country being sued can generate a backlash against the use of international law and opposition to including legal dispute settlement provisions in future agreements.

While the direct impact of media coverage of investment disputes on ISDS provisions is of interest on its own, we also examine whether media coverage has further effects on support for related agreements, specifically the Trans-Pacific Partnership. Measuring support for the TPP, which was under consideration at the time of our study, allows us to gauge the effect of our news report treatment on support for broader agreements including similar legal provisions. To measure how the treatment conditions affect support for the TPP, respondents were first told that “The Trans-Pacific Partnership (TPP) is a potential trade deal that includes the U.S. and twelve other countries and also includes an investor-state dispute settlement provision.” They were then asked, “Do you support or oppose the U.S ratifying the TPP?”¹⁹

Figure 3: Effect of exposure to news coverage on TPP support



Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).

We find weaker evidence that exposure to a news article where the U.S. is being sued rather than a U.S. firm filing a suit reduces support for the TPP. As shown in the figure 3, respondents in the “TransCanada sues U.S.” condition were about 9 percentage points ($p = .06$) less likely to

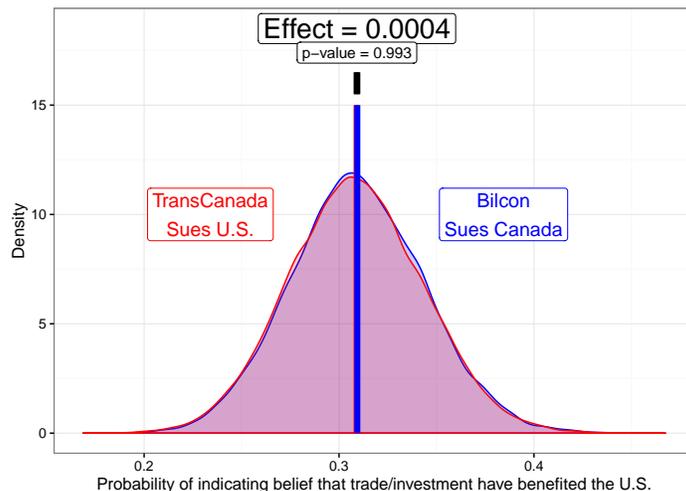
¹⁹Respondents could select from a seven point scale, ranging from strongly oppose to strongly support. Respondents are counted as supporting the agreement if they chose slightly support, support, or strongly support.

express support for the TPP relative to the “Bilcon sues Canada” treatment. While the magnitude of the effect on TPP support is slightly smaller than the effect on direct ISDS attitudes, the results are suggestive that media coverage of ISDS also has downstream effects on attitudes towards related trade agreements and international cooperation in other areas.

Lastly, we examined whether our treatments affect respondents’ general attitudes regarding globalization, free trade and international investment. On one hand, if a single media report can impact someone’s attitude toward globalization as a whole, it might suggest that the media plays a very important role in the process, but it may also suggest that survey respondents’ opinions in the issue area are uncertain and weak and should thus be viewed with caution. On the other hand, if respondents attitudes toward the benefits of globalization are unaffected, it suggests that they are drawing distinctions between the international law issues involved in the ISDS news report versus their broader attitudes toward economic engagement. To measure whether the effects of our ISDS treatment conditions extended to free trade and investment more broadly, respondents were also asked whether they believed “that reduced barriers to trade and investment have benefited or hurt the United States?” We found essentially no effect on perceptions of trade’s general impact on the U.S. As Figure 4 shows, the shares of respondents in each treatment condition differ by less than a single percentage point. This finding suggests that respondents held relatively stable views toward globalization, even though our treatments generated a significant backlash against ISDS and the TPP.

Although we did not find statistically significant treatment effects on the perceived benefits of being involved in the global economy for the U.S., the responses to the question provide a useful comparison to long-running national polls. This allows us to assess whether our sample is an outlier with respect to trade attitudes or whether respondents’ answers are generally consistent with those of the U.S. population at large. Pew Research and Gallup have previously asked questions on trade that were similar to ours, with Pew also polling respondents in April of 2016, asking whether “U.S. involvement in the global economy” is a good thing or a bad thing (Pew Research Center, 2015). Gallup’s 2016 poll asked about exports and imports and whether they were an opportunity or a threat to the U.S. (Newport, 2016). Of those who selected one of the options in the Pew poll, 47 percent said it was a good thing (Pew Research Center, 2015) and in the Gallup poll 58 percent believed it was an opportunity, not a threat. In comparison, among our respondents who believed that free trade and investment either benefited or hurt the U.S., 52 percent believed it benefited

Figure 4: Effect of exposure to news coverage on general trade attitudes



Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).

the U.S.²⁰ Our results fall in the middle of the range of Gallup and Pew polls, giving us greater confidence that our sample provides results generalizable to the broader American population.

