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Objection Overruled: Gender, Interruptions, and Awareness in the Supreme Court

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ABSTRACT

In 2017, a study conducted by Jacobi and Schweers pointed out the gendered nature of interruptions during oral argument in the Supreme Court, noting that female justices were interrupted at higher rates than their male colleagues. Existing literature has since shown that explicit awareness of interruptions has increased as a result of the study. In particular, the Court implemented a formal speaking order to minimize interruptions during oral argument, with the Chief Justice verbally intervening to achieve that same goal. This current study investigates implicit awareness of interruptions, rather than the interruptions themselves: specifically, whether a justice acknowledges an interruption, and whether they subsequently back down and yield the floor to their colleague. I find that the percentage of both acknowledged interruptions and backdowns has increased since the Court's return to in-person questioning in 2021. Additionally, I find that although both male and female justices acknowledge interruptions at statistically similar rates, female justices are more likely to *back down* from an interruption once it is acknowledged, as opposed to asserting themselves. These results suggest although male justices may acknowledge they are at fault for interrupting, they are still more likely to prevail, while female justices instinctively yield to their male colleagues. Lastly, I find that junior justices are also more likely to back down to their senior colleague in an interruption interaction. Overall, these results suggest that although awareness of gendered interruptions has increased as a result of the 2017 study, justices' ultimate instincts to back down or prevail in an interruption are still affected by both gender and seniority.

INTRODUCTION

To many Americans, the Supreme Court may feel like the embodiment of static government. With justices serving life terms, unlike the rapidly shifting role of the executive and the constant cycles of congressional elections, the Supreme Court is often perceived as a beacon of stability. Yet in the 2010s, considerable research began to call attention to gender disparities in the Supreme Court. In response, Chief Justice Roberts instituted a series of changes that shifted oral argument to allow equitable distribution of questions.

During the pandemic, because oral arguments were conducted via teleconference, the Chief Justice facilitated a speaking order based on seniority for convenience. Once justices returned to in-person questioning, however, the Court integrated this new speaking order into its system, which includes

free-for-all questioning with a second round of questioning based on seniority. Overall, research suggests that Chief Justice Roberts' interventions were, in fact, successful at lessening the frequency of gendered interruptions in the Supreme Court (Jacobi & Sag, 2023). This paper further explores the nature of interruptions in oral arguments by investigating whether Chief Justice Roberts' interventions, coupled with rising awareness sparked by Jacobi and Schweers (2017), have led to acknowledgement in the Supreme Court when interruptions occur (i.e. whether the interrupter backs down once they realize they have interrupted).

This study adds to existing literature by analyzing justices' responses to interruptions. Although previous studies have focused on gendered interruptions themselves (Jacobi & Schweers, 2017), few have analyzed justices' ultimate responses to what this paper will term "interruption interactions," which include acknowledgement, backing down, or asserting themselves over a colleague.

Based on interruption trends in Supreme Court literature, I hypothesize the following regarding interruption interactions between justices:

1. The rate of acknowledgement in interruption interactions has increased since 2017.
2. The rate of backing down after an interruption interaction is acknowledged has increased since 2017.
3. Male justices are less likely to acknowledge an interruption interaction compared to female justices.
4. Male justices are less likely to back down when they realize they have interrupted a colleague compared to female justices.
5. Senior justices are less likely to back down when they realize they have interrupted a colleague compared to junior justices.

LITERATURE REVIEW

The gender disparity during oral argument in the Supreme Court is a well-documented phenomenon. Jacobi and Schweers (2017) find that women in the Supreme Court are “interrupted at a markedly higher rate during oral arguments than men.” Importantly, Feldman and Gill (2019) find that although women are more likely to be interrupted than men, men and women are equally likely to be the *interrupter*. This may be due to "stereotype threat," as both men and women overestimate how much women monopolize speaking time in conversation (Cutler & Scott, 1990).

The implications of interruptions are twofold. First, interruptions of women by men are associated with a decrease in word count by women. Meanwhile, interruptions of women by women are not associated with this decrease. This suggests that gender stereotypes lead women to restrict their own speech in response to being interrupted to avoid perceived "monopolization" of speaking time (Feldman & Gill, 2019).

