

Social Perceptions of Judges and the Rule of Law: A Protocol for Designing Judicial Vignettes

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ABSTRACT

This article presents a tutorial-style protocol for designing and piloting vignette-based studies in experimental philosophy of law, with an application to lay evaluations of judicial decision-making under a minimal and strictly formal conception of the Rule of Law. The guiding hypothesis is that public assessments of judges are driven more by the moral valence of outcomes than by technical-legal virtues of justification, although explicit, publicly shareable reasons may mitigate the reputational costs of unpopular decisions. Part I systematizes the methodological steps for constructing “textoids” from judicial materials and controlling key threats to validity. Part II translates Raz- and Fuller-inspired requirements into operational cues of legality and anti-arbitrariness. The article concludes with a Decalogue of replicable criteria to support cumulative and comparative research on judicial legitimacy.

Questo articolo propone un protocollo di tipo tutoriale per progettare e testare studi basati su vignette nella filosofia sperimentale del diritto, applicato alle valutazioni dei non addetti ai lavori sul processo decisionale giudiziario secondo una concezione minimale e rigorosamente formale dello Stato di diritto. L'ipotesi guida è che le valutazioni pubbliche dei giudici dipendono più dalla valenza morale degli esiti che dalle virtù tecnico-giuridiche della giustificazione, sebbene ragioni esplicite e pubblicamente condivisibili possano attenuare i costi reputazionali delle decisioni impopolari. La Parte I sistematizza le fasi metodologiche per costruire “testoidi” da materiali giudiziari reali e controllare le principali minacce alla validità. La Parte II traduce i requisiti ispirati a Raz e Fuller in indizi operativi di legalità e non arbitrarietà. L'articolo si conclude con un Decalogo di criteri replicabili per la ricerca comparativa sulla legittimità giudiziaria.

KEYWORDS

Rule of law, judicial legitimacy, experimental philosophy, public perception, vignette methodology

Stato di diritto, legittimità giudiziaria, filosofia sperimentale, percezione pubblica, metodologia delle vignette

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0. Introduction

In philosophy of law and legal theory, the contemporary debate on the judicial function has largely concentrated on the technical-legal properties of decisions: coherence, rationality, completeness, and reason-giving are the principal features examined in Italian and Hispano-American scholarship. In recent years, within the Spanish-language literature, the only sustained study explicitly linking the figure of the judge to the justification of judicial decisions remains the well-known article by Jorge Malem Seña. Other disciplines, for their part, have contributed mainly through research on plain language and on the judgment as a discourse genre. However, outside professional circles, the figure of the judge and the “quality” of judicial decisions are often assessed by different parameters. Citizens appear not to scrutinize the text as such, but to focus on the outcome of the decision (acquittal/conviction) and to treat that outcome as an indicator of the kind of judge who decides, integrating perceptions of the judge’s motivation with the perceived consequences of the ruling. Precisely because this lay evaluative logic diverges from specialized criteria, the gap between doctrinal analysis and social perception provides a clear methodological rationale for vignette-based research: by constructing short, controlled case narratives that systematically vary outcomes and salient cues of justification (e.g., legality, impartiality, and norm-guided intent), one can operationalize these competing dimensions and examine how each shapes public assessments of judicial performance.

The general hypothesis guiding the project is that public scrutiny of judicial decisions is oriented more by social morality than by technical justification. Two sub-hypotheses follow: (a) citizens’ perception of decision quality is modulated by the consequences attributed to the decision, and (b) signals of adherence to normative reasons and to the Rule of Law can attenuate the negative effects of that assessment. The methodological challenge lies in translating these theoretical hypotheses into a vignette-based experimental design that captures the complexity of lay judgment, without sacrificing clarity or control over the variables under study.

We take as a working assumption that lay evaluations of judicial decisions are shaped by more than logical-legal virtues. For the purposes of vignette construction, we treat the decision – especially its outcome and the way it is justified – as a set of cues from which participants may infer (a) adherence to formal legality and publicly shareable reasons, and (b) the perceived valence of the outcome’s consequences. This yields two core design dimensions to be manipulated: first, the presence or absence of explicit markers of formal legality and norm-guided intent (e.g., rule-following, impartiality, and reason-giving); and second, the perceived consequences of the outcome (e.g., socially costly vs. socially acceptable results). A further design implication is that, when outcomes are likely to be perceived as negative (for instance, the release of an individual regarded as dangerous), the vignette must specify the level of justificatory robustness – ranging from minimal reasoning to an explicit meta-justification invoking public normative reasons – so as to test

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whether stronger justification offsets the reputational costs of the outcome. The purpose of this article is therefore methodological: to set out, justify, and refine a vignette-based research design capable of testing these relationships, and to invite scrutiny of its conceptual fidelity, manipulations, measures, and validity constraints before implementation on any specific population.

This manuscript serves two complementary purposes. First, it provides a tutorial-style protocol for translating doctrinal and legal-theoretical distinctions into controlled narrative stimuli (vignettes/textoids) and corresponding questionnaire-based measures, with explicit criteria for standardization, readability, and variable control. Second, it uses the Rule of Law debate as a worked example to show, in concrete terms, how a minimal and strictly formal conception can be operationalized as a set of textual cues plausibly detectable by non-expert participants. For this reason, the RoL discussion plays an instrumental role here: it is not meant to settle substantive controversies, but to guide design choices and make the protocol reusable across other philosophy-of-law questions.

In line with that aim, the paper does not report substantive findings about public attitudes toward judges, nor does it offer empirical conclusions about the main hypothesis. The broader research program is sequential: (i) a stimulus-construction and methodological validation phase (case selection, textoid conversion, cue manipulation, and comprehension/detection checks via expert review and iterative pilots), and (ii) a subsequent implementation phase on a lay sample to test the hypotheses concerning outcome valence and justificatory robustness/explicitness. This manuscript is confined to phase (i) and provides a transparent record of design choices, anticipated validity threats, and the minimal checks that must be met before fielding the study on the general population.

The core of the proposal is the use of experimental vignettes that simulate judicial decisions¹. This is a pioneering Spanish-language study in the Italo-Hispano-American context, where vignette-based research in legal domains has not developed. The difficulty lies in drafting vignettes that satisfy both the requirements of theories of the formal RoL (signals of formal legality, meta-justification, engagement with objections) and the methodological standards of experimental research (clarity, manipulation control, comprehensibility for lay participants, etc.). This tension requires careful alignment among three “languages”: that of legal theory, that of experimental philosophy, and that of lay discourse².

Our aim in this article is to review and systematize the methodological challenges of doing experimental philosophy within legal theory and to specify the conditions under which this kind of research is feasible. Rather than offering a mere experimental protocol, we argue that the central obstacle in the legal domain is the persistent gap between normative accounts of the Rule of Law and the empirical instruments needed to put them to the test. We propose to narrow that gap through systematic conceptual translation: key categories in legal-theoretical frameworks are reformulated as manipulable and observable variables in vignette-based experiments, assessed through lay perceptions of judges and judicial decisions. On this basis, we show how to operationalize features such as formal virtues, internal and external justification, impartiality, and normative motivation, thereby enabling empirical scrutiny of influential Rule-of-Law theories – especially those of Fuller and Raz – while treating experimental evidence as a complement, not a substitute, for theoretical argument. Designing such vignettes is thus a substantive contribution in itself, because it turns abstract doctrinal distinctions into empirically assessable and comparable stimuli that remain faithful to the underlying concepts while being intelligible to non-expert participants, and it provides a shared language for cumulative, comparative, and interdisciplinary work across legal theory, experimental philosophy, and the social sciences.

¹ For clarity, we distinguish the process of adjudication (“judicial decision-making”) from its product: the judgment (Spanish: *sentencia*), i.e., the court’s formal decision as expressed in the written instrument (often accompanied by the opinion stating the reasons).

² See, CABRÉ 2004; CUCATTO 2013.