3.3 National Superiority Moderates the Effect of Media Content

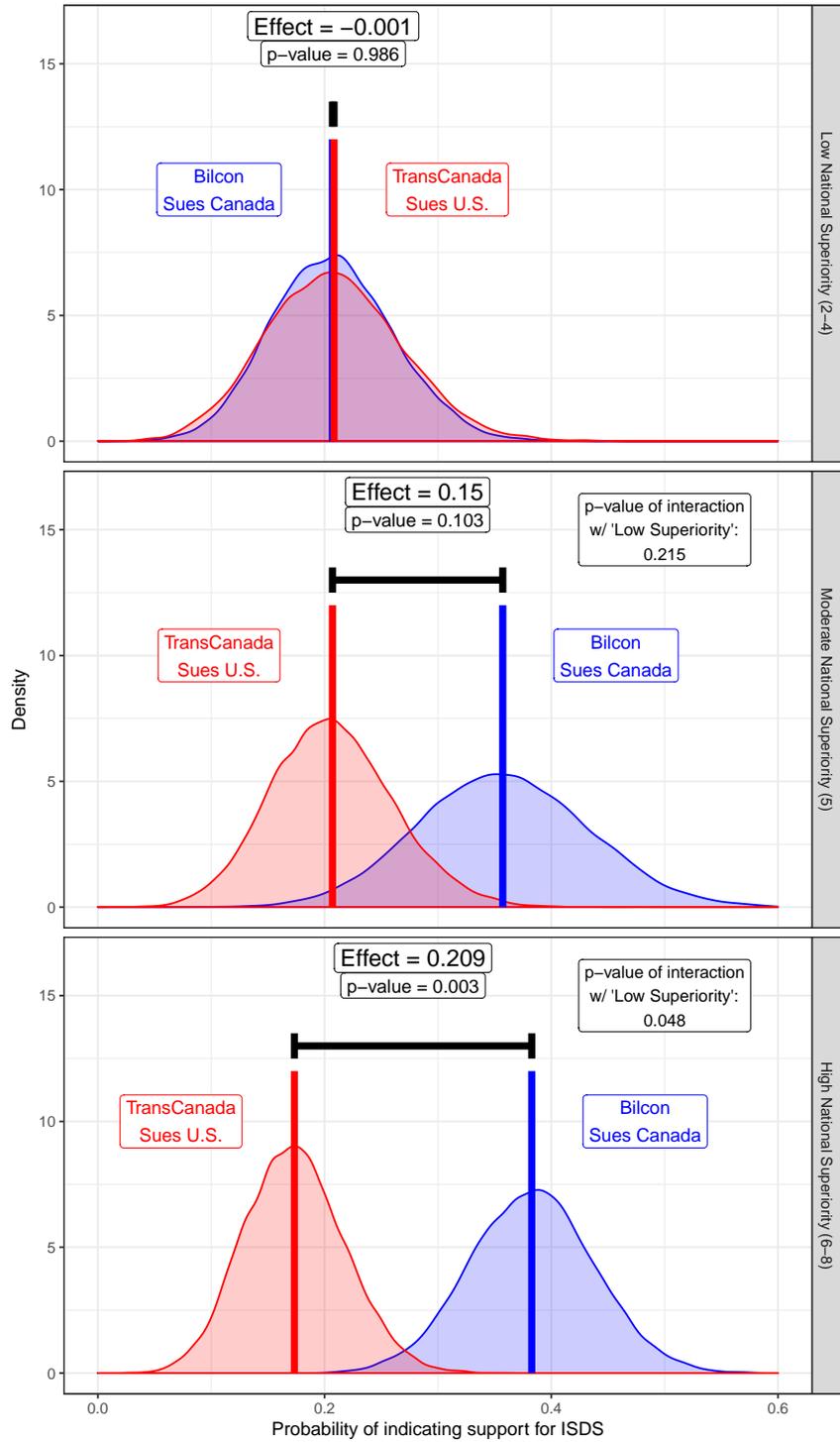
In addition to providing predictions about how the public processes new information about international investment disputes, our theory predicts that different groups within the public will respond differently. Coverage that depicts the U.S. as being negatively affected by foreign actors will likely have its strongest effect among nationalists who assign a high value to U.S. dominance in global affairs. Our hypothesis is that those who are high in national superiority, are most likely to react negatively to reports about the U.S. being sued by foreign actors. To test this, we construct a measure of national superiority using questions drawn from Kertzer and McGraw (2012) and estimate a regression model that allows the effect of treatment to vary across levels of national superiority.

We measure national superiority using respondents’ answers to two questions: “How superior is the United States compared to other nations?” and “How many things about America make you ashamed?” Each question had a four-level ordered response which we aggregate to yield a 2 to 8 point scale of national superiority with higher values denoting greater national superiority.

²⁰To calculate this quantity, we dropped non-responses and those who chose neither to best approximate Pew’s response options.

For ease of interpretation, we coarsen this scale into three levels: low, moderate, and high national superiority. Respondents falling below the 33rd percentile (4 or lower) are considered low in national superiority, those at or above the 66th percentile (6 or greater) are considered high in national superiority. Table 2 of the appendix summarizes the number of respondents in each stratum.

Figure 5: Effect of exposure to news coverage on ISDS support – National superiority moderator



Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).

Our results provide support for our theory of heterogenous treatment effects. Figure 5 plots the estimated treatment effects for each of the national superiority strata. Consistent with our second hypothesis, those with high levels of national superiority exhibited stronger negative reactions to ISDS when exposed to the news report where the U.S. was being sued compared to the report where a U.S. firm sued the Canadian government ($p = 0.048$). While the effect of the TransCanada-U.S. treatment for the high superiority sub-group, roughly 20 percentage points, is nearly twice that of the effect for the overall sample, the effect for the low superiority sub-group is effectively zero. Individuals' attitudes about national superiority clearly play an important role in shaping how respondents interpret the treatments. This is consistent with other findings in the literature, particularly Mutz and Kim (2017) who find that individuals with a greater sense of national superiority tend to favor trade agreements that not only benefit the in-group but also negatively affect the out-group such that their own status relative to others is improved.

