
RESPONSE

HOW GENDER-BIASED ORAL ARGUMENT INTERRUPTIONS OPENED THE DOOR FOR CHIEF JUSTICE ROBERTS TO BE A TRANSFORMATIONAL LEADER

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INTRODUCTION

In a 2021 NYU Law School conversation with Justice Sonia Sotomayor, the Justice was asked whether she observed higher levels of interruptions of female Justices, relative to their male colleagues, during the Supreme Court's oral arguments. Justice Sotomayor responded in the affirmative:

Did I notice it as a dynamic? Without question . . . but I don't know of a woman who hasn't. Meaning, regrettably, that is a dynamic that exists not just on the court but in our society in general. Most of the time, women say things, and they're not heard in the same way [as] men [who] might say the identical thing.¹

Empirical evidence confirms that Sotomayor's observations matched reality, with a 2017 study indicating "women on the Supreme Court are interrupted at a markedly higher rate during oral arguments than men" and that "both male Justices and male advocates interrupt women more frequently than they interrupt other men."² Following the publication of these results, the Justices of the Supreme Court—and especially John Roberts as the Court's Chief Justice and leader—apparently took note. As Sotomayor put it,

In the case of that study, I think it had an enormous impact. I know that after reports of that finding came out that our chief judge was much more sensitive to . . . ensuring that people got back to the judge who was interrupted.³

Until now, however, we have lacked empirical confirmation on whether Sotomayor's assessment of the Chief—that Roberts' efforts to stem gendered interruptions during oral arguments worked—were supported in oral argument data. With their Article *Supreme Court Interruptions and Interventions: The Changing Role of the Chief Justice*, Tonja Jacobi and Matthew Sag provide analysis on this very point, indicating that Sotomayor's anecdotal observations are indeed empirically supported.⁴

In *Supreme Court Interruptions and Interventions*, Jacobi and Sag show that Chief Justice Roberts increased his interventions during oral arguments to help his colleagues finish their questions.⁵ The Jacobi and Sag study also reveals compelling evidence that the Chief's actions as "referee," perhaps paired with

¹ NYU School of Law, *A Conversation with Justice Sonia Sotomayor*, YOUTUBE (Oct. 13, 2021), <https://www.youtube.com/watch?v=sCQJL0C0qNI&t=827s> [hereinafter *Sotomayor Diversity Talk*].

² Tonja Jacobi & Dylan Schweers, *Justice, Interrupted: The Effect of Gender, Ideology, and Seniority at Supreme Court Oral Arguments*, 103 VA. L. REV. 1379, 1482 (2017); see generally Adam Feldman & Rebecca D. Gill, *Power Dynamics in Supreme Court Oral Arguments: The Relationship Between Gender and Justice-to-Justice Interruptions*, 40 JUST. SYS. J. 173 (2019).

³ *Sotomayor Diversity Talk*, *supra* note 1.

⁴ Tonja Jacobi & Matthew Sag, *Supreme Court Interruptions and Interventions: The Changing Role of the Chief Justice*, 103 B.U. L. REV. 1741 (2023).

⁵ *Id.* at 1792-93.

the institutional changes he's made to reduce the "free-for-all" nature of oral arguments, have successfully stopped female Justices from receiving the lion's share of interruptions from fellow Justices.⁶ While there is room for further empirical inquiry into the nature and extent of Roberts' effect on altering gendered interruptions—ensuring that it was Roberts' efforts and not other factors like case salience, Justice ideology, the changing composition of the Court across time, or the behavior of the advocates during oral arguments that caused the observed changes—the Jacobi and Sag piece provides a powerful first examination in this context. *Supreme Court Interruptions and Interventions* provides an important finding that is likely to be encouraging to the Chief Justice, his colleagues, and interested bystanders concerned about lingering gender bias in society, including at our nation's High Court.

With their study, Jacobi and Sag have landed on a very important and effective moment in Chief Justice Roberts' leadership on the Court. Indeed, the Chief's leadership in this context is worthy of additional attention. In this Article, we do exactly that. In Part I, we examine the leadership role of the Supreme Court's Chief Justice. This examination also provides us an opportunity to explore the main theories of leadership—transactional and transformational leadership—and begin to see how these theories may apply to Roberts. In Part II, we review the biased interruption pattern present during the Supreme Court's oral arguments and provide a broader argument about why this pattern is simultaneously devastating and critical to study. Bolstered by Jacobi and Sag's findings, we discuss in Part III how this interruption pattern may have presented Chief Justice Roberts an opportunity, that he then seized, to be a transformational leader. As we conclude, we return to the importance of the *Supreme Court Interruptions and Interventions* and its broader implications for highlighting the Chief's leadership powers. In doing so, we briefly explore whether this type of leadership, if transported out, might similarly reduce gendered interruption patterns in other legal-political institutions. To do this, we take a deeper dive into one such context where gendered interruptions have also been observed: U.S. Supreme Court confirmation hearings before the Senate Judiciary Committee.