The paper is structured into two parts. Part I provides a methodological tutorial: it sets out a general protocol for designing and validating judicial vignettes (source-case selection, textoid construction, linguistic standardization, variable manipulation, measures and checks, and key threats to validity). Part II serves as a worked application: it shows how a minimal and strictly formal conception of the Rule of Law can be operationalized as a set of textual cues, and how that cue-set can be used – via experiments on lay populations – to measure evaluations of decision quality and of the decision-maker. The final section distills the methodological lessons into a Decalogue of replicable criteria.

1. Methodological tutorial: Initial challenges in vignette design

PART I – Methodological tutorial: designing and validating judicial vignettes.

In Part I, the focus is general and reusable: we present a step-by-step protocol for building judicial vignettes that isolate relevant variables (e.g., outcome valence, justificatory robustness, cues of impartiality), ensure lay readability, and control common threats (outcome bias, demand characteristics, fatigue). The aim is to provide a procedure the reader can replicate across other philosophy-of-law questions, even when the legal system, case type, or target construct, changes.

This article sets out a protocol for designing experimental vignettes to study how laypersons evaluate judicial decisions. We use the standard experimental format – short, controlled narratives followed by questionnaires – because it allows researchers to present non-expert participants with the same decision scenario while manipulating a limited set of features in a transparent and replicable way. Our vignettes are *textoids*: researcher-crafted texts derived from real materials (judgments and media reports) and rewritten so as to preserve the core informational structure while making the stimulus readable, comparable, and ethically usable in an experimental setting. Methodologically, the protocol covers (i) how to select source cases, (ii) how to translate them into textoids through principled simplification and standardization, (iii) how to build experimental manipulations (e.g., outcome type and the explicitness or robustness of the stated reasons), and (iv) how to develop corresponding outcome measures in questionnaires (evaluations of the decision and of the judge, plus basic demographics). All instruments are researcher-built and subjected to iterative piloting with legally trained readers to check conceptual fidelity, readability, and the clarity of manipulations before any fielding with lay participants. Accordingly, the contribution of this article is confined to the first phase of a broader research plan: the construction and validation of vignette stimuli and survey instruments from source texts, prior to implementation on a target population.

We distinguish two families of studies in experimental philosophy: (i) those that ask participants to decide *as if* they were a judge, legislator, manager, physician, or other decision-maker, and (ii) those that ask participants to evaluate decisions made by third parties³. Our proposal belongs to the second type.

We contend that legal laypersons can judge a judge’s intention in making a decision. Even if they cannot technically assess a judicial decision, they can judge whether it satisfies certain RoL criteria that may be regarded as part of the common knowledge of citizens in Western liberal democracies. Accordingly, regardless of the legal requirement to decide on “legal reasons”, what matters here are the criteria laypeople actually use to form a judgment about the judge and the decision⁴.

A standard device in experimental-philosophy research is the vignette: brief stories in which someone decides and morally relevant consequences follow; respondents are then asked about intention, the decision, and its consequences. Two strands of research on the attribution of intentionality are salient.

The first is the Knobe line of work: it revealed an asymmetry whereby people attribute inten-

³ See, KNOBE 2003; CUSHMAN et al. 2006.

⁴ See, CUSHMAN et al. 2006; SOSA 2007; DONELSON, HANNIKAINEN 2020, 4.

tion when the side effect is negative and deny it when the side effect is positive – the key being the moral valence of the result⁵. The second is Hindriks’s account, which complicates that explanation: the asymmetry reflects the agent’s adherence or indifference to normative reasons⁶. Praise or blame depends on whether observers perceive the agent as motivated by such reasons. We take this second line as our point of departure for analyzing judicial work. Citizens expect signs, indications, or cues of the judge’s commitment to normative reasons (due process, impartiality, equality, the prohibition of arbitrariness, etc.). Thus, even if citizens do not read the opinion that resolves a case, they understand the outcome of the decision as a public signal of that adherence, depending on whether it aligns with prevailing social morality⁷.

We hold that lay perceptions of the judge and of the judicial decision depend both on the decision’s effects and on the normative motivation attributed to the judge. This distinction allows us – for experimental purposes – to articulate “intention” (the desired mental state) and “intentionality” (the manner of acting made visible in the text) and to operationalize Hindriks’s three theses: (i) rejection of the simple view (an effect counts as intentional only if it was wanted); (ii) negative significance (an undesired but foreseen side effect may accompany the pursuit of a licit end); and (iii) deontic significance (an agent acts intentionally even when a foreseen effect constitutes a normative reason against the main action).

Accordingly, we adopt Hindriks’s framework. We assume that lay attributions of intentionality depend on three features: it is not sufficient that an effect be wanted for it to count as intentional; an agent can act intentionally even while foreseeing negative side effects that she does not desire; and, in a deontic register, an agent may act intentionally even in the face of a normative reason against doing so, if she acts out of duty. Consequently, our vignettes will make explicit that the court foresees an unintended adverse effect, recognizes it as a reason against, and nevertheless decides guided by public reasons; in this way, the attributed intention is anchored in adherence to normative reasons rather than in sympathy for the outcome. To make that adherence visible and assessable, the reasons are textualized through formal Rule-of-Law signals – publicity and clarity of reasons, generality, stability, and congruence between rule and decision – and through observable procedural conduct that permits judgments about impartiality and neutrality, such as equal treatment, a demand for sufficient proof, the absence of favoritism, and resistance to media pressure or to third-party intuitions. Complementarily, and only to control the context presented in the vignette, we introduce indirect cues of perceived traits of the judge – such as ideology or private life – carefully balanced so as not to contaminate the reading of the public reasons that the narrative brings to the foreground.

As noted, following Hindriks we assume that ordinary attributions of intention are guided by three theses: rejection of the “simple view” that identifies intention with a wanted effect; “negative significance”, according to which a foreseen and undesired side effect may accompany a licit action; and “deontic significance”, according to which agents act intentionally even when they foresee an effect that counts as a normative reason against the principal action⁸. In judicial terms, these theses imply that the public reads not only the result but also how the judge positions herself with respect to public normative reasons that justify the course of action. For this reason we treat *meta-justification* – the passage of the opinion in which the judge makes explicit her adherence to public RoL principles and acknowledges, weighs, and, where appropriate, overcomes adverse effects – as the textual marker that activates “deontic significance”: it makes visible that the decision responds to public reasons rather than private preferences and, in consequence, shapes lay attributions of intention, impartiality, and legitimacy.

Methodologically, this translates into systematically including a meta-justification statement

⁵ See, KNOBE 2003; KNOBE 2006; KNOBE 2010; KNOBE, NICHOLS 2008.

⁶ See, HINDRIKS 2008; HINDRIKS 2011; HINDRIKS 2014.

⁷ See, SCHAUER 2000; KNEER, BOURGEOIS-GIRONDE 2017.

⁸ See, HINDRIKS 2008; HINDRIKS 2011; HINDRIKS 2014.

in each vignette, immediately before the dispositive section, in which the judge acknowledges a foreseen negative effect and explains why, for public reasons associated with formal legality – publicity and clarity of the rule, generality, stability, and congruence between rule and decision – that effect does not determine the outcome of the case. The statement must explicitly formulate the conflict of reasons (“although foreseeing X counts against, I decide Y because A and B are public requirements of the law in force”), so that the reader can distinguish among intention, foresight, and public justification. The accompanying questionnaire will capture this distinction with items that test recognition of the meta-justification and the attribution of intention and impartiality, in addition to the checks already planned for RoL signals and outcome valence, thereby ensuring that the measurement of “good judge” and “good decision” rests on auditable textual signals rather than mere reactions to the result.

1.1 Design and procedures

At the time of publication, 70% of the construction-and-piloting phase has been completed (n=20 per pilot) to refine the wording of the vignettes and the manipulation of variables. Subsequently, a cross-sectional correlational study (Study 1) and three quasi-experimental studies (Studies 2-4) will be conducted, with manipulations of: (V₁) assessments of the technical-legal quality of the judgment; (V₂) the valence (positive/negative) of the case (dispositive) outcome; and (V₃) the explicitness of the judge’s intentionality as adhering to the RoL.