We also use our subgroup analysis to examine whether those high in national superiority have a stronger reaction to the news story of the U.S. being sued, as opposed to the when a U.S. firm sues Canada. Our theory predicts that people will have stronger reactions to the negative story of the U.S. being sued, and that this effect will be strongest among those high in national superiority. To test this prediction we use our third treatment condition, where a Canadian firm sues Mexico, as the baseline and compare the effect sizes of our two primary treatments relative to the new baseline. The results, which are displayed in full in Figure 10 of the appendix, show that support for ISDS among those high in national superiority declines by about 13 percent when the U.S. is sued by a foreign firm. This effect is about 50 percent greater than the 8 percent increase in support among those high in national superiority when the U.S. firm sues Canada. Although our sample size does not provide sufficient power to say with confidence whether the magnitude in effect sizes is statistically different, the direction and relative size of the effects are consistent with respondents having a stronger negative reaction when the U.S. is sued than their positive reaction when a U.S. firm sues another country. The public's asymmetric reaction to negative versus positive coverage, coupled with the media's propensity to select negative coverage of international disputes, leads to an upswell of negative opinions of international law and the institutions that oversee it.

3.4 Conventional Predictors of Political Engagement do not Moderate the Effect of Media Content

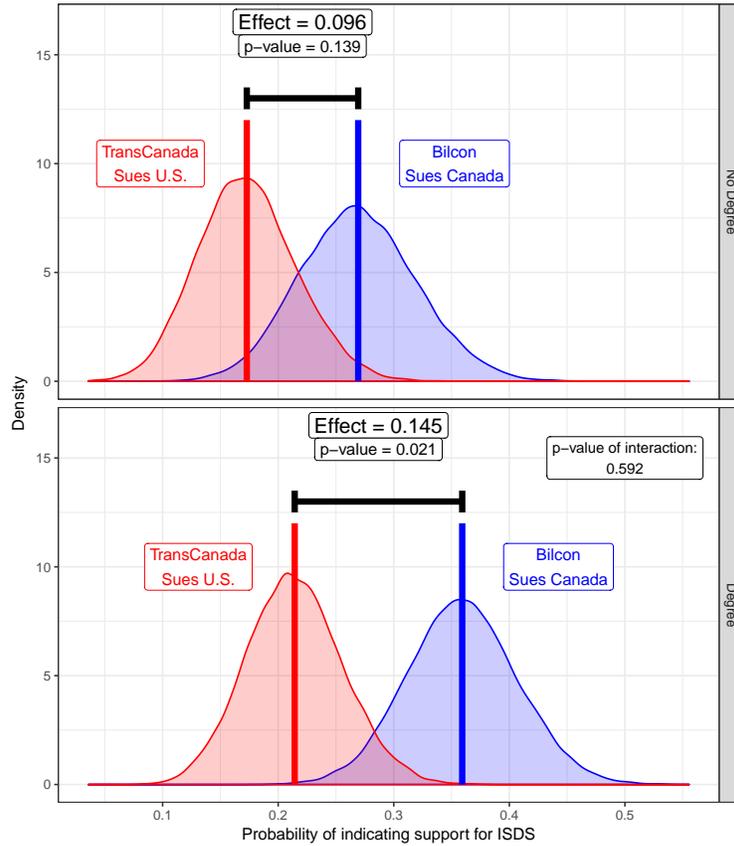
One concern regarding our findings is that they may be driven by effects on a particular sub-group of respondents that would otherwise have relatively weak opinions on trade or are unlikely to be politically engaged in practice. We therefore consider whether the treatment effect is moderated by factors that would be predictive of political activity and preferences for international economic policy. In particular, we examine interactions with respondents' education and income levels. We find no evidence that the treatment effect of media coverage content is moderated by either education or income. High-income and high-education respondents are, in fact, highly responsive to the effect of media content, although they tend to be slightly more supportive of economic engagement in general.

Research on trade attitudes has consistently found that education is a strong correlate of pro-trade opinion (Hainmueller and Hiscox, 2006). It is also one of the strongest predictors of political engagement and activism (Brady, Verba, and Schlozman, 1995; Shields and Goidel, 1997; Sunshine Hillygus, 2005). Individuals with higher levels of education are more likely to take an active interest in U.S. trade and economic policy and seek to influence policy. Moreover, past research (Hiscox, 2006) suggests that less educated individuals' attitudes on international trade are generally less stable. Therefore, we would expect well educated individuals to be the least likely to be influenced by our treatments, while also being the most important political audience to mobilize. Thus we are particularly interested in whether media content has strong effect on this particular, very politically salient, sub-group.

We find that well educated individuals respond strongly to the treatment, and we do not find that individuals with a college degree responded differently to the treatment compared to individuals without a college degree. Figure 6 subsets the sample into degree and non-degree-having respondents and plots the shares of individuals who indicated support for ISDS in the treatments when the U.S. firm Bilcon sues Canada and when the Canadian firm TransCanada sues the U.S. We find no statistically significant interaction between the two. Indeed, the estimated effect is slightly *larger* for respondents with college degrees than for those without.