I. THE CHIEF JUSTICE'S LEADERSHIP

Some suggest the U.S. Supreme Court's Chief Justice is the "first among equals" on the Court, arguing "the central job tasks of the Chief—hearing arguments, deciding cases, writing opinions—are no different from those of the other Justices."⁷ Others note, however, that the Chief's position is also one of leadership on the Court and includes "greater opportunities to exert influence,

⁶ *Id.*

⁷ G. Edward White, *The Internal Powers of the Chief Justice: The Nineteenth-Century Legacy*, 154 U. PA. L. REV. 1463, 1463 (2006); see also Alpheus Thomas Mason, *The Chief Justice of the United States: Primus Inter Pares*, 17 J. PUB. L. 20, 21 (1968).

and to fail to do so, than with the Court's other eight positions."⁸ Unique to the Chief's role are tasks such as agenda setting the Court's schedule, controlling opinion assignment, and presiding over the Court in oral arguments, conferences, and deliberations.⁹ The Chief also holds a number of nonjudicial responsibilities assigned to him by Congress. These include serving as the head of the Judicial Conference of the United States, working with the Federal Judicial Center and Administrative Office of the U.S. Courts, managing the Supreme Court building, making temporary judicial appointments in the federal system, and reporting to Congress in the annual Year-End Report on the state of the federal judiciary.¹⁰ This is a lot to ask of the Chief Justice, and the environment in which he operates adds to the complexity of the job.

In an atmosphere in which most Chiefs seek to foster consensus and the appearance of internal harmony against the backdrop of institutional changes that encourage Justices to scrutinize their colleagues' opinions carefully and to express themselves individually whenever they find themselves unsatisfied with a collegial product, getting the Court's business done without undue division, rancor, or delay takes on a high value, and the achievement of that goal falls on the Chief.¹¹

With no shortage of occasions to engage in leadership on the Court, what kind of leader is the Chief Justice? Scholarship on leadership often categorizes leadership styles into two groups: transactional and transformational leaders. *Transactional leadership* is a conservative (as opposed to revolutionary), short-term minded, status quo-favoring approach to management where leaders operate within the existing rules of their organization's culture.¹² Under this approach, leaders tend to actively intervene as managers "only when procedures and standards for accomplishing tasks are not being met"¹³ or when

⁸ White, *supra* note 7, at 1510.

⁹ See, e.g., *id.* at 1464; Alan B. Morrison & D. Scott Stenhouse, *The Chief Justice of the United States: More than Just the Highest Ranking Judge*, 1 CONST. COMMENT. 57, 57 (1984); Edward T. Swaine, *Hail, No: Changing the Chief Justice*, 154 U. PA. L. REV. 1709, 1711 (2006).

¹⁰ See, e.g., Morrison & Stenhouse, *supra* note 9, at 58-62; Richard L. Vining, Jr. & Teena Wilhelm, *The Chief Justice as Advocate-in-Chief*, 95 JUDICATURE 267, 268-69 (2012).

¹¹ White, *supra* note 7, at 1508.

¹² Andrew Hede & Rae Wear, *Transformational Versus Transactional Styles of Cabinet Leadership in Australian Politics*, 30 AUSTL. J. POL. SCI. 469, 471 (1995); Bruce J. Avolio & Bernard M. Bass, *Individual Consideration Viewed at Multiple Levels of Analysis: A Multi-Level Framework for Examining the Diffusion of Transformational Leadership*, 6 LEADERSHIP Q. 199, 203 (1995); Daniel J. McCarthy, Sheila M. Puffer, Ruth C. May, Donna E. Ledgerwood & Wayne H. Stewart, Jr., *Overcoming Resistance To Change in Russian Organizations: The Legacy of Transactional Leadership*, 37 ORG. DYNAMICS 221, 226 (2008).