1.2 Vignette construction

The writing of vignettes is the methodological core of the experimental design because it translates theoretical and doctrinal distinctions into narrative signals accessible to lay participants⁹. The challenge is to balance conceptual fidelity and comprehensibility, avoiding technicalities that hinder reading. To that end, we prepared a guide recommending brief narratives of up to two hundred seventy words, with simple, declarative syntax. When a legal term is indispensable, it is accompanied by a paraphrase or example, and the sequence is organized with explicit temporal and causal anchors to facilitate understanding¹⁰. These style rules aim to ensure that the text presents context, decision, and consequences without overloading the lay reader’s working memory. In addition, these discourse strategies are grounded in Ciapuscio’s notion of reformulation, understood as a global and local simplification of the information in a source text, which makes it possible to generate texts that are comprehensible to lay readers and to resolve both terminological obstacles and grammatical difficulties¹¹. The specific criteria for drafting the vignettes are developed in detail below.

Each vignette simultaneously integrates the image of the judge and the quality of the decision as manipulable dimensions. Literature shows that laypeople judge not only the technical correctness of decisions, but also the kind of judge who issues them; accordingly, the narrative construction includes traits that allow readers to form impressions regarding impartiality and neutrality, the absence of bias, and normative motivation expressed as adherence to public reasons rather than merely expedient solutions. Even perceived dimensions such as a virtuous private life or ideology are suggested by indirect allusions so that they function as part of the setting without becoming the focus of the stimulus¹².

Decision quality is operationalized through indicators accessible to laypersons that reflect, on the one hand, doctrinal distinctions associated with the Rule of Law and, on the other, the quality of justification. Signals of formal legality – publicity of reasons, generality, prospectivity, and stabili-

⁹ See, MONTOLÍO 2019.

¹⁰ In linguistics, the generic terms for these discourse strategies are expansion, reduction, and variation.

¹¹ See, CIAPUSCIO 2001.

¹² See, BÄUM 2006; BLACK, OWENS 2009; EPSTEIN, MARTIN 2010; CASILLAS et al. 2011; BRYAN 2020.

ty – are key to the perception of institutional legitimacy and must be encoded in the vignette text¹³. In turn, internal justification is understood as coherence among rules, facts, and conclusion, with no contradictions and with a minimal sufficiency; external justification is expressed in reference to sources and the appeal to public reasons. Observing these planes together allows one to evaluate empirically the degree of compliance – or non-compliance – with formal legality in each decision.

The vignette’s narrative architecture is conceived in functionally differentiated layers. A first paragraph sets out the relevant facts and the parties’ positions, in a sober register that provides the minimal normative background. A second paragraph presents the positions of the judge and of a judicial assistant, deliberately separating internal considerations from reasons supplied by institutional third parties; this separation distinguishes factual-legal evidence from justificatory frameworks, a practice recommended to isolate constructs and avoid cross-contamination among variables in vignettes and factorial surveys¹⁴. The judge’s reasoning is framed as a focal normative reason, the decision is crystallized as an imperative act, and the consequences are described as a subsequent state of affairs without an explicit causal attribution. Taken together, this structure promotes a linear reading that proceeds from facts to reasons and from reasons to decision, consistent with best practices of clarity and economy of expression in vignette methodology¹⁵.

The experimental logic relies on a mirror design that holds the facts constant and alternates symmetrical justificatory frameworks for the decision-maker, reversing the assistant’s recommendation as a controlled contextual cue. The aim is to observe variation in judgments of legal correctness, impartiality, legitimacy, or decision quality when the explicit grounding changes but the case facts do not. This form of manipulation is consistent with the experimental-philosophy tradition that explores micro-semantic variations in brief narratives to gauge the sensitivity of normative judgments to highlighted reasons, and it benefits from the logic of the factorial survey by treating motivation and recommendation as factors that can be counterbalanced and randomized to control for order effects and participant expectations¹⁶.

The scheme described yields clear analytical advantages. Separating levels – facts, reasons, decision, outcomes – increases construct validity and facilitates testing hypotheses about the relative weight of deontic and “autonomic” rationalities in the evaluation of decisions. The consequences section, drafted without causal attribution, provides situational anchoring and makes it possible to examine whether *ex post* biases such as outcome bias emerge, without inducing a utilitarian reading. Stylistic restraint, the use of the third person, and lexical symmetry across versions reduce linguistic noise and “demand characteristics”, in line with recommendations for concise, balanced writing in EVM¹⁷. The manipulation is transparent and auditable, so that comprehension, detectability of the reasoning, and perceptions of impartiality can be pre-tested with independent checks¹⁸.

There are also limitations that point toward improvements. In several appended versions, the decision aligns with the dominant reason, which introduces collinearity between motivation and outcome and makes it difficult to isolate the effect of each. A natural next step is to move toward a full factorial design in which, for external legal reasons, the judge occasionally rules against her own motivation; this would allow estimation of main effects and interactions and would decouple result and grounding. One must also consider the affective load of certain topics, which may activate moral identities and social-desirability bias; the literature recommends pretests of affect and readability, control of length and reading, and counterbalancing the order of presentation to mitigate these risks.

¹³ See, FULLER 1960; RAZ 1985; TAMANAHA 2004; BENNETT 2007; KLATT 2016.

¹⁴ See, ATZMÜLLER, STEINER 2010.

¹⁵ See, AGUINIS, BRADLEY 2014.

¹⁶ See, KNOBE 2003.

¹⁷ The term “linguistic noise” denotes a set of phenomena that hinder the measurement of participants’ responses when one text is turned into another – whether through interlingual or intralingual operations.

¹⁸ See, AGUINIS, BRADLEY 2014.

External validity, as in any vignette study, depends on samples and contexts; it is therefore advisable to report the population frame clearly, to preregister hypotheses and analyses, and to include relevant covariates such as religiosity, ideology, and clinical familiarity, in order to strengthen inference¹⁹.

1.3 Methodological issues

The prototypes in the appendix present versions of four vignettes intended to illustrate how small narrative variations make it possible to operationalize core dimensions of the Rule of Law²⁰. The underlying structure remains unchanged – facts, the parties' positions, the judge's reasoning, the assistant's recommendation, the decision, and the consequences – and the manipulation concentrates on the relation between reasoning and decision and on rotating the counselor's voice. That intention to control, however, is not always achieved.

Version 1A frames motivation in private terms, anchored in religious convictions oriented toward protecting life “to the very last consequences”, and the decision aligns with that motivation by ordering chemotherapy. The counselor suggests respecting the autonomy of the mother and child. The case exhibits a lack of public meta-justification, since the reason invoked rests on a personal conviction. The Rule of Law appears weakened not by a lack of internal coherence but by the absence of adherence to general normative reasons. The consequence of the decision – the child's remaining in the hospital – introduces a negative valence that may interfere with assessments of impartiality and bias the judgment toward sympathy or antipathy regarding the outcome.

Version 1B reverses the orientation. The judge is motivated by public reasons linking life, autonomy, and freedom of choice, while the counselor adopts a pro-life position. The decision allows the mother and child to decide. The design here introduces a clear signal of formal legality because the motivation appeals to a recognizable public principle. The subsequent consequence – the child remains at home – generates a different valence and allows a contrast to see whether perceptions of impartiality and legitimacy are anchored in the formal correctness of the motivation or in the attractiveness of the result.

Versions 1C and 1D introduce the more demanding case in which the judge rules against her own motivation. In 1C she declares convictions favoring the protection of life at all times, but decides according to the law in force that recognizes personal autonomy. The meta-justification is explicit; the decision is presented as submission to the rule rather than to private preference, thereby offering a test of impartiality. In 1D the symmetry is inverted: the judge expresses a pro-autonomy inclination but decides under a rule that privileges the absolute protection of life. In both cases, the negative situational anchor – the child remains hospitalized – again puts the recognition of impartiality in tension with the affective reaction to the outcome.

Taken together, these versions show the promise of the approach but also its limits. Judicial independence and the objectivity of reasoning are not insulated within motivation; they are contaminated by consequences that trigger emotional responses. In that context, it is not always clear whether the quality of the decision is being evaluated by the justification offered or by sympathy for the result, a difficulty well documented by the literature on outcome bias in legal decision-making and by retrospective biases that distort perceptions of adjudicative correctness when *ex post* elements are introduced.