Moreover, we find that the treatment effect among college-educated respondents is much larger than the observed difference in support between college and non-college respondents. While on

Figure 6: Effect of exposure to news coverage on ISDS support – Education moderator



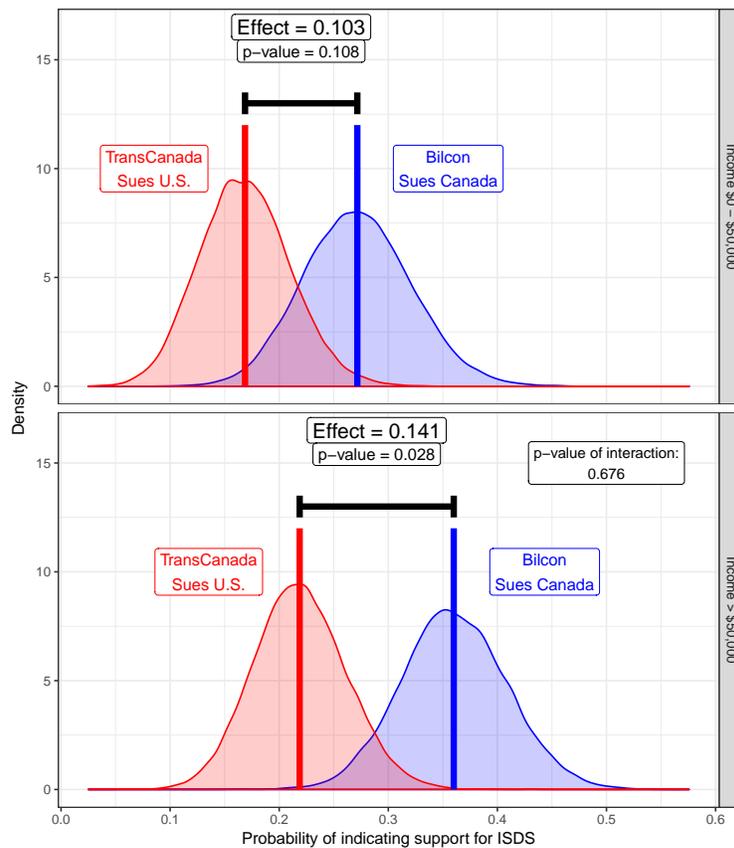
Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).

average, in our sample, respondents with college degrees were about 8.5 percentage points more likely to say they support ISDS compared to respondents without college degrees, exposure to the “TransCanada sues U.S.” condition lowered college-educated respondents’ willingness to support ISDS by almost twice that amount: about 14 percentage points. Given education’s prominence in the literature on what factors explain support for trade agreements and globalization, the fact that our effect overwhelms the degree/non-degree difference suggests that media coverage also plays an important role in the formation of attitudes towards international economic engagement.

In addition to education, income is also a strong positive correlate of political engagement (Brady, Verba, and Schlozman, 1995; Brady, Schlozman, and Verba, 1999). Wealthier individuals are both more likely to contribute to political campaigns and to actually run for office. Moreover,

research suggests that it is the policy preferences of the wealthy that tend to be reflected in legislation in the United States (Gilens and Page, 2014). However, much like education, we do not find evidence that income moderates the effect of our media treatments. Figure 7 presents the estimated effects for the U.S. firm Bilcon sues Canada versus TransCanada sues the U.S. for respondents with household incomes of less than \$50,000 USD annually and for respondents with household incomes of more than \$50,000 USD annually. This division corresponds roughly to a comparison of below-median income respondents and above-median income respondents.²¹ Again, while wealthier respondents are somewhat more likely to express support for ISDS, the treatment effect is positive among both groups and the difference in the two is not statistically significant.

Figure 7: Effect of exposure to news coverage on ISDS support – Income moderator



Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).

²¹In 2015, median household income in the U.S. was \$56,516, according to the U.S. Census Bureau (Proctor, Semega, and Kollar, 2016). Because our survey respondents reported income in brackets, the closest income cut-point to the median was \$50,000. This split our sample roughly in half.

We also test for heterogenous effects based on respondents' political party identification, since Republicans and Democrats in the U.S. may have reacted differently to the treatments. As is shown in Figure 8 of the appendix, there is not a significant difference in how Republicans and Democrats reacted to the treatment ($p < 0.93$). In fact, members of both parties express consistently higher support for ISDS when exposed to media coverage is of a U.S. firm suing Canada as opposed to a Canadian firm suing the U.S.

We find that the conventional set of factors likely to be associated with economic attitudes and political participation are not strong moderators of the effect of media content. Indeed, we find significant treatment effects among respondents at low and high levels of both education and income and across the political spectrum. In fact, what slight difference there is between those education and income groups points in the direction of more politically active respondents being the most likely to be influenced by media content effects.

4 Conclusion

Given the increasing media attention and public scrutiny of ISDS arbitration and backlash around the world to international institutions, it is increasingly important that we understand how the public forms opinions about international law and international institutions. Examining investor-state disputes as a study of how domestic public opinion reacts to uses of international law, we show that media coverage of international disputes plays an important role in shaping perceptions of who wins and loses from international law. Importantly, the role of the media helps explain the public skepticism of ISDS and related international agreements and institutions. Employing a survey experiment on a national sample of U.S. registered voters, we find that news reports of the U.S. being sued through ISDS significantly decreases support for the inclusion of ISDS provisions in future agreements and decreases support for the Trans-Pacific Partnership. These findings illustrate how the public processes news about international law and helps explain public backlash against international institutions.

The significance of our findings is heightened by the selection process of major media outlets when choosing which international disputes to cover. In both the United States and Canada, major newspapers are much more likely to report on international disputes when their home government is being sued, as opposed to when a domestic firm is suing another country. This bias in reporting

means that members of the public are much more likely to learn about their country being sued by a foreign firm, which drives down support for ISDS provisions and international agreements such as the TPP that include them. The media selection process is so strong in the U.S. that 60 percent of the NAFTA chapter 11 dispute initiations that receive coverage are suits against the U.S. In contrast the U.S. is actually responsible for initiating over 65 percent of these disputes against other countries, highlighting the unrepresentative nature of media coverage of international disputes.²² The combination of the media's selection bias and the public's propensity to react more strongly to negative news results in a significant drop in support for international law and the institutions that adjudicate it.