Second, interruptions may influence the outcome of oral argument. As Feldman and Gill (2019) argue, justices cannot bring up an interrupted point during conferences after oral argument, which could influence their vote as well as the votes of their fellow justices who may have been swayed by the would-be argument.

Mitigating Factors

According to existing literature, a few mitigating factors are relevant when studying interruption interactions. First, Jacobi and Schweers (2017) found that political ideology was a significant predictor of interruption frequency. In particular, conservative justices are more likely to interrupt their liberal colleagues than vice versa.

Additionally, seniority has a moderate effect on interruptions. Research shows that senior justices are marginally more likely to interrupt a junior justice. This could be explained in two ways: perceptions of tenure on the court, and female justices' gradual shift away from using the "female register" (Jacobi & Schweers, 2017). In this phenomenon, female justices adapt their rhetoric the longer they spend on the Court, asking questions directly and assertively rather than the more passive undertones of "If I may…" and "I'm sorry, but…" that often receive more interruption.

Changes in the Roberts Court

Jacobi's 2017 study was not lost on the Court. Since the paper was published, Chief Justice Roberts has risen to fill the role of "referee," intervening to address interruptions (Jacobi & Sag, 2023). For his first four years as Chief Justice (2005-2009), Roberts intervened less than four times per term on average (Jacobi & Sag, 2023). When the Supreme Court transitioned to hold oral arguments via teleconference in 2020 due to the COVID-19 pandemic, however, a speaking order was established based on seniority. Now tasked with a novel role of timekeeper and mediating disputes between justices, Roberts intervened more than ever; however, he faced extensive criticism for bias in interruptions against female and/or Democratic justices (Litman & Jacobi, 2020).

When the Court returned to in-person meetings, it restored part of its previous open-ended format, but added a seniority-based structure for the second part of oral argument (Quinn, 2021). In 2021, Justice Sonia Sotomayor noted the 2017 study's "enormous impact" on the Court's awareness of interruptions, later confirming that the Court's oral argument changes were adopted in part to address such concerns (Deese, 2021). Indeed, although Chief Justice Roberts has claimed to intervene merely based on seniority, in a study done by Jacobi and Sag (2023), Roberts intervened in favor of female justices three times as often as their male colleagues.

Despite this change in structure, the move to in-person questioning was associated with a significant increase in both the quantity and gender disparity of justice-justice interruptions (Jacobi & Sag, 2023). However, Jacobi and Sag (2023) point out that given unprecedented polarization throughout the nation

and surrounding the Supreme Court, an increase in interruptions is not surprising. Therefore, it is still possible that the oral argument change had a dampening effect on interruptions.

Expansions on Existing Literature

One under-explored aspect of gendered interruptions is justices' responses to interruptions. When there is an interruption interaction, wherein two or more justices are speaking over each other, justices occasionally acknowledge the interruption, then either continue to "assert" themselves, or choose to "back down" and cede to the other justice. Jacobi and Schweers (2017) found that these interactions also display a gender disparity: women are 30% more likely than men to acknowledge when they interrupt a man, and 64% more likely to acknowledge when they interrupt a woman. Furthermore, they find that men are 40% more likely than women to defer to a man in an interruption interaction.

Jacobi and Schweers (2017) call for both interventions on behalf of the Chief Justice and Court-wide accountability. By now, both Chief Justice interventions and public awareness of the issue has increased, with some justices apologizing to their female colleagues (Jacobi & Sag, 2023). In other words, *explicit* action against interruptions has been taken in the form of Chief Justice Roberts' interventions. This study adds a layer to existing literature by exploring *implicit* stances against interruptions. Specifically, this paper investigates what variables affect justices' accountability for interruptions *outside* of Chief Justice interventions by studying "self-policing" in an interruption, based on whether they acknowledge the interruption and proactively cede the floor to their colleague.

Specifically, I analyze this trend over time from the 2017 to 2025 terms; additionally, I assess the effect of gender and seniority on these interactions. In light of previous findings, men on the Supreme Court may be less likely to acknowledge interruptions, and less likely to back down from an interruption interaction even when they acknowledge it. Additionally, seniority may affect these interactions, with justices interrupting and asserting past colleagues of junior status at higher frequencies.