Order and fatigue effects add further challenges. When the same person evaluates several versions, sequence can carry over responses or encourage implicit comparisons, and repetition fosters

¹⁹ See, ATZMÜLLER, STEINER 2010.

²⁰ Two caveats: (1) The vignette prototypes in Appendix 1 are English translations of the originals in Appendix 2 (Spanish). These translations have not been reviewed by specialists; accordingly, we cannot ensure that their conceptual implications fully match those of the Spanish versions. (2) The vignettes in Appendix 2 are not the final versions but an advanced prototype; future publications will present the final vignettes together with the linguistic decisions that underpin their structure and wording.

attentional shortcuts that lower data quality. To mitigate this, the study uses short blocks and rotates the order in which vignettes are displayed so that each participant faces a limited number of vignettes. The order is counterbalanced to vary sequences systematically and neutralize order as an uncontrolled variable. Length is calibrated to a maximum of two hundred seventy words per vignette, following evidence from philosophy and moral psychology suggesting that brief yet complete narratives improve engagement without overloading working memory, thereby preventing length from becoming an unwanted source of variance²¹.

Ensuring manipulation is another critical axis. It is not enough to assume that readers interpret the stimuli as intended. Accordingly, explicit recognition questions are included immediately after each vignette to verify detection of signals associated with the Rule of Law – publicity of reasons, general application of the rule, and congruence between norm and decision – and to distinguish among the absence of justification, merely technical justification, and meta-justification anchored in public reasons. Short open-ended questions are added so that participants can state in their own words the main reason for the decision or the case outcome²². This dual mechanism, combining recognition and free recall, monitors attention and comprehension and reduces the likelihood that responses reflect idiosyncratic interpretations rather than the manipulation actually introduced. Pilot tests showed that, in the absence of these supports, some participants left items blank or failed to identify the point of the stimulus.

Linguistic ambiguity poses an additional challenge. Techniques of legal discourse and causal connectives such as “therefore”, “consequently”, or “given that” may be interpreted heterogeneously by readers without legal training, affecting internal validity. The methodological plan therefore contemplates, after piloting, a redrafting stage based on post-vignette comprehension assessments to identify problematic terms and connectives and correct them before final deployment. The goal is to ensure that effects stem from manipulation and not from accidental semantic ambiguities.

A particularly delicate risk is the confusion between evaluating the quality of the decision and evaluating the direction of the decision. Perceived valence – whether the result seems positive or negative – tends to dominate judgments about technical-legal correctness or about the judge’s profile, even in the presence of clear signals of formal legality. The literature warns that people assess correctness retrospectively from results, which may lead to overestimating the influence of valence and underestimating the weight of arguments. To prevent this, the study combines counterbalancing of versions, joint and separate evaluation of dimensions, and manipulation of the level of construal, alternating abstract and concrete scenarios to examine how psychological distance modulates the preference for consequences as against formal principles²³.

Operationalizing impartiality and neutrality requires anchoring them in observable procedural conduct. Simply labeling that “the judge was impartial” invites the projection of vague intuitions or cultural biases. By contrast, describing that the judge listened attentively to both parties, demanded sufficient evidence from the prosecution before deciding, or dismissed arguments that were based solely on external pressures makes it possible to measure perceptions from verifiable signals. Meta-justification is formulated in a public register to show that the decision rests on general legal reasons and, when an individual preference is made explicit, it is done in a controlled manner. This strategy strengthens construct validity by turning normative ideals into concrete textual behaviors.

The design also attends to the influence of demand characteristics and social desirability. To reduce them, control items capable of detecting suspicious response patterns are incorporated, and block order is randomized, reducing both the transparency of the study’s aim and the implicit normative pressure. The intention is to elicit more spontaneous responses that are less guided by external expectations²⁴.

²¹ See, AGUINIS, BRADLEY 2014.

²² See, IBÁÑEZ 2012.

²³ See, HSEE et al. 1999; TROPE, LIBERMAN 2010.

²⁴ See, PODSAKOFF et al. 2003; AGUINIS, BRADLEY 2014.

Cultural equivalence is critical for external validity. The same stimulus may be read differently depending on cultural background; for that reason, content is carefully adapted to the local context while preserving the experimental structure. This entails using Chilean Spanish, referring to procedures widely known through media coverage, and avoiding the names of institutions specific to legal practice that only specialists would recognize. These decisions aim to ensure that responses reflect the theoretical variables rather than cultural peculiarities extraneous to the design²⁵.

Finally, ethical considerations are addressed. Some vignettes present decisions with negative direction that may cause distress. Exposure to narratives of loss, injustice, or harm may trigger intense affective responses, affect the willingness to continue, and compromise subjective well-being. To mitigate these effects, cases were selected whose harm can be considered of medium magnitude in the dominant social morality in Chile, excluding especially shocking scenarios such as sexual offenses. Advance warnings about sensitive content are provided; withdrawal at any time without penalty is guaranteed; and a final debriefing contextualizes the aim of the research, explains the hypothetical nature of the vignettes, and provides contact information for comments or follow-up support. These measures seek to balance scientific validity with ethical responsibility toward participants, so that the production of knowledge does not come at the expense of their psychological well-being²⁶.

2. *Minimal background: the formal Rule of Law as a cue-set for vignette design*

PART II – Worked application: operationalizing the Rule of Law and measuring decisional quality.

Part II applies the preceding protocol to the Rule of Law case: we translate a minimal and strictly formal conception into a set of implementable cues for textoids (e.g., explicit reference to the applicable rule, rule-fact-decision congruence, publicly shareable reasons, and procedural signals of impartiality). On that basis, we clarify how these controlled variations support experiments on lay populations aimed at measuring perceived decision quality, legitimacy, and the judge's attributed norm-guided intent.

The expression “Rule of Law” (RoL) is used in different ways across legal and political theory. For the purposes of this article, we adopt a strictly formal and minimal understanding: the RoL refers to constraints on decision-making that make the exercise of legal authority rule-guided, publicly reasoned, and non-arbitrary. This minimal framing is sufficient for a methodological protocol, because it points to features that can be made visible in short texts and therefore implemented as controlled variations in experimental vignettes.

Methodologically, the role of the formal RoL in our design is limited to identifying a set of textual cues that can be embedded in (or withheld from) a vignette so that lay participants can plausibly detect them. In practice, these cues fall into two families. The first concerns legality and rule-guidance, such as whether the vignette signals that the decision relies on a publicly applicable rule, stated with clarity and applied consistently to the facts. The second concerns procedural and institutional constraints, such as signals of impartiality, independence from external pressure, and the provision of reasons that can be understood as publicly shareable rather than ad hoc or personal.

Accordingly, this section does not defend a theory of the RoL. It specifies design-relevant cues that can be operationalized in textoids derived from judgments and public reports. Examples of such cues include explicit reference to the applicable rule; a brief explanation of why the rule applies to the stated facts (congruence); acknowledgment of counterarguments and evidentiary limits; explicit mention of procedural safeguards; and a short, plain-language statement of reasons.

²⁵ See, HARKNESS et al. 2010; BEHR 2017.

²⁶ See, SLOAN, QUAN-HAASE 2017.

These elements can be translated into experimental manipulations – e.g., high vs low justificatory explicitness, rule-congruent vs outcome-driven reasoning, or procedurally careful vs procedurally thin decision-making – while keeping the scenario constant.

In this project, Raz and Fuller are not introduced to settle a theoretical controversy about the Rule of Law, but as systematic sources of operationalizable criteria. Methodologically, we treat them as cue-generators: their role is to identify which features of a judicial decision can be rendered, in a short text, as indicators of formal legality, rule-guided governance, and non-arbitrariness. Fuller primarily contributes a set of legality requirements (e.g., publicity, clarity, prospectivity, consistency, stability, and congruence between rule and application) that can be translated into narrative cues about how a rule is applied to facts. Raz, by contrast, emphasizes law’s guidance function and the institutional conditions that constrain decision-making (e.g., limits on discretion, judicial independence and impartiality), which translate into cues about the mode of reasoning and the judge’s procedural conduct. In this sense, the theoretical framework functions as an instrumental bridge between doctrinal categories and concrete editing decisions in vignette construction.