Our findings also speak to the importance of factors other than economic interest for trade and economic policy preferences. We present new evidence in favor of theories that emphasize individual characteristics, such as national superiority, and their role in shaping foreign policy attitudes. While varying the direction of the international dispute in our experiment had a strong main-effect on the public, we also note that news reports of the dispute had a much stronger impact on individuals high in national superiority, suggesting that challenges to U.S. law by foreigners are particularly off-putting to this segment of the public. For scholars who have examined the importance of in-group versus out-group perceptions in foreign policy, this result may not be surprising; however, for the extensive literature that has primarily focused on the role of economic interests in shaping attitudes toward trade and globalization, these results highlight the importance of psychological foundations in shaping economic foreign policy preferences.

Overall, we find that public attitudes toward international law and institutions are responsive to news reports on international disputes, especially those that challenge the home country. This suggests that theories of foreign policy preference formation ought to take into account how individuals gather and process new information about their country's role in the international system, and that media coverage is an important component in that process. Furthermore, when considering the role of domestic mobilization with regard to international law, it is important to move beyond questions of compliance for specific rulings or issues, and ask how mobilization can impact the stability and longevity of the international legal system. If negative rulings and disputes receive most of the attention by media outlets, and domestic audiences are most likely to be mobilized by such disputes,

²²Similar ISDS patterns occur outside of NAFTA, with U.S. firms filing more than twice as many ISDS complaints than firms from any other country between 1990 to 2014 (Wellhausen, 2016).

then the political climate is ripe for domestic audiences to shift away from supporting the use of international law and the institutions that employ it. Understanding this connection helps explain growing skepticism toward international agreements, such as the TPP and NAFTA in the U.S. and the upswell of popular discontent toward international organizations (Bearce and Scott, 2018). Although media reporting and the public's processing of news coverage is only one factor influencing the direction and strength of domestic mobilization, it is an increasingly important component in an age of increasing calls for isolationism and a growing skepticism of the role of international law in influencing national policy.

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5 Appendix

5.1 Newspapers and Television News Sources included in analysis

Canadian Sources	U.S. Sources
Newspapers	
The Calgary Herald (Alberta) Calgary Sun Edmonton Journal (Alberta) Edmonton Sun The Gazette (Montreal) The Globe and Mail (Canada) The Hamilton Spectator (Ontario, Canada) London Free Press National Post (f/k/a The Financial Post)(Canada) Ottawa Citizen The Star Phoenix (Saskatoon) Times Colonist (Victoria) The Toronto Star Toronto Sun The Vancouver Province (British Columbia) The Vancouver Sun (British Columbia) Waterloo Region Record Windsor Star	Wall Street Journal Abstracts The New York Times USA Today Los Angeles Times Daily News (New York) The New York Post The Washington Post The Orange County Register Tampa Bay Times The Philadelphia Inquirer Star Tribune (Minneapolis MN) The Atlanta Journal-Constitution
Television News	
Canadian Television Network CBC News	ABC News CBS News NBC News

Table 1: Sources included in news coverage samples (LexisNexis sources)

5.2 Sample Sizes across Treatment Conditions

While 544 respondents were recruited to participate in the study, not all respondents answered all three outcome questions and all of the demographic questions. While the amount of missingness is negligible relative to the overall size of the sample, for completeness, we summarize in the table below the number of observations assigned to each condition for each outcome and for each sub-group used in the analysis.