DATA AND METHODOLOGY

To investigate the change in interruptions over time, I utilized linear regression with data from the final three cases heard in each term between 2017 and 2025. Additionally, to assess the effect of gender on interruption interactions, I utilized logistic regression with data from the seventeen most recent Supreme Court cases in the 2025 Term. I include case fixed effects to account for unobserved differences across cases and cluster standard errors by justice to account for repeated observations of the same justice.

The dataset is based on open-sourced Supreme Court transcripts. Data was manually collected. Interruptions were identified and coded by checking for a "--" at the end of a Justice's comment; exchanges involving this symbol were deemed interruption interactions. Acknowledged interruptions were determined through terms such as "I'm sorry" or verbally admitting the interruption.

The dependent variables of interest are whether or not a justice acknowledges an interruption, whether or not a justice backs down after an acknowledged interruption, and whether or not a justice continues speaking—thus prevailing—after an acknowledged interruption.

> **Acknowledged Interruption:** Binary variable for justices involved in an interruption interaction, with 1 representing that they acknowledged the interruption, and 0 representing that they did not.
>
> **Back Down:** Binary variable for justices who are in an interruption interaction and acknowledge it, with 1 representing justices who backed down after the acknowledgement, and 0 representing justices who acknowledged the interruption but continued to speak anyway.
>
> **Prevail:** Binary variable for justices who are in an interruption interaction and acknowledge it, with 1 representing justices who acknowledged the interruption but continued to speak anyway, ultimately prevailing; and 0 representing justices who acknowledged the interruption but did not prevail, either because they ceded the floor or were spoken over.

Exceptions

A few special instances of interruption interactions were considered when collecting data. First, importantly, data was recorded based on the reaction of a Justice, not necessarily the end result. Consider this example from *Sripetch v. Securities and Exchange Commission*:

> JUSTICE JACKSON: As --
> JUSTICE GORSUCH: Do you --
> JUSTICE JACKSON: -- distinguished from (d) -- I'm sorry. Go ahead.
> JUSTICE GORSUCH: You can go ahead.
> JUSTICE JACKSON: As distinguished from (d)(5), which was…

Justice Jackson is recorded as backing down even if the floor was ultimately ceded to her, since her *intent* was to acknowledge the interruption. Although it is valuable to consider who ultimately "prevailed" in an interruption interaction, it is difficult to discern a trend from this measure, since the actual prevailer often depends on who backed down first. It would be awkward for Justices to go back-and-forth ceding ground and repeatedly saying, "No, please."

Second, *benign interruptions* were excluded. "Benign" interruptions are defined as those that do not seek to cut off a colleague, but rather interject a quip without disrupting the flow of the colleague's remarks. *Chatrie v. United States* demonstrates this:

> JUSTICE BARRETT: But doesn't it share location information too? I mean, I -- I feel like I get ads when I'm in particular places. I mean, I need to check my location services settings, plainly.

(Laughter.)
JUSTICE BARRETT: Not that I'm going to commit crimes. But it seems to me like Google --
JUSTICE SOTOMAYOR: I suggest you have I -- IT do it.
JUSTICE BARRETT: It does seem to me like Google does give your information away.

Third, interruptions by the Chief Justice attempting to enforce speaking order were excluded. This study seeks to investigate how rising awareness influenced Justices to *voluntarily* change their practices, which excludes intervention by the Chief Justice. Additionally, when the Chief Justice takes a "referee" role, he exercises authority, which may make other justices more inclined to concede to him. Consider this example from *Flowers Food, Inc., et al. v. Brock*:

CHIEF JUSTICE ROBERTS: Thank you.
JUSTICE KAGAN: Whatever happens –
CHIEF JUSTICE ROBERTS: Justice –
JUSTICE KAGAN: I'm sorry.
CHIEF JUSTICE ROBERTS: Yeah.
Justice Thomas?