At the design level, this translation yields two families of manipulations. (1) Rule-and-application legality cues (Fuller): the text can make the applicable rule, its clarity, its general applicability, and the rule-fact-decision congruence more or less explicit (e.g., by stating the normative premise and explaining its fit with the facts, or by leaving that relation implicit). (2) Institutional and anti-arbitrariness cues (Raz): the text can include or omit signals of impartiality, independence from external pressure, equal procedural treatment, and publicly shareable reasons (e.g., a meta-justification that acknowledges foreseeable costs of the outcome yet decides on legal duty). These two cue-families support “high vs low RoL” versions and help disentangle – so far as the method allows – evaluations driven by outcomes (valence) from evaluations driven by justification (robustness/explicitness), which is the instrument’s core methodological aim.

The table below synthesizes the key concepts from Raz and Fuller regarding the Rule of Law, and how these are translated into observable cues within the vignettes. Each row shows a key theoretical category and its corresponding manipulation in the experimental stimulus design.

<i>Theoretical source</i>	<i>RoL element (abstract)</i>	<i>Vignette cue (text-level)</i>	<i>Example manipulation</i>
Fuller	Publicity / clarity	Rule stated in plain language	Rule explicit vs absent/implicit
Fuller	Congruence	“Because the facts satisfy X, the rule applies”	Fit explained vs merely asserted
Fuller	Stability / consistency	Avoid ad hoc exceptions; same standard used	Stable standard vs ad hoc exception
Raz	Limits on discretion	Reasons framed as rule-guided, not preference	Duty-based vs preference-based framing
Raz	Impartiality / independence	Equal hearing; resisting external pressure	Procedurally careful vs thin
Raz	Public reasons	Meta-justification addressing objections/costs	Meta-justification present vs absent

The table should not be read as an abstract summary, but as the operational map that structures the vignettes included in the article. At the level of writing, each cue-family is implemented through

small yet controlled variations across versions: (i) “Fullerian” cues of formal legality (plain-language statement of the applicable rule, rule-fact-decision congruence, consistency, and the avoidance of ad hoc exceptions), and (ii) “Razian” cues of anti-arbitrariness control (independence from external pressure, procedurally grounded signals of impartiality, and justification in publicly shareable reasons). This is why the textoid architecture is kept constant (facts → reasons → decision → consequences), while the manipulation is concentrated on how visible the rule-to-decision link is and on how the judge’s motivation is framed: as private preference or as publicly defensible legal duty. Making this bridge explicit shows that the vignettes are not standalone “cases”, but controlled instantiations of a single theoretical scheme translated into textual cues.

This anchoring is especially clear in the vignette series discussed in the article (e.g., 1A-1D). Across these versions, the goal is not to “change the case” but to switch on/off components of the cue-set. When the judge’s motivation is framed in private terms (e.g., religious conviction) and no meta-justification is provided, the Raz/Fuller package is weakened: the decision may remain internally coherent, yet it lacks the core RoL marker of public reason-giving and auditable rule-decision congruence. By contrast, when a version makes an applicable rule identifiable, explains its fit with the facts, and adds a meta-justification that acknowledges foreseeable outcome costs yet decides on legal duty, it strengthens both Fullerian indicators (publicity, clarity, congruence) and Razian indicators (constraint of discretion and impartiality). The “crossed” versions – where the judge rules against her own inclination – make the point most sharply: they render the Rule of Law as an observable textual signal of institutional self-constraint and allow researchers to test whether participants distinguish between (i) outcome preference, and (ii) quality assessments grounded in publicly shareable reasons. In this way, the table operates as the translation rule connecting theory, stimulus writing, and experimental measurement.

The remainder of the article develops a protocol for building these vignette stimuli (textoid construction, standardization, and manipulation checks) and for aligning them with questionnaire measures that capture participants’ evaluations of the decision and the decision-maker. The aim is methodological: to provide a replicable template for vignette construction and validation, rather than adjudicate broader theoretical controversies about the RoL²⁷.

3. *By way of conclusion: a Decalogue of criteria for vignette design*

This section synthesizes the methodological lessons in the form of a Decalogue. The Decalogue combines, on the one hand, four general criteria applicable to any experiment that examines the figure of the judge and the quality of judicial decisions, and, on the other, six specific criteria for designing judicial vignettes as an experimental instrument. The structure aims to provide an integrated framework that both guides empirical research in legal contexts and sets out best practices for the use of controlled narratives in experimental-philosophy studies.

First, any experiment that addresses the figure of the judge and the quality of judicial decisions must recognize the tension between technical-legal analysis and social perception. Whereas legal theory privileges the internal virtues of reasoning – consistency, coherence, and completeness – citizens tend to evaluate decisions on the basis of their consequences and the intentionality attributed to the judge. Designing an experiment therefore requires articulating these two dimensions so that neither is rendered invisible. The methodological challenge is to ensure that the central conceptual variables are translated into stimuli recognizable by laypersons without losing theoretical precision.

Second, a cross-cutting criterion is the need to secure both internal and external validity in a context of high complexity. Internal validity demands isolating the effect of manipulated variables – for

²⁷ See, KNOBE 2003; KNOBE, NICHOLS 2008; HINDRIKS 2008; HINDRIKS 2011; HINDRIKS 2014.

example, impartiality or meta-justification – from collateral factors such as order of presentation or fatigue. External validity, by contrast, requires adapting the instruments to the cultural context without altering the experimental design. Only a careful balance between these two planes allows one to draw conclusions that are both methodologically rigorous and socially relevant.

Third, every experiment involving judges and judicial decisions must address the problem of operationalization. Concepts such as impartiality, normative motivation, or formal legality are dense notions in doctrinal scholarship, but they must be transformed into observable conduct. This entails designing clear narrative descriptors that allow participants to recognize, for example, that a judge demands evidence from both parties or makes explicit her adherence to public reasons. Conceptual translation is delicate, because the success of the study – and whether responses track the constructs to be assessed rather than arbitrary interpretations – depends on it.

Fourth, a general criterion concerns research ethics. When one experiments on citizens' perceptions of justice, it is inevitable that some vignettes will involve negative consequences or situations of injustice. The design must therefore provide advance warnings, the option of voluntary withdrawal, and debriefing procedures at the end of the study. These practices not only protect participants but also reinforce the scientific legitimacy of a project that investigates the very terrain of judicial legitimacy.

Fifth, when vignettes are the central instrument, narrative clarity becomes essential. Vignettes must be brief enough to avoid fatigue yet complete enough to situate the case, present the decision, and show its consequences. Prior English-language work in experimental philosophy suggests a maximum of about 200 words, which helps maintain attention without sacrificing contextual richness. Simple syntax and the use of examples or paraphrases for legal terms are crucial strategies for ensuring lay comprehension. We use a maximum of 270 words because Spanish typically requires more words than English to express the same content.

Sixth, a specific criterion is the explicit integration of the figure of the judge into the narrative. A vignette cannot be reduced to an abstract ruling: it must present cues that allow participants to attribute impartiality, neutrality, or bias to the deciding judge. In this way, perceptions of the judicial decision are intertwined with perceptions of the person who issues it, mirroring how the public interprets judicial work. This integration is crucial if results are to capture not only judgments about texts but also judgments about institutional actors.

Seventh, vignette construction should include signals of judicial-decision quality that are accessible to laypersons. This includes both internal justification – coherence among facts, rules, and conclusion – and external justification – reference to sources and public reasons. It also requires ensuring linguistic clarity and marking Rule-of-Law signals such as publicity, prospectivity, and stability. By manipulating the presence or absence of these signals, vignettes make it possible to test whether citizens recognize and value doctrinal dimensions that usually remain within the professional sphere.

Eighth, manipulation checks must follow each vignette. Research cannot assume that participants have interpreted the stimulus as intended; it must corroborate this empirically. Closed recognition questions and short open-ended recall items ensure identification of Rule-of-Law signals, the decision's valence, and the judge's normative motivation. Without these controls, responses might reflect idiosyncratic understandings rather than reactions to the experimental design.