¹³ Bernard M. Bass, *From Transactional to Transformational Leadership: Learning To Share the Vision*, 18 ORG. DYNAMICS 19, 20 (1990) [hereinafter Bass 1990].

organizational norms and rules need to be enforced.¹⁴ Transactional leaders can also appeal to their subordinates' self-interest with rewards to incentivize desired behaviors.¹⁵

Much of the Chief's leadership on the Court, by necessity, is transactional or managerial in nature. No matter the identity of the Chief Justice, tasks like opinion assignments, presiding over oral arguments or conference, or ensuring the Court's business gets completed by the end of the term remain a key part of the job and are carried out in largely similar (albeit not identical) ways. While each Chief may have stylistic differences in how they engage with colleagues,¹⁶ it is rare for Chief Justices to change the Court's status quo in the observable ways in which it operates.

But is there also some opportunity for the Chief to be a transformational leader during his work on the Court?¹⁷ *Transformational leadership* "recognizes managers and employees as members of a team,"¹⁸ where leaders are able to "broaden and elevate the interests of their employees . . . generate awareness and acceptance of the purposes and mission of the group, and . . . stir their employees to look beyond their own self-interest for the good of the group."¹⁹ Unlike the transactional leader, transformational leaders may seek to change or redefine their organization's culture and rules "based on his or her vision of a more satisfactory alternative future state."²⁰ Because transformational leaders foster employee buy-in to this altered vision for the organization as well as change their own daily behaviors as a model for their employees, they are better able to accomplish organizational change in attitudes, beliefs, and outcomes.²¹

¹⁴ Sung Min Park & Hal G. Rainey, *Leadership and Public Service Motivation in U.S. Federal Agencies*, 11 INT'L PUB. MGMT. J. 109, 112 (2008).

¹⁵ *Id.* at 112.

¹⁶ Chief Justice Warren E. Burger, for example, was known by the Associate Justices for his "pomposity and penchant for self-aggrandizement," along with taking steps to build an "empire" around himself. Linda Greenhouse, *A Court Choice Well Schooled in Chief Justice Job's Pitfalls*, N.Y. TIMES (Sept. 6, 2005), <https://www.nytimes.com/2005/09/06/politics/politicsspecial1/a-court-choice-well-schooled-in-chief-justice.html>. He did not "command the respect of his colleagues." Joel K. Goldstein, *Leading the Court: Studies in Influence as Chief Justice*, 40 STETSON L. REV. 717, 736 (2011). He was unorganized and meandering. Greenhouse, *supra*. By contrast, Burger's successor, Chief Justice William Rehnquist, had a very different style of management that was straightforward, fair, and efficient. *Id.*

¹⁷ Research confirms that most leaders "exhibit a variety of patterns of transformational and transactional leadership" but do them "in different amounts." Athena Xenikou, *Transformational Leadership, Transactional Contingent Reward, and Organizational Identification: The Mediating Effect of Perceived Innovation and Goal Culture Orientations*, FRONTIERS PSYCH., Oct. 18, 2017, at 1, 2.

¹⁸ McCarthy et al., *supra* note 12, at 226.

¹⁹ Bass 1990, *supra* note 13 at 21.

²⁰ Avolio & Bass, *supra* note 12, at 203.

²¹ See, e.g., McCarthy et al., *supra* note 12, at 226; Bernard M. Bass, *Two Decades of Research and Development in Transformational Leadership*, 8 EUR. J. WORK & ORG.

Research indicates that transformational leadership fosters increased levels of collegial job satisfaction and organizational effectiveness.²²

Organizations with transformational leadership have “cultures that are hospitable and conducive to creativity, problem solving, risk taking, and experimentation.”²³ While these are not the sorts of descriptors we typically think of with the U.S. Supreme Court, a creative leader may find opportunities to introduce them. Doing so may pay off for a Chief Justice. Scholars have found that because most leaders “exhibit a variety of patterns of transformational and transactional leadership,”²⁴ the addition of “[t]ransformational leadership adds to the effectiveness of transactional leadership.”²⁵

In the sections that follow, we assess the ways in which gender-biased interruptions during oral arguments may have opened the door for the Court’s current Chief Justice, John Roberts, to adopt some transformational leadership qualities.

II. BIASED ORAL ARGUMENT INTERRUPTIONS

The strong norm in most multiperson speaking settings, from casual conversation to much more formal settings, is for participants to take turns talking.²⁶ A single person “alone holds the floor and acts primarily as speaker” while other participants act as listeners.²⁷ Interruptions, which occur when someone breaks into the speaker’s turn, violate the turn-taking norm of speech exchange.²⁸ When they occur, interruptions can have powerful effects, ranging from disorganizing “the speech and ideas of the interrupted”²⁹ to changing the topic³⁰ or even fully controlling the direction of the conversation.³¹ Interruptions

PSYCH. 9, 16 (1999) [hereinafter Bass 1999]; Karl W. Kuhnert & Philip Lewis, *Transactional and Transformational Leadership: A Constructive/Developmental Analysis*, 12 ACAD. MGMT. REV. 648, 653 (1987).