One special case in *Cisco Systems v. Doe I* was also excluded because both Chief Justice Roberts and Justice Sotomayor were attempting to follow established speaking order:

CHIEF JUSTICE ROBERTS: Thank you, counsel.
Justice Thomas, anything further?
Justice Alito?
JUSTICE SOTOMAYOR: What do we do --
CHIEF JUSTICE ROBERTS: Justice Sotomayor?
JUSTICE SOTOMAYOR: What do we do with the congressional statements…

Fourth, false interruptions—where Justices backed down because they mistakenly believed they were interrupting someone—were included in the Back Down variable, since the *intent* of the Justice was to avoid interruption. Consider this example, from *Blanche, Acting Atty Gen. v. Lau*:

JUSTICE BARRETT: Can I ask you a question about the -- I'm sorry, Mr. Chief Justice, were you finished?
CHIEF JUSTICE ROBERTS: No, I'm done.
JUSTICE BARRETT: Okay. About the burden of proof…

Finally, *three-way interruptions* provide a bit of nuance, as the intent behind the interruption and the influence of gender, seniority, and PID are more difficult to identify. If the first speaker backs down, their PID and Seniority match are marked based on both the second and third speakers, as both of the latter two

individuals interrupted the first. If either the second or third speaker backs down, their PID and Seniority match is based on the first speaker.

The independent variables of interest are gender and seniority. Seniority is coded as a continuous variable, with 0 representing the most senior Justice on the Court (Chief Justice Roberts) and 8 representing the most junior Justice (Justice Jackson). My control variables include party identification (PID).

As stated above, this paper investigates five specific hypotheses. First, that justices have increasingly acknowledged interruptions since 2017. Second, that justices have increasingly backed down from interruption interactions since 2017. Third, that female justices will acknowledge interruptions at higher rates than their male colleagues, using the dependent variable Acknowledged Interruption. Fourth, that women will back down from an interruption interaction at higher rates than their male colleagues, using the dependent variable Back Down. Lastly, that more senior justices will be less likely to back down from an interruption interaction compared to their junior colleagues, using the same dependent variable Back Down.