Ninth, it is essential to prevent biases typical of experiments with repeated narratives. Order of presentation can produce carryover effects, and prolonged exposure can induce fatigue. The solution is to rotate versions, counterbalance order, and limit the number of vignettes each participant faces. With these precautions, one reduces the risk that results are driven by design features rather than substantive variables.

Tenth, a final criterion concerns cross-cultural comparability. In studies seeking to replicate or contrast findings across contexts, linguistic and cultural adaptation is inevitable. Preserving the experimental structure and, where appropriate, employing back-translation techniques helps ensure that meaning is maintained despite institutional or linguistic differences. In this way,

judicial-vignette experiments can become a valuable tool not only for experimental philosophy of law but also for comparative dialogue across legal systems.

Beyond its instrumental value, this Decalogue aims to open a still-incipient field of research in legal philosophy. The possibility of translating complex normative categories into empirical stimuli enables the exploration – through experimental methods – of classic questions concerning legitimacy, impartiality, and judicial justification. Thus, the design is not limited to offering a set of techniques; it inaugurates a space for dialogue between legal theory and experimental social psychology.

One obvious application of this model lies in studies of judicial legitimacy. Vignettes make it possible to examine how different forms of reason-giving, or different degrees of adherence to the Rule of Law, affect public confidence in judges. This opens the door to incorporating empirical evidence into debates about institutional trust, perceived bias, and expectations of impartiality within the judiciary.

The model can also be extended to comparative analysis across legal systems. Cultural adaptation of vignettes, together with back-translation, offers the opportunity to contrast how citizens from different legal traditions perceive the same judicial dilemmas. Such studies could enrich not only experimental philosophy of law, but also the comparative theory of institutional legitimacy.

Another projection concerns the study of regulatory and legislative quality. Although the present work focuses on judicial opinions, the vignette logic could be adapted to explore how laws themselves – and their justifications and social consequences – are perceived. This would extend the methodological framework to a domain in which the relationship between legal theory and public perception is equally decisive.

Finally, this model can help bridge doctrinal scholarship, normative theory, and empirical research. The value of the Decalogue lies not only in organizing methodological issues but in showing that it is possible to test experimental designs that engage with the conceptual density of legal theory. It thus invites future studies not only to test specific hypotheses, but also to use experimental philosophy as a tool to renew how legal theory formulates and tests its claims.

Appendix 1. Vignette Prototypes

Vignette № 1, Version A

A family-court judge hears a petition filed by Valdivia Hospital for the mother to decide whether her son, who has terminal cancer, should undergo chemotherapy sessions. The mother's attorney argues that the cancer is incurable and that chemotherapy would prevent the child from enjoying the time he has left. She adds that the right to life also encompasses the possibility of living with dignity.

The judge holds that the right to life requires maintaining treatment, even when there is no possibility of cure. She states that her religious convictions lead her to protect life to its ultimate consequences. The judge acknowledges that maintaining treatment will likely reduce the child's daily well-being and time with his family; she does not seek that result, though she foresees it may occur as a side effect of complying with what she understands the law requires.

By contrast, the court's advisor maintains that the mother and the child should decide, because the law should not impose how people face the final stage of life.

Before ruling, the judge heard both parties and reviewed the evidence each submitted.

The court issues a judgment ordering that the child receive chemotherapy, holding that life must be protected even in cases of incurable illness. The opinion acknowledges that the foreseen adverse effect constitutes a normative reason against doing so, but the court intentionally decides in accordance with public reasons of life-protection provided for by the legal order.

In the months that follow, the child remains hospitalized and under medical treatment, without returning home to his family until the end of the clinical course.

Vignette No 1, Version B

A family-court judge hears a petition filed by Valdivia Hospital for the mother to decide whether her son, who has terminal cancer, should undergo chemotherapy sessions. The mother's attorney argues that the cancer is incurable and that chemotherapy would prevent the child from enjoying the time he has left. She adds that the right to life also encompasses the possibility of living with dignity.

The judge considers that the right to life includes respect for personal autonomy, which allows the mother and the child to decide whether to accept the treatment. The judge foresees that discontinuing chemotherapy may reduce life expectancy; she does not intend that effect and accepts it as secondary while safeguarding autonomy as a public reason.

By contrast, the court's advisor argues that the child should receive chemotherapy because, in her view, the law imposes a duty to preserve life in all cases.

Before ruling, the judge heard both parties and reviewed the evidence each submitted.

The court issues a judgment ordering that the child not receive chemotherapy, holding that autonomy at the end of life is also part of the right to life. The judge recognizes that this risk constitutes a normative reason against that outcome, but she intentionally resolves on public reasons of autonomy and dignity in the final stage of life.

In the months that follow, the child remains at home with his family and does not undergo medical treatment until the end of the clinical course.

Vignette No 1, Version C

A family-court judge hears a petition filed by Valdivia Hospital for the mother to decide whether her son, who has terminal cancer, should undergo chemotherapy sessions. The mother's attorney argues that the cancer is incurable and that chemotherapy would prevent the child from enjoying the time he has left. She adds that the right to life also encompasses the possibility of living with dignity.

The judge states that her ethical convictions lead her to protect life at all times. However, she considers that the law in force recognizes personal autonomy and that it is for the mother and the child to decide about treatment. She declares that foreseeing discontinuation of treatment and the possible shortening of life expectancy constitutes a normative reason against which she does not desire, but she acts intentionally in accordance with the law and with public reasons of autonomy and dignity.

By contrast, the court's advisor takes the view that the law imposes a duty to preserve life in all cases.

Before ruling, the judge heard both parties and reviewed the evidence each submitted.

The court issues a judgment ordering that the child not receive chemotherapy, holding that autonomy at the end of life is also part of the right to life. The judge makes explicit that the foreseen adverse effect is secondary and unintended, and that her decision rests on public reasons rather than personal convictions.

In the months that follow, the child remains at home with his family and does not undergo medical treatment until the end of the clinical course.

Vignette No 1, Version D

A family-court judge hears a petition filed by Valdivia Hospital for the mother to decide whether her son, who has terminal cancer, should undergo chemotherapy sessions. The mother's attorney argues that the cancer is incurable and that chemotherapy would prevent the child from enjoying the time he has left. She adds that the right to life also encompasses the possibility of living with dignity.

The judge states that her ethical convictions lead her to value personal autonomy and freedom of choice. However, she considers that the law in force requires protecting life even in cases of incurable disease. She recognizes that prolonged hospitalization may affect the child's daily well-being and time with his family; she does not intend that result and foresees it as a side effect

that counts against, but she intentionally decides in accordance with the legal duty to protect life as a public reason.

In contrast, the court's advisor maintains that the mother and the child should decide, because the law should not impose how people face the final stage of life.

Before ruling, the judge heard both parties and reviewed the evidence each submitted.

The court issues a judgment ordering that the child receive chemotherapy, holding that life must be protected even in the face of terminal illness. The judge acknowledges that the foreseen adverse effect constitutes a normative reason against doing so, but maintains that her decision responds to public reasons of the legal order.

In the months that follow, the child remains hospitalized and under medical treatment, without returning home to his family until the end of the clinical course.

Vignette № 2, Version A

A family-court judge hears a petition filed by the mother's attorney to change the three-year-old girl's paternal surname. Counsel argues that the father was convicted of domestic violence against the mother and the child herself. She also contends that the child's best interests and well-being support the request to change the surname.

The judge considers that current law allows only a single change of name. She believes the child is too young to make that decision and that the mother cannot make it on her behalf, because doing so would prevent the child from changing it again in the future. She recognizes that keeping the paternal surname may cause symbolic and practical harm to the minor; she does not intend that result and identifies it as a normative reason against. All the same, she decides intentionally on public reasons of formal legality – generality, stability of the civil-registry system, and the rule's prospectivity – and on the idea that the definitive choice should be future and autonomous.

By contrast, the court's advisor argues that granting the request would allow the child to detach from the violent context that marked her early years.