²² Bass 1999, *supra* note 21, at 22.

²³ *Id.* at 16-17.

²⁴ Xenikuo, *supra* note 17, at 2.

²⁵ Bass 1999, *supra* note 21, at 21.

²⁶ See, e.g., Don H. Zimmerman & Candace West, *Sex Roles, Interruptions and Silences in Conversations*, in LANGUAGE AND SEX: DIFFERENCE AND DOMINANCE 105, 107 (Barrie Thorne & Nancy Henley eds., 1975).

²⁷ Geoffrey W. Beattie, *Turn-Taking and Interruption in Political Interviews: Margaret Thatcher and Jim Callaghan Compared and Contrasted*, 39 SEMIOTICA 93, 93 (1982).

²⁸ Lynn Smith-Lovin & Charles Brody, *Interruptions in Group Discussions: The Effects of Gender and Group Composition*, 54 AM. SOCIO. REV. 424, 425 (1989).

²⁹ *Id.*

³⁰ Patrick J. Leman & Theresa Ikoko, *Interruption in Women’s Conversations: The Effects of Context in Ethnic Majority and Minority Group Interactions*, 14 PSYCH. LANGUAGE & COMM. 61, 64 (2010).

³¹ ELIZABETH ARIES, MEN AND WOMEN IN INTERACTION: RECONSIDERING THE DIFFERENCES 79 (1996).

can also empower “the interrupter by placing him or her in a dominant position, relative to the [original] speaker.”³²

Scholarship has long documented that women (along with people of color) are much more likely to be interrupted in speech exchanges than are White men.³³ Bias and power advantages can lead societal majority groups to seek to grow their own power and reduce the power of those they perceive to be subordinates.³⁴ Seizing the conversational floor from women via interruptions offers a path to do just that.

Indeed, the widely observed disproportionate distribution of interruptions toward women speakers indicates and reinforces “status inequality” in conversation and perhaps society more broadly.³⁵ As Tali Mendelberg, Christopher Karpowitz, and J. Baxter Oliphant argue,

The act of speaking provides an opportunity to establish authority and status as a valuable member of the group, but the group’s reaction is what affords the speaker this status. Interruptions are a communication signal. People signal their status and others’ through their use of such communication cues, and they glean status from others’ signals.³⁶

Interruptions are not infrequent during the U.S. Supreme Court’s oral arguments. There, Justices and advocates engage in a robust but short question and answer period, usually just sixty minutes in length, focused on delving into facts, legal doctrine, policy implications, and governmental preferences related to the case.³⁷ But oral arguments serve important decision-making purposes for

³² Christopher F. Karpowitz, Tali Mendelberg & Lauren Mattioli, *Why Women’s Numbers Elevate Women’s Influence, and When They Do Not: Rules, Norms, and Authority in Political Discussion*, 3 POL. GRPS. & IDENTITIES 149, 161 (2015).

³³ See, e.g., Kristin J. Anderson & Campbell Leaper, *Meta-Analyses of Gender Effects on Conversational Interruption: Who, What, When, Where, and How*, 39 SEX ROLES 225, 225 (1998); Leman & Ikoko, *supra* note 30, at 68; Kieran Snyder, *How To Get Ahead as a Woman in Tech: Interrupt Men*, SLATE (July 23, 2014, 2:09 PM), http://www.slate.com/blogs/lexicon_valley/2014/07/23/study_men_interrupt_women_more_in_tech_workplaces_but_high_ranking_women.html [<https://perma.cc/Q8GY-V6D2>].

³⁴ CHRISTINA L. BOYD, PAUL M. COLLINS, JR. & LORI A. RINGHAND, SUPREME BIAS: GENDER AND RACE IN U.S. SUPREME COURT CONFIRMATION HEARINGS (forthcoming Oct. 2023); Robert K. Christensen, John Szmer & Justin M. Stritch, *Race and Gender Bias in Three Administrative Contexts: Impact on Work Assignments in State Supreme Courts*, 28 J. PUB. ADMIN. RSCH. & THEORY 164, 182 (2017); Joe C. Magee & Adam D. Galinsky, *Social Hierarchy: The Self-Reinforcing Nature of Power and Status*, 2 ACAD. MGMT. ANNALS 351, 361-63 (2008).