Table 2: Sample Sizes by Treatment and Covariates

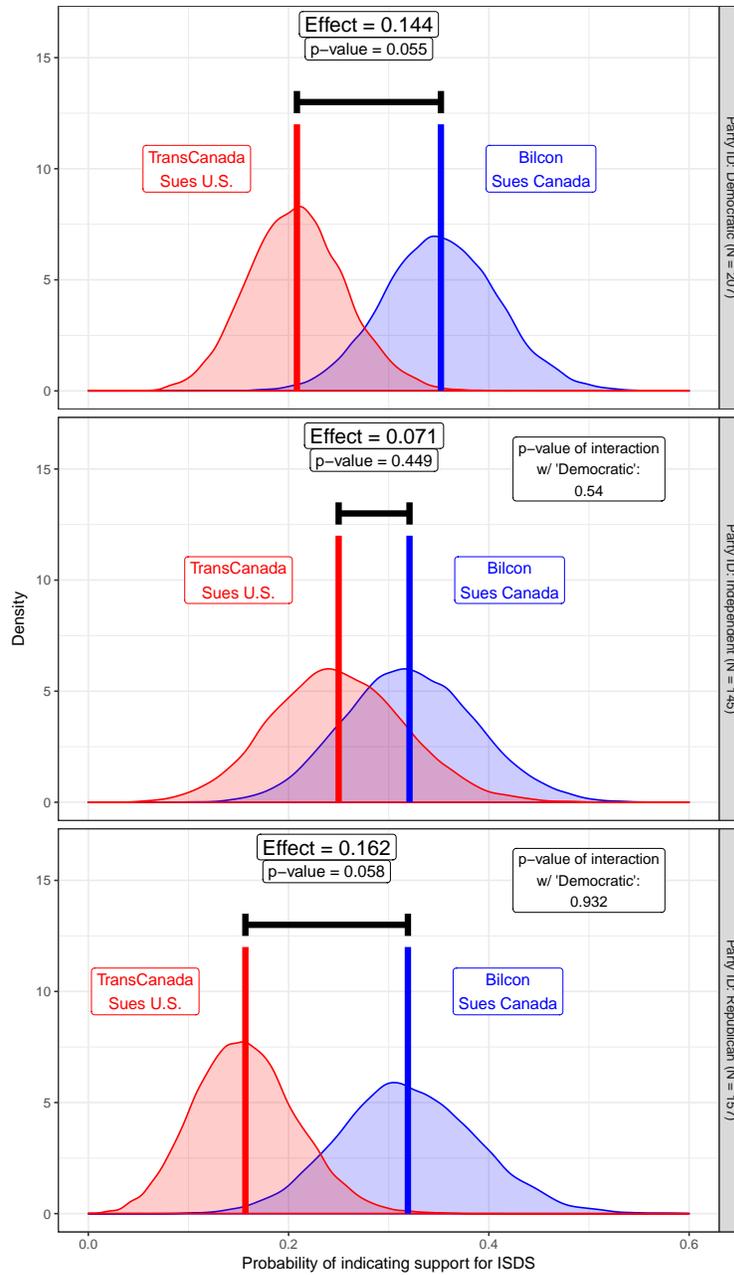
Outcome	Treatment	All	National Superiority		
			Low	Moderate	High
ISDS	Bilcon-U.S.	181	58	42	81
	TransCanada-U.S.	181	48	58	75
	TransCanada-Mexico	182	47	58	77
TPP	Bilcon-U.S.	181	58	42	81
	TransCanada-U.S.	178	45	58	75
	TransCanada-Mexico	181	47	58	76
Trade	Bilcon-U.S.	181	58	42	81
	TransCanada-U.S.	178	45	58	75
	TransCanada-Mexico	181	47	58	76

Outcome	Treatment	Education		Income	
		No Degree	Degree	\$0 – \$50,000	\$50,000
ISDS	Bilcon-U.S.	78	103	81	100
	TransCanada-U.S.	81	98	83	96
	TransCanada-Mexico	82	99	90	91
TPP	Bilcon-U.S.	78	103	81	100
	TransCanada-U.S.	80	97	82	95
	TransCanada-Mexico	82	99	90	91
Trade	Bilcon-U.S.	78	103	81	100
	TransCanada-U.S.	81	97	82	95
	TransCanada-Mexico	82	99	90	91

5.3 Partisanship does not moderate the effect of Media Content

In addition to the absence of effect modification on variables predictive of political engagement, we also find no evidence for effect modification on respondents' partisan identification. Both Democrats and Republicans appear to respond similarly to exposure to news coverage of the U.S. being sued versus a U.S. firm suing (see Figure 8).

Figure 8: Effect of exposure to news coverage on ISDS support – Partisanship moderator



Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).

5.4 Alternative definition of coverage

In our results on media coverage, we include any mention of a dispute in a news article, regardless of when that article was published. While we argue that this is the most appropriate metric to gauge the overall attention that the news media pays to ISDS, it has one significant drawback in that it does not distinguish between direct reporting on the events of a dispute with general commentary on ISDS that happens to mention past disputes as examples. We consider an alternative measure that only counts articles published within a year of the date the dispute was formally filed by the claimant. These articles are more likely to reflect direct coverage of the dispute at the time that it was ongoing. Table 3 shows that the results remain the same. While U.S. coverage overall is reduced since most mentions of disputes appear outside of the one year window, it is also more strikingly biased towards disputes against the United States. Conversely, Canadian coverage appears more uniform, but is still generally more tilted towards disputes against Canada compared to the U.S. media.

Articles mentioning dispute	Media Source		# of disputes
	Canadian News	U.S. News	
U.S. firm suing Canada	82 (56%)	1 (14%)	25 (62.5%)
Canadian firm suing U.S.	65 (44%)	6 (86%)	15 (37.5%)
Total number of article-mentions	147	7	

Table 3: Coverage of NAFTA investor-state disputes within a year of dispute initiation – Major Canadian and U.S. news sources

5.5 Experimental Condition - Canadian Firm Sues Mexico

Our experiment included a third treatment condition where a Canadian firm sued Mexico. This was included to provide a comparison condition to gauge respondents support for ISDS when they learn about its use, but without it being used for or against U.S. interests. The third condition read as follows, with the portion of the report that changed across treatments underlined below (underlining was not including when respondents read the report).

TransCanada Starts Legal Actions Over Investment Denial

TransCanada, a company based in Canada, on Wednesday said it was pursuing legal actions against Mexico and the Pena Nieto administration in response to its refusal to issue a border-crossing permit for the company's project.