Before ruling, the judge heard both parties and reviewed the evidence each submitted.

The court issues a judgment denying the petition and orders that the child retain her paternal surname. The judge makes explicit that the foreseen adverse effect is secondary and unintended, and that her decision rests on public reasons of the legal order.

Years later, upon reaching the age of majority, the young woman exercised her right to change her surname, just as the judge had indicated was compatible with the general and prospective application of the rule.

Vignette № 2, Version B (mirror)

A family-court judge hears a petition filed by the mother's attorney to change the three-year-old girl's paternal surname. Counsel argues that the father was convicted of domestic violence against the mother and the child herself. She also contends that the child's best interests and well-being support the request to change the surname.

The judge considers that, although the general name regime allows only one change, current law recognizes as public reasons the child's best interests and the protection of identity in contexts of violence. She foresees that authorizing the change at this age could restrict a future autonomous decision and affect the stability of the registry system; she does not seek that effect and recognizes it as a normative reason against. Nevertheless, she decides intentionally on public reasons of protection and the child's dignity, and on the congruence between the established facts and the exceptional remedy that the legal order permits.

By contrast, the court's advisor believes the general rule should be maintained and that one should wait until the age of majority so as not to compromise later decisions.

Before ruling, the judge heard both parties and reviewed the evidence each submitted.

The court issues a judgment granting the petition and orders the surname change, finding that, in the context described, the concrete measure better realizes the child's best interests. The judge notes that the foreseen adverse effect is secondary and unintended, and that the decision is taken for public reasons rather than personal preferences.

Years later, the registry entry remained unchanged, with no record of any additional application by the young woman to modify it.

Vignette No 3, Version A

A panel of the Santiago Court of Appeals hears a constitutional action filed by a candidate for the Chamber of Deputies. He asks the court to order the removal from the Internet of a news report accusing him of corruption. He argues that the report harms his reputation and affects the conduct of his re-election campaign. The media outlet's defense argues that freedom of expression should prevail and that politicians must be subject to press scrutiny.

The panel's presiding judge considers that current law allows removing content only when it insults, contains manifest falsehoods, or attributes events that did not occur. He foresees that keeping the report online may affect the candidate's campaign; he does not intend that result and recognizes it as a normative reason against. Nevertheless, he intentionally decides on public reasons associated with formal legality – publicity and generality of the rule, stability, and congruence between norm and decision – and on the prohibition of prior restraint.

By contrast, the court's rapporteur takes the view that, during an election period, the report may seriously prejudice the candidate's re-election prospects.

Before ruling, the judge heard both parties and reviewed the evidence each submitted.

The court issues judgment denying the candidate's request, holding that candidates for public office must bear heightened scrutiny and that journalistic work is protected by freedom of expression. The court makes explicit that reputational risk is a foreseen, unintended side effect, and that the decision rests on public reasons within the legal order.

In the months that follow, the candidate's campaign reports reputational impact, though it is not possible to establish the report's specific influence on the electoral results.

Vignette No 3, Version B (mirror)

A panel of the Santiago Court of Appeals hears a constitutional action filed by a candidate for the Chamber of Deputies. He asks the court to order the removal from the Internet of a news report accusing him of corruption. He argues that the report harms his reputation and affects the conduct of his re-election campaign. The media outlet's defense argues that freedom of expression should prevail and that politicians must be subject to press scrutiny.

The panel's presiding judge considers that, although the general rule forbids prior restraint, current law contemplates strict exceptions where manifest falsehoods or attributions of events that did not occur injure reputation. He foresees that taking down the content may limit public debate and journalistic criticism; he does not seek that effect and recognizes it as a normative reason against. All the same, he intentionally decides on public reasons of protecting reputation and informational veracity in electoral contexts, and on the congruence between the established facts and the exceptional response permitted by the legal order.

By contrast, the court's rapporteur believes the report should remain online because judicial control of content could disproportionately affect freedom of expression.

Before ruling, the judge heard both parties and reviewed the evidence each submitted.

The court issues judgment granting the petition and orders the report removed, finding that, in the circumstances, its continued publication seriously and verifiably harms the plaintiff's reputation. The court records that the restriction on public debate is a foreseen, unintended side effect, and that the decision is taken for public reasons rather than personal preferences.

Following the decision, the outlet adds an editorial note indicating that a review of the challenged material is underway, and the electoral process continues without further statements from the court.

Vignette No 4, Version A

A panel of the Santiago Court of Appeals hears a constitutional action filed by a senator. The plaintiff asks the court to order the removal from the Internet of a photograph in which he appears engaging in sexual relations with a model on the terrace of his apartment. He alleges that dissemination of the image violates his privacy and seriously harms his reputation. The media outlet's defense argues that freedom of expression should prevail, that the photo was taken from a public street from which the location was clearly visible, and that politicians are subject to heightened public scrutiny.

The panel's presiding judge considers that the applicable law authorizes content removal only in exceptional cases and that, as a rule, compelled takedowns may constitute prior restraint. He foresees that keeping the image available will harm the plaintiff's privacy; he does not intend that result and recognizes it as a normative reason against. Nevertheless, he intentionally decides on public reasons of freedom of expression and citizen oversight of public officials, and on formal legality in its dimensions of generality, stability, and congruence between norm and decision.

By contrast, the court's rapporteur takes the view that publishing intimate images lacks public-interest value and directly affects the plaintiff's private life.

Before ruling, the judge heard both parties and reviewed the evidence each submitted.

The court issues judgment denying the petition, holding that, in the circumstances, measures tantamount to prior restraint should be avoided and heightened public scrutiny of authorities should be protected. The court records that the harm to privacy is a foreseen, unintended side effect, and that the decision rests on public reasons rather than personal preferences.

In the days that follow, the controversy continues in the public sphere for a short period and then subsides, with no further statement from the court.

Vignette No 4, Version B (mirror)

A panel of the Santiago Court of Appeals hears a constitutional action filed by a senator. The plaintiff asks the court to order the removal from the Internet of a photograph in which he appears engaging in sexual relations with a model on the terrace of his apartment. He alleges that dissemination of the image violates his privacy and seriously harms his reputation. The media outlet's defense argues that freedom of expression should prevail, that the photo was taken from a public street from which the location was clearly visible, and that politicians are subject to heightened public scrutiny.

The panel's presiding judge considers that, although the general rule forbids prior restraint, the legal order contemplates strict exceptions when disseminating a person's intimate images – even of a public official – gravely violates private life without contributing information of public interest. He foresees that ordering removal of the photograph may limit public debate and political criticism; he does not intend that effect and recognizes it as a normative reason against. All the same, he intentionally decides on public reasons of protecting privacy and reputation, and on formal legality in its dimensions of generality, stability, and congruence between the established facts and the exceptional response permitted by the norm.

By contrast, the court's rapporteur believes the content should remain online to safeguard freedom of expression and avoid an expansive precedent for judicial control of publications.

Before ruling, the judge heard both parties and reviewed the evidence each submitted.

The court issues judgment granting the petition and orders the photograph removed, finding that it constitutes an unlawful intrusion into the plaintiff's private life. The court records that the

restriction on public debate is a foreseen, unintended side effect, and that the decision is taken for public reasons rather than personal preferences.

In the days that follow, the outlet publishes an editorial note stating that it will comply with the ruling and review its protocols; public debate continues for a few days and then subsides, without further pronouncements from the court.

Appendix 2. Vignette Prototypes in Spanish

Viñeta Nº 1, versión A

Una jueza de familia conoce una petición presentada por el Hospital de Valdivia para que una madre decida si su hijo, enfermo con cáncer terminal, haga sesiones de quimioterapia. La abogada de la madre sostiene que el cáncer no tiene cura y que la quimioterapia impediría al niño disfrutar el tiempo que le resta de vida. Argumenta que el derecho a la vida también comprende la posibilidad de vivir con dignidad.