³⁵ Tali Mendelberg, Christopher F. Karpowitz & J. Baxter Oliphant, *Gender Inequality in Deliberation: Unpacking the Black Box of Interaction*, 12 PERSPS. ON POL. 18, 24 (2014).

³⁶ *Id.* at 20.

³⁷ Timothy R. Johnson, Ryan C. Black & Ryan J. Owens, *Justice Scalia and Oral Arguments at the Supreme Court, in CONSERVATIVE REVOLUTION OF ANTONIN SCALIA* 245, 247-251 (David A. Schultz & Howard Schweber eds., 2018); TIMOTHY R. JOHNSON, ORAL ARGUMENTS & DECISION MAKING ON THE UNITED STATES SUPREME COURT 134 (2004); Timothy R. Johnson, James F. Spriggs II & Paul J. Wahlbeck, *Oral Advocacy*

Justices well beyond filling informational holes about the case before them. This includes, for example, facilitating intrajustice coordination and coalition building,³⁸ driving the content of opinions,³⁹ and influencing final case votes.⁴⁰

Given the important role played by oral arguments, it is no surprise that Justices seek to seize the floor and control the direction of the dialogue during them—so much so that they may “at times simply ignore the attorney standing at the lectern before them.”⁴¹ In short, interruptions can help facilitate oral argument purposes for individual Justices. As Ryan Black, Timothy Johnson, and Justin Wedeking argue,

During Supreme Court oral arguments, interruptions may allow justices to thwart colleagues’ lines of questioning in two ways. First, interruptions can keep speaking justices from signaling their intentions and preferred outcomes. That is, interrupting justices stop speakers in their tracks and allow interrupters to move the discussion to another topic. Second, interruptions keep speakers from sending signals to those with whom they hope to coordinate when the Court reaches a final decision. The bottom line is that interrupting justices while they are asking questions or making comments may be an effective strategy during oral arguments.⁴²

Oral argument interruptions appear to have the desired effect for Justices. Empirical evidence indicates that oral argument interruptions both reduce the ability of other Justices to learn about a case⁴³ and the likelihood that those Justices will vote together.⁴⁴

While higher-than-average overall rates of interruptions are not surprising during oral arguments, researchers have also found that, just like many other speech exchange settings, the Court’s oral argument setting has not been immune to higher rates of interruptions directed at female participants. Recent data-rich analysis demonstrates that, relative to male Justices, female Supreme Court Justices receive higher rates of colleague-on-colleague oral argument

Before the United States Supreme Court: Does It Affect the Justices’ Decisions?, 85 WASH. U. L. REV. 457, 523-27 (2007) [hereinafter Johnson et al., *Oral Advocacy*].

³⁸ See, e.g., Ryan C. Black, TIMOTHY R. JOHNSON & JUSTIN WEDEKING, ORAL ARGUMENTS AND COALITION FORMATION ON THE U.S. SUPREME COURT: A DELIBERATE DIALOGUE (2012); Johnson et al., *Oral Advocacy*, *supra* note 37, at 505.

³⁹ Johnson et al., *Oral Advocacy*, *supra* note 37, at 525.

⁴⁰ Timothy R. Johnson, Paul J. Wahlbeck & James F. Spriggs, II, *The Influence of Oral Arguments on the U.S. Supreme Court*, 100 AM. POL. SCI. REV. 99, 108-111 (2006); Johnson et al., *Oral Advocacy*, *supra* note 37, at 525.

⁴¹ Black et al., *supra* note 38, at 17.

⁴² *Id.* at 19-20; see also Timothy R. Johnson, Ryan C. Black & Justin Wedeking, *Pardon the Interruption: An Empirical Analysis of Supreme Court Justices’ Behavior During Oral Arguments*, 55 LOY. L. REV. 331, 349-51 (2009).

⁴³ Black et al., *supra* note 38, at 112.