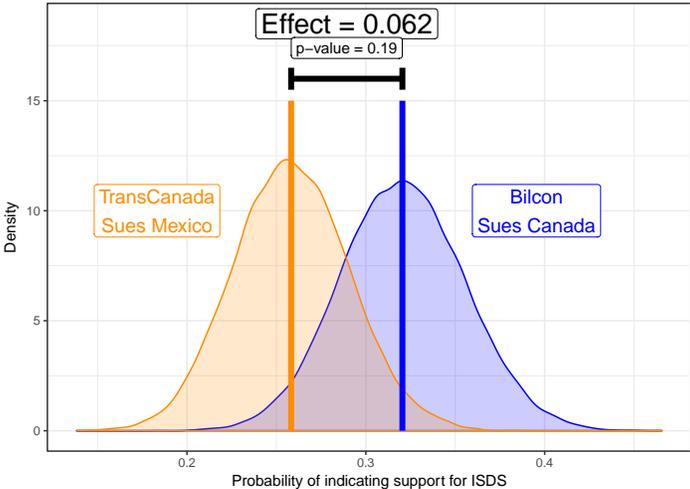
TransCanada said in a statement that it would initiate an international arbitration case against Mexico under the North American Free Trade Agreement (NAFTA). Through a process known as investor-state dispute settlement (ISDS), companies and investors from one country can challenge the acts of a foreign government and receive compensation if they can show they weren't treated in accordance with international law.

TransCanada said it would attempt to recover more than \$15 billion in costs and damages that the company said it has suffered as a result of the Mexican administration's breach of its NAFTA obligations.

The Pena Nieto administration originally responded by stating it would fight the challenge until the arbitration panel made its decision. A settlement has since been proposed granting TransCanada twenty percent of the value of the suit, and TransCanada and the Pena Nieto administration accepted the settlement.

As a comparison to Figure 2 of the main paper, we analyzed the effect of reading about a U.S. firm suing Canada versus a Canadian firm suing Mexico. We find that support for the U.S. signing more agreements with investor-state dispute resolution provisions is about 6 percentage points higher among respondents who learned about the U.S. firm using ISDS to sue Canada, although the difference in approval does not reach traditional levels of significance. The result suggests that the public may react to reading news about international law being used in favor of their country's, or at least a domestic firm's interests; however, consistent with our first hypothesis and a substantial literature on the asymmetric processing of negative and positive information (Meffert et al., 2006; Ronis and Lipinski, 1985; Singh and Teoh, 2000; Vonk, 1993, 1996), the effect is smaller than the treatment effect of the U.S. being sued.

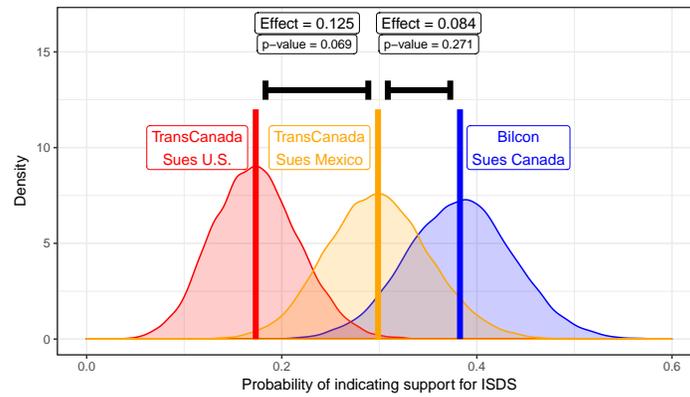
Figure 9: Effect of exposure to news coverage on ISDS support



Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).

We also sought to test whether respondents had a stronger negative reaction to the U.S. being sued, relative to their positive reaction to a U.S. firm suing a foreign country. To test this, we compared support for ISDS in our primary treatment conditions relative to the third treatment where a Canadian firm sued Mexico. Because our prediction was that the asymmetric effect would be most pronounced among those high in national superiority, we show the results for this subsample. Although our sample size does not give us enough power to reject the null hypothesis that the effects are the same size, we do find that the magnitude of the effect is about 50 percent larger when the U.S. is sued, which is consistent with our theory.

Figure 10: Effect of exposure to news coverage on ISDS support — Canadian firm sues Mexico as baseline



Density plots denote bootstrapped sampling distributions for the response probability under each treatment (20000 iterations).

5.6 Sample Characteristics

Table 4: Sample Characteristics

<hr/> <hr/>	
<i>AGE</i>	
Percent Age 18-24	11.5
Percent Age 25-44	33.3
Percent Age 45-64	33.3
Percent Age 65+	21.5
 <i>INCOME</i>	
Percent \$0-\$50,000	46.9
Percent \$50,000-\$100,000	34.3
Percent \$100,000-\$150,000	11.3
Percent \$150,000-\$200,000	5.2
Percent \$200,000+	2.4
 <i>EDUCATION</i>	
Less than High School	2.8
High School / GED	30.8
Some College	11.1
College Degree	38.6
Masters Degree	12.6
PhD / JD / MD	4.2
 <i>GENDER</i>	
Female	55.6
Male	44.4

Not all percentages add to 100 due to rounding.

5.7 Robustness checks for main result

In the paper, we present results that coarsen the outcome variable to a binary indicator for ease of interpretability and presentation. However, one may be concerned that this coarsening is affecting our interpretation of the results. In this section we present results from alternate specifications for the outcome. We also adopt a model-based approach to fully model the ordinal structure of the outcome data by fitting an ordered probit regression. Finally, we use a randomization inference technique suggested by Volfovsky, Airoidi, and Rubin (2015) that places no modeling assumptions on the ordinal outcome to test sharp null of no individual-level effect.