RESULTS

Figure 1. Change in the Percentage of Acknowledged Interruptions Over Time

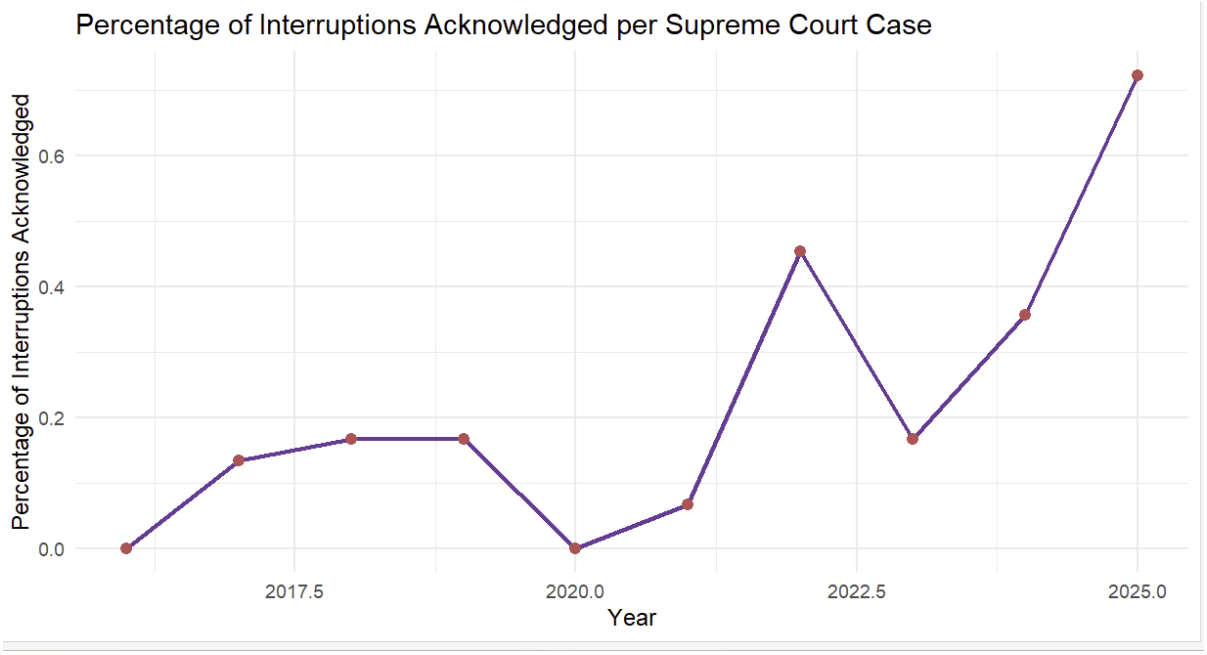

Table 1. Change in the Percentage of Acknowledged Interruptions Over Time	
YEAR SINCE 2017	0.054***
	(0.01)
Observations: 30	
Adjusted R^2: 0.31	
Robust Standard Errors in Parentheses *p<0.1, **p<0.05, ***p<0.01	

Table 2. Change in the Percentage of Justices Backing Down After an Acknowledged Interruption Over Time	
YEAR SINCE 2017	0.045**
	(0.01)
Observations: 30	
Adjusted R^2: 0.31	
Robust Standard Errors in Parentheses *p<0.1, **p<0.05, ***p<0.01	

Table 3. The Effect of Gender and Seniority on Acknowledged Interruptions	
Male	15.72
	(2.15)
Republican	-0.53
	(0.34)
Total Interruptions	1.67***
	(0.49)
Level of Seniority	-0.13
	(0.26)
Observations: 64	
Pseudo R^2 (McFadden): 0.31	
Robust Standard Errors in Parentheses *p<0.1, **p<0.05, ***p<0.01	

Table 4. Backing Down after an Acknowledged Interruption by Gender and Seniority

Characteristic	Group	Backing Down after an Acknowledged Interruption (N)	Backing Down after an Acknowledged Interruption (%)
Gender	Female	12	87%
	Male	13	81%
Seniority	Lower Seniority	14	46%
	Higher Seniority	11	44%
Overall	All Justices	25	83%

Table 5. The Effect of Gender & Seniority on Backing Down after an Acknowledged Interruption

	Back Down after Acknowledged Interruption		
	(1)	(2)	(3)
Male	-45.44***	-42.36***	-
	(2.69)	(5.35)	
Level of Seniority	0.88*	-	13.49
	(0.50)		-
Republican	-4.76***	-	-
	(1.50)		
Observations	30	30	30
Pseudo R^2 (McFadden):	1	0.908983	0.8179659

Robust Standard Errors in Parentheses *p<0.1, **p<0.05, ***p<0.01
Control Variable: PID

Acknowledgement of Interruptions

Figure 1 shows that the percentage of interruptions acknowledged per case generally increased between 2017 and 2025, despite year-to-year fluctuations. Due to teleconference questioning during COVID, the percentage of interruptions acknowledged in 2020 were zero out of zero. Results from the linear regression model in Table 1 indicate that each additional year was associated with an average increase of approximately 5 percentage points in the proportion of interruptions acknowledged per case. Results from the linear regression model in Table 2 similarly indicate that each additional year was associated with an average increase of approximately 4.5 percentage points in the proportion of justices who backed down following an acknowledged interruption. Together, these results indicate that both the acknowledgement of interruptions and the percentage of justices who subsequently backed down increased, on average, over the study period.

Table 3 shows that the relationship between gender and acknowledgement of interruptions was not statistically significant, likely due to limited sample size. In other words, I do not find evidence for Hypothesis 3. Thus, acknowledgement of interruption likely depends on factors other than gender, such as personality, although literature (Jacobi & Schweers, 2017) demonstrates that interruptions themselves are a gendered occurrence due to speaking dynamics that favor male dominance in interactions.

Gender, Seniority, and Backing Down after an Interruption

Descriptive statistics suggest that female justices backed down after an acknowledged interruption more frequently than male justices (Table 4). This data also suggests that justices with lower seniority backed down more frequently than those with higher seniority. These comparisons describe observed patterns in the sample and do not account for other characteristics or differences between cases.