⁴⁴ Tonja Jacobi & Kyle Rozema, *Judicial Conflicts and Voting Agreement: Evidence from Interruptions at Oral Argument*, 59 B.C. L. REV. 2259, 2296-2301 (2018).

interruptions.⁴⁵ This pattern of disproportionate interruptions toward female Justices also extended to the unique oral argument setup of the early days of the COVID-19 pandemic, during which the Court's oral arguments occurred telephonically.⁴⁶

This gender-biased pattern in oral argument interruptions is troubling across numerous dimensions. For one, interruptions like this result in "a precipitous drop in the contributions of the female interruptees" as oral arguments continue in a case.⁴⁷ This means, just as the gender-interruptions literature predicts, interrupters are effective at seizing the conversational floor away from female Justices. Broader societal implications also emerge for the public's perceptions of the Supreme Court and gender bias on that Court. As Jacobi and Schweers put it,

[T]he oral argument process is the only opportunity for outsiders to directly witness the behavior of the Justices of the highest court. The Justices not only interpret our nation's laws; they are also role models. While these interruptions occur during *arguments*, one should still expect to find reasonable discourse conducted in civil fashion at this elite level. Our findings that female Justices are consistently interrupted more than their male counterparts in this setting show that gender dynamics are robust enough to persist even in the face of high levels of power achieved by women.⁴⁸

III. CHIEF JUSTICE ROBERTS RESPONDS WITH TRANSFORMATIONAL LEADERSHIP

Chief Justice Roberts responded to the Court's gendered interruption pattern in two powerful ways. First, the Chief modified the traditional "free-for-all" structure of the Court's oral argument procedure to set aside time for Justices to take turns asking questions.⁴⁹ Second, as Jacobi and Sag empirically detail, the Chief began to more actively serve as a "referee" by intervening when interruptions occurred, especially when those interruptions were of female

⁴⁵ See, e.g., Feldman & Gill, *supra* note 2, 183 tbl.3; Jacobi & Schweers, *supra* note 2, 1433-55. Empirical research also indicates that female advocates are, for most issue areas, interrupted more than male advocates during the Supreme Court's oral arguments. Dana Patton & Joseph L. Smith, *Lawyer, Interrupted: Gender Bias in Oral Arguments at the US Supreme Court*, 5 J.L. & CTS. 337, 354 (2017).

⁴⁶ See, e.g., Tonja Jacobi, Timothy R. Johnson, Eve M. Ringsmuth & Matthew Sag, *Oral Argument in the Time of COVID: The Chief Plays Calvinball*, 30 S. CAL. INTERDISC. L.J. 399, 417 (2021); Leah M. Litman, *Muted Justice*, 169 U. PA. L. REV. ONLINE 134, 153-54 (2020).

⁴⁷ Feldman & Gill, *supra* note 2, at 173.

⁴⁸ Jacobi & Schweers, *supra* note 2, at 1484.

⁴⁹ Amy Howe, *Justices Tweak Format of In-Person Oral Arguments To Allow Time for Taking Turns*, SCOTUSBLOG (Sept. 21, 2021, 3:19 PM), <https://www.scotusblog.com/2021/09/justices-tweak-format-of-in-person-oral-arguments-to-allow-time-for-taking-turns/> [<https://perma.cc/FTV9-NBG5>]; Jacobi & Sag, *supra* note 4, at 1759.

Justices.⁵⁰ Each of these moves were, in isolation, dramatic for an institution that rarely alters its procedures, particularly in such a public way. Viewed together, though, the two modifications—which were unquestionably targeted at the Court’s well-documented gendered interruptions problem—are even more stunning.

Was this a moment of transformational leadership for Chief Justice Roberts? Very possibly. Recall that a transformational leader will “raise standards” and “take calculated risks” in their role.⁵¹ Transformational leaders also have the “flexibility to forecast and meet new demands and changes as they occur”⁵² and are equipped to “inspire followers to develop new ways of thinking about problems.”⁵³ In short, transformational leaders are willing to “challenge and change” their organization’s culture when it is needed, and it appears that, armed with unquestionable empirical results, this may be exactly what Roberts perceived in this moment in time.⁵⁴

Jacobi and Sag document how Roberts’ efforts were effective in *transforming* the Court’s gendered interruptions problem. The transformational leadership model likely helps explain why this was the case, even in an institutional setting like the Supreme Court where much of the leader’s job is transactional in nature. Roberts changed his own behavior—through more interventions of interrupters—to help stem the gendered pattern. Under transformational leadership, the behaviors of “top level leaders become symbols of the organization’s new culture.”⁵⁵

Roberts’ own behavior combined nicely with the new format changes to help produce buy-in from the associate Justices. Scholarship on this topic tells us that transformational leaders are, in this same sort of way, able to “motivate followers to accept and accomplish difficult goals that followers normally would not have pursued.”⁵⁶ This can lead to appreciable changes of attitudes and beliefs on a matter among members of an organization.⁵⁷ Reflecting on this sort of buy-in of the oral argument culture change, Justice Sotomayor has said that following Roberts’ modifications, “my colleagues are much more sensitive than they were before. You will see us, even now when we’re speaking, a judge will say, ‘I’m sorry, did I interrupt you?’”⁵⁸

Roberts’ nearly twenty-year stint as the Supreme Court’s leader and the reputation he has established among his colleagues during that time also

⁵⁰ Jacobi & Sag, *supra* note 4, at 1756.