Alternative coarsenings

In the experiment, respondents could indicate their response using a 7-level ordinal scale: “strongly oppose”, “oppose”, “slightly oppose”, “neutral”, “slightly support”, “support”, and “strongly support”. We estimate an Ordinary Least Squares regression treating the response as a numeric value ranging from 1 to 7 with 1 denoting “strongly oppose” and 7 denoting “strongly support”. The results We first estimate Ordinary Least Squares regressions of the original 1-7 point scale on our treatment indicator. The results are consistent with our original findings. On average, respondents in the TransCanada condition were .414 points less favorable to ISDS than those in the Bilcon condition. This corresponds to a standardized effect (Cohen’s d) of about $-.34$ standard deviations. This result remains consistent across alternate coarsenings of the 7-level scale. We consider a five-level scale that merges the “strongly oppose” and “oppose” categories and the “strongly support” and “support” categories along with a three-level scale that further coarsens all degrees of “support” and “oppose” to single bins. Table 5 presents the estimated treatment effects, bootstrapped 95% confidence intervals, and corresponding Cohen’s d . In all three cases, treatment effects remain roughly comparable and statistically significant at $\alpha = .05$.

Outcome	Treatment Effect	95% Bootstrapped CI	Cohen’s d
7-point scale	-0.414	[-0.720 - 0.175]	-0.342
5-point scale	-0.403	[-0.660, -0.190]	-0.379
3-point scale	-0.243	[-0.392, -0.098]	-0.368

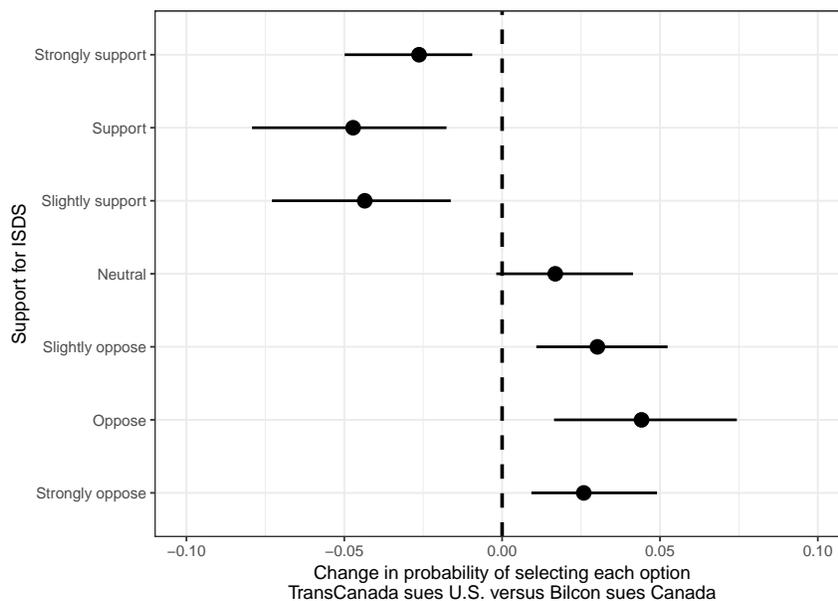
Note: Effects denote difference in conditional mean of outcome between the TransCanada sues U.S. treatment and Bilcon sues Canada treatment, 95% CI derived from quantiles of bootstrapped distribution of treatment effects.

Table 5: Robustness check: OLS with alternate coarsenings: Effect of TransCanada treatment versus Bilcon treatment.

Ordinal probit

A concern about the regression results using the likert scale is that they may mischaracterize the actual structure of how respondents are reacting to the treatment. While OLS returns consistent and unbiased estimates of the conditional expectations of the numeric outcomes, the interpretation of the estimated difference relies on a mapping of the ordinal levels to a numeric scale that may be arbitrary or mischaracterize the distances between levels. In part, this motivates our rationale for coarsening the original outcome into a binary indicator as causal inference on ordinal outcomes remains challenging.

Figure 11: Effect of exposure to news coverage of suits against U.S. on ISDS support – Ordinal Probit results



Estimates obtained from an ordinal probit regression model of the 7-category outcome on treatment indicator. Lines denote transformed 95% asymptotic confidence intervals computed via simulation (King, Tomz, and Wittenberg, 2000).

One approach is to assume that the ordinal observed outcomes map to an unobserved, latent, continuous scale. Treatment effects on the latent scale can therefore be estimated under assumptions for this underlying model using standard maximum likelihood methods. One of the most common models, the ordinal probit, assumes that the probability of observing a given value is a function of some unobserved latent parameter. Specifically, it assumes that the probability that outcome Y_i is equal to or less than an ordered value $k \in \{1, \dots, K\}$ is a function of a linear predictor η_i and a cut-point parameter γ_k

$$Pr(Y_i \leq k) = \Phi(\gamma_k - \eta_i)$$

where Φ is the standard normal CDF. For identifiability, we typically set $\gamma_K = \infty$ and $\gamma_1 = 0$. Assuming that $\eta_i = X_i\beta$ where X_i is a vector of covariates, estimates of the coefficients β and the cut-points γ_k can be obtained via maximum likelihood.

We fit an ordered probit model to our seven-category ordinal data, with a binary indicator

for treatment as the covariate. The estimated effect of the TransCanada-U.S. dispute treatment (relative to the Bilcon-Canada treatment) on the latent scale is negative (indicating less favorable responses) and statistically significant ($p = 0.0012$). To better interpret these results, we transform the coefficient and intercept estimates on the latent scale into changes in the probabilities of choosing each category. Figure 11 plots the estimated differences in the probability of choosing each category along with the corresponding transformed 95% confidence intervals. On average, respondents were about 10 percentage points more likely to choose one of the three “oppose” options and about 10 percentage points less likely to choose one of the three “support” options when exposed to the TransCanada versus the Bilcon treatment. This is generally comparable to the effect that we observed using the coarsened binary outcome.