Table 5 shows the results of the relationship between gender, seniority, and backing down after an interruption interaction. Logistic regression models 1 and 2 specifically test the relationship between gender and backing down. There is initial evidence for Hypothesis 4 in both models. In model 1, the gender variable (GenderMale) is negative and significant, indicating that men are less likely to back down after acknowledging an interruption compared to women. Specifically, women have an 87% probability of backing down after acknowledging an interruption compared to men, who have an 81% probability of backing down after an acknowledged interruption.

In Table 5 model 1, there is a significant relationship between seniority and backing down after an interruption interaction. However, when seniority is the only variable tested (Table 5 model 3), seniority is no longer significant.

Limitations

Logistic regression models with case fixed effects were estimated to examine whether these characteristics were independently associated with backing down (Table 5). Although some coefficients appeared statistically significant, diagnostic tests identified separation. Specifically, the McFadden pseudo-R^2 values of 1 or close to 1 indicate perfect or nearly perfect fit within this small sample.

Model 2 in Table 5 removes the control variables to examine the relationship between gender and backing down on its own. Because there is evidence of separation in Model 1, this simplified model helps assess whether the separation is being driven by the inclusion of multiple variables in the model. Again, results show a negative and statistically significant relationship between being a man and backing down. However, the separation test confirms that separation is still present even after removing the control variables, suggesting that the issue is not simply due to the number of variables, but is likely related to the small sample size and distribution of the outcome across genders. Therefore, while the initial results are consistent with H4, I cannot draw a reliable conclusion regarding H4 from these models.

Table 5 model 3 tests the relationship between seniority and backing down after an interruption interaction. Although the pseudo-R^2 is not 1, as it is in the other two models, it remains close to 1, and the separation test indicates separation is still present. Therefore, while the results provide initial support for Hypothesis 5, additional testing with a larger sample is necessary to determine whether this relationship holds when the model can produce more stable and reliable results.

DISCUSSION

Interruptions between justices during oral argument are particularly important because they may have an effect on decisionmaking in the Court. Arguments or lines of questioning lost due to interruptions are unable to be brought up in justices' conferences after oral argument, affecting justices' deliberation and votes (Jacobi and Schweers, 2017). Thus, it is crucial to investigate justices' reactions to interruption interactions. Specifically, whether a justice acknowledges an interruption and subsequently backs down can have a mitigating effect on interruptions, allowing the would-be interrupted justice to continue making their point. Additionally, studying justice acknowledgements allows us to investigate whether the publicization of Jacobi and Schweer's (2017) study, coupled with Chief Justice Roberts's implied support of it through his oral argument interventions, have led to rising awareness and actionable mitigation by the justices themselves.

Overall, these findings suggest that gender and seniority do not affect whether a justice acknowledges an interruption. This is a potentially positive result, as it indicates that acknowledgement of interruptions is

no longer a gendered phenomenon. This is a change from conventional literature. Given that Jacobi and Schweers (2017) previously found that male justices were significantly less likely to acknowledge an interruption compared to their female colleagues, this suggests that male justices have proactively made an extra effort to acknowledge interruptions. Thus, there seems to be rising awareness among male justices in particular for the role they play in interrupting female justices during oral argument.

However, interestingly, both gender and seniority were found to affect who ultimately backs down in an acknowledged interruption interaction. This suggests an interesting response to Jacobi and Schweers's 2017 study: while justices are no more or less likely to acknowledge interruptions depending on gender, female justices may be the ones who end up backing down after an interruption is acknowledged. Given the choice to back down is arguably more instinctive, while acknowledgement of an interruption itself is proactive, it is possible that rising awareness of gendered interruptions has led to proactive efforts on behalf of justices, but has not combatted internalized sexism in the Court. Alternatively, the results may demonstrate more "performative" anti-sexism, where male justices attempt to acknowledge and often apologize for interruptions, but ultimately do not choose to back down and cede the floor to their colleagues.

Another iteration of this research could include more court cases across years, collecting more data to prevent separation and look at findings in greater depth. Specifically, it would be valuable to track acknowledgements and backdowns across multiple years with a greater sample size. Lastly, further research could also explore gendered interactions with who ultimately "prevails" in an interruption interaction, rather than justices' initial reactions of acknowledgement, backing down, or asserting themselves.

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