⁵¹ Bass 1990, *supra* note 13, at 23.

⁵² *Id.* at 31.

⁵³ Ronald F. Piccolo & Jason A. Colquitt, *Transformational Leadership and Job Behaviors: The Mediating Role of Core Job Characteristics*, 49 ACAD. MGMT. J. 327, 327 (2006).

⁵⁴ Bass 1990, *supra* note 13, at 23.

⁵⁵ Bass 1999, *supra* note 21, at 16.

⁵⁶ Kuhnert & Lewis, *supra* note 21, at 653.

⁵⁷ *Id.*

⁵⁸ Sotomayor *Diversity Talk*, *supra* note 1.

undoubtedly equipped him to help stem gendered interruptions during oral arguments. As Chief, Roberts has regularly sung the praises of unity, consensus, and collegiality for the Court.⁵⁹ In a 2006 interview, for example, Roberts said “I think that every justice should be worried about the Court acting as a Court and functioning as a Court, and they should all be worried, when they’re writing separately, about the effect on the Court as an institution.”⁶⁰

Roberts has tried to avoid appearing overtly partisan, both among colleagues and within public perceptions of the Court.⁶¹ And Roberts has argued that preserving the Court’s credibility and legitimacy are critical goals.⁶² While these are each herculean goals for a Chief Justice, particularly with the current political climate and challenges facing the Supreme Court, Roberts’ efforts to foster a Court environment that values such goals may well be felt by his colleagues. Research indicates that “[m]anagers who behave like transformational leaders are more likely to be seen by their colleagues and employees as satisfying and effective leaders” than those serving solely as transactional leaders.⁶³

CONCLUSIONS

As Jacobi and Sag show, Chief Justice Roberts’ interventions have helped stem the Court’s gendered-interruptions imbalance during oral arguments. We argue here that Roberts seized this moment to act as a transformational leader on the Court. Roberts moved beyond the traditional transactional leadership role of Chiefs and instead used his own actions and gained buy-in from his colleagues for *transforming* the Court’s interruptions climate.

Can Roberts’ leadership model be transplanted to other political and legal institutions where gendered interruption patterns also persist? Just as has been observed during Supreme Court oral arguments, recent research examining Senate Judiciary Committee confirmation hearings for Supreme Court nominees⁶⁴ from 1939 to 2022 has also found that female nominees face

⁵⁹ *Chief Justice Says His Goal Is More Consensus on Court*, N.Y. TIMES, May 22, 2006, at A16.

⁶⁰ Jeffrey Rosen, *Roberts’s Rules*, ATLANTIC (Jan. 2007), <https://www.theatlantic.com/magazine/archive/2007/01/robertss-rules/305559/>; see also Timothy R. Johnson & Ryan C. Black, *The Roberts Court and Oral Arguments: A First Decade Retrospective*, 54 WASH. U. J.L. & POL’Y 137, 140-41 (2017).

⁶¹ Benjamin Pomerance, *Center of Order: Chief Justice John Roberts and the Coming Struggle for a Respected Supreme Court*, 82 ALB. L. REV. 449, 515 (2019).

⁶² Rosen, *supra* note 60.

⁶³ Bass 1990, *supra* note 13, at 21.

⁶⁴ During these public hearings, “the nominee testifies under oath and takes unrestricted questions from members of the [Committee].” Christina L. Boyd, Paul M. Collins, Jr., Lori A. Ringhand & Karson A. Pennington, *Constructing the Supreme Court: How Race, Ethnicity, and Gender Have Affected Presidential Selection and Senate Confirmation Hearings*, 55 POLITY 400, 405 (2023); see also PAUL M. COLLINS, JR. & LORI A. RINGHAND, SUPREME COURT CONFIRMATION HEARINGS AND CONSTITUTIONAL CHANGE 34-36

disproportionately higher rates of interruptions from male senators during their confirmation hearings, relative to male nominees.⁶⁵

While some senators are likely aware of their interruption tendencies toward female nominees, other ingredients needed to alter the interruption pattern are missing from the Senate's Judiciary Committee. For one, there is no singular, long-term leader for the Senate Judiciary Committee that is akin to Chief Justice Roberts. The Committee chair rotates when partisan control of the Senate shifts, and it can also change from Congress to Congress even when there is no change in party control.⁶⁶ Relatedly, there are also significant differences in the institutional political climate between the Supreme Court and the Senate that likely affect members' willingness to follow their leadership's guidance. As Christina Boyd, Paul Collins, and Lori Ringhand argue, "[w]hile justices are ideologically diverse and sometimes issue starkly divided opinions and scathing dissents, they also have relative independence from daily politics. By contrast, senators have institutional incentives to regularly score political points, gain media attention, and find ways to satisfy the partisan inclinations of their voters."⁶⁷ As a result of these climate differences, senators are likely to be much less willing to follow their leadership's encouragement to reduce interruptions of female participants.

While scholarship has yet to empirically document gender patterns in interruptions in other court oral argument settings (like federal courts of appeals or state supreme courts), we suspect that should inequities exist in those settings, it will likely be difficult to achieve changes like those ushered in by Chief Justice Roberts at the Supreme Court. This is particularly true for courts like the federal courts of appeals, where the court's chief judge rotates over time based on seniority⁶⁸ and judges hear cases in panels rather than en banc. Relative to the U.S. Supreme Court, these courts lack intracourt stability in the daily, repeat-player collegiality between judges themselves and between judges and their

(2013); DENIS STEVEN RUTKUS & MAUREEN BEARDEN, CONG. RSCH. SERV., RL33225, SUPREME COURT NOMINATIONS, 1789-2009: ACTIONS BY THE SENATE, THE JUDICIARY COMMITTEE, AND THE PRESIDENT 1 (2009), https://www.everycrsreport.com/files/20090513_RL33225_e0ab87d79168ee339df64863ed7bb52874aea2b5.pdf [<https://perma.cc/5ZT8-MBGA>].

⁶⁵ See, e.g., BOYD, COLLINS & RINGHAND, *supra* note 34. Prior scholarship looking specifically at David Souter's 1990 Senate Judiciary Committee confirmation hearing also found that senators interrupted female witnesses during the hearing much more often than they did male witnesses. Laura R. Winsky Mattei, *Gender and Power in American Legislative Discourse*, 60 J. POL. 440, 459 (1998).

⁶⁶ *About the Committee System: Committee Assignments*, U.S. SENATE, <https://www.senate.gov/about/origins-foundations/committee-system/committee-assignments.htm> [<https://perma.cc/ZZD8-XKTY>] (last visited Sept. 29, 2023).

⁶⁷ BOYD, COLLINS & RINGHAND, *supra* note 34.

⁶⁸ See, e.g., Madelyn Fife, Greg Goelzhauser & Stephen T. Loertscher, *Selecting Chief Justices by Peer Vote*, 21 ST. POL. & POL'Y Q. 165, 165 (2021); Virginia A. Hettinger, Stefanie A. Lindquist & Wendy L. Martinek, *The Role and Impact of Chief Judges on the United States Courts of Appeals*, 24 JUST. SYS. J. 91, 92 (2003).

chief judge. As a result, scholars have found that courts of appeals' "chief judges exercise little influence over the decisional process within individual panels."⁶⁹ These factors make it unlikely that a Roberts-style transformational leadership scheme could be adopted. For state supreme courts, while there is more evidence of chief Justices' impact on their courts' collegiality and decision making,⁷⁰ wide variance in selection and term length of judges⁷¹ and the role and tenure of their Chief Justice⁷² mean it may be difficult to export the Chief's solution to those courts as well.

⁶⁹ Hettinger et al., *supra* note 68, at 111.

⁷⁰ See, e.g., Matthew E. K. Hall & Jason Harold Windett, *Discouraging Dissent: The Chief Judge's Influence in State Supreme Courts*, 44 AM. POL. RSCH. 682, 699-700 (2016); David A. Hughes, Teena Wilhelm & Richard L. Vining, Jr., *Deliberation Rules and Opinion Assignment Procedures in State Supreme Courts: A Replication*, 36 JUST. SYS. J. 395, 398 (2014); Laura Langer & Teena Wilhelm, *The Ideology of State Supreme Court Chief Justices*, 90 JUDICATURE 37, 37-38 (2006-2007).

⁷¹ GREG GOELZHAUSER, CHOOSING STATE SUPREME COURT JUSTICES: MERIT SELECTION AND THE CONSEQUENCES OF INSTITUTIONAL REFORM 52-53 (2016).

⁷² Fife et al., *supra* note 68, at 166-68.