La jueza considera que el derecho a la vida exige mantener el tratamiento, incluso cuando no hay posibilidad de curación. Señala que sus convicciones religiosas la llevan a proteger la vida hasta sus últimas consecuencias. La jueza reconoce que mantener el tratamiento probablemente reducirá el bienestar cotidiano y el tiempo en familia del niño; no busca ese resultado, aunque prevé que puede ocurrir como efecto secundario al cumplir lo que entiende exige el derecho.

En cambio, la consejera del tribunal expone que la madre y el niño deberían decidir, pues estima que la legislación no debe imponer la forma en que las personas enfrentan la etapa final de la vida.

Antes de resolver, la jueza escuchó a ambas partes y analizó la prueba que cada una aportó. La sentencia ordenó que el niño reciba la quimioterapia, estableciendo que la vida debe ser protegida incluso ante enfermedades incurables.

El texto admite que el efecto adverso previsto constituye una razón normativa en contra, pero decide intencionalmente conforme a razones públicas de protección de la vida previstas por el ordenamiento. En los meses posteriores, el niño permanece hospitalizado y bajo tratamiento médico, sin regresar a su hogar con su familia hasta el final del proceso clínico.

Viñeta Nº 1, versión B

Una jueza de familia conoce una petición presentada por el Hospital de Valdivia para que una madre decida si su hijo, enfermo con cáncer terminal, haga sesiones de quimioterapia. La abogada de la madre sostiene que el cáncer no tiene cura y que la quimioterapia impediría al niño disfrutar el tiempo que le resta de vida. Argumenta que el derecho a la vida también comprende la posibilidad de vivir con dignidad.

La jueza considera que el derecho a la vida incluye el respeto a la autonomía personal, lo que permite que la madre y el niño decidan si aceptar o no el tratamiento. La jueza prevé que suspender la quimioterapia puede disminuir la expectativa de vida; no pretende ese efecto y lo acepta como secundario al resguardar la autonomía como razón pública.

En cambio, la consejera del tribunal expone que el niño debiera recibir quimioterapia, pues estima que la legislación impone el deber de preservar la vida en todo caso.

Antes de resolver, la jueza escuchó a ambas partes y analizó la prueba que cada una aportó. El tribunal dicta sentencia y ordena que el niño no reciba la quimioterapia, estableciendo que la autonomía en la etapa final de la vida también forma parte del derecho a la vida.

La jueza reconoce que ese riesgo constituye una razón normativa en contra, pero resuelve intencionalmente por razones públicas de autonomía y dignidad en la etapa final de la vida. En los meses posteriores, el niño permanece en su hogar junto a su familia, sin someterse a tratamiento médico hasta el final del proceso clínico.

Viñeta Nº 1, versión C

Una jueza de familia conoce una petición presentada por el Hospital de Valdivia para que una madre decida si su hijo, enfermo con cáncer terminal, haga sesiones de quimioterapia. La abogada de la madre sostiene que el cáncer no tiene cura y que la quimioterapia impediría al niño disfrutar el tiempo que le resta de vida. Argumenta que el derecho a la vida también comprende la posibilidad de vivir con dignidad.

La jueza manifiesta que sus convicciones éticas la llevan a proteger la vida en todo momento. Sin embargo, considera que el derecho vigente reconoce la autonomía personal y que corresponde a la madre y al niño decidir sobre el tratamiento. Declara que prever la suspensión del tratamiento y el eventual acortamiento de la expectativa de vida constituye una razón normativa en contra que no desea, pero actúa intencionalmente conforme al derecho y a razones públicas de autonomía y dignidad.

En cambio, la consejera del tribunal estima que la legislación impone el deber de preservar la vida en todo caso.

Antes de resolver, la jueza escuchó a ambas partes y analizó la prueba que cada una aportó. El tribunal dicta sentencia y ordena que el niño no reciba la quimioterapia, estableciendo que la autonomía en la etapa final de la vida también forma parte del derecho a la vida.

La jueza explicita que el efecto adverso previsto es secundario y no buscado, y que su decisión se funda en razones públicas y no en convicciones personales. En los meses posteriores, el niño permanece en su hogar junto a su familia, sin someterse a tratamiento médico hasta el final del proceso clínico.

Viñeta Nº 1, versión D

Una jueza de familia conoce una petición presentada por el Hospital de Valdivia para que una madre decida si su hijo, enfermo con cáncer terminal, haga sesiones de quimioterapia. La abogada de la madre sostiene que el cáncer no tiene cura y que la quimioterapia impediría al niño disfrutar el tiempo que le resta de vida. Argumenta que el derecho a la vida también comprende la posibilidad de vivir con dignidad. La jueza manifiesta que sus convicciones éticas la llevan a valorar la autonomía personal y la libertad de decisión. Sin embargo, considera que el derecho vigente exige proteger la vida incluso en casos de enfermedades incurables. Reconoce que una hospitalización prolongada puede afectar el bienestar cotidiano y el tiempo en familia del niño; no pretende ese resultado y lo prevé como un efecto secundario que cuenta en contra, pero decide intencionalmente conforme al deber jurídico de protección de la vida como razón pública.

En contraste, la consejera del tribunal expone que la madre y el niño deberían decidir, pues estima que la legislación no impone debe imponer la forma en que las personas enfrentan la etapa final de la vida.

Antes de resolver, la jueza escuchó a ambas partes y analizó la prueba que cada una aportó.

El tribunal dicta sentencia y ordena que el niño reciba la quimioterapia, estableciendo que la vida debe ser protegida incluso ante enfermedades terminales. La jueza admite que el efecto adverso previsto constituye una razón normativa en contra, pero sostiene que su decisión responde a razones públicas del ordenamiento jurídico. En los meses posteriores, el niño permanece hospitalizado y bajo tratamiento médico, sin regresar a su hogar con su familia hasta el final del proceso clínico.

Viñeta Nº 2, versión A

Una jueza de familia conoce una petición presentada por la abogada de la madre de una niña de tres años. Ella solicita el cambio del apellido paterno de la niña. La abogada sostiene que el padre fue condenado por violencia intrafamiliar en contra de la madre y de la propia hija. También argumenta que el interés superior de la niña y su bienestar amparan la solicitud de cambiar el apellido.

La jueza considera que el derecho vigente solo permite cambiar de nombre una vez. Estima que la niña es demasiado pequeña para tomar esa decisión y que la madre no puede hacerlo en su nom-

bre, porque ello impediría que la niña, en el futuro, volviera a modificarlo. Reconoce que mantener el apellido paterno puede generar un daño simbólico y práctico para la menor; no pretende ese resultado y lo identifica como una razón normativa en contra. Con todo, decide intencionalmente conforme a razones públicas de legalidad formal – generalidad, estabilidad del régimen registral y prospectividad de la regla – y a la idea de que la elección definitiva debe ser futura y autónoma. En contraste, la consejera del tribunal expone que acoger la solicitud permitiría a la niña desvincularse del contexto de violencia en el que transcurrieron sus primeros años de vida.

Antes de resolver, la jueza escuchó a ambas partes y analizó la prueba que cada una aportó.

El tribunal dicta sentencia y rechaza la solicitud, ordenando que la niña conserve su apellido paterno.

La jueza explicita que el efecto adverso previsto es secundario y no buscado, y que su decisión se funda en razones públicas del ordenamiento jurídico. Años después, al alcanzar la mayoría de edad, la joven ejerció su derecho a cambiar de apellido, tal como la jueza había indicado que era compatible con la aplicación general y prospectiva de la regla.

Viñeta N° 2, versión B (espejo)

Una jueza de familia conoce una petición presentada por la abogada de la madre de una niña de tres años. Ella solicita el cambio del apellido paterno de la niña. La abogada sostiene que el padre fue condenado por violencia intrafamiliar en contra de la madre y de la propia hija. También argumenta que el interés superior de la niña y su bienestar amparan la solicitud de cambiar el apellido.

La jueza considera que, aun cuando el régimen general de nombres permite un solo cambio, el derecho vigente reconoce como razones públicas el interés superior del niño y la protección de su identidad en contextos de violencia. Prevé que autorizar el cambio a esta edad podría restringir una futura decisión autónoma y afectar la estabilidad del sistema registral; no busca ese efecto y lo reconoce como una razón normativa en contra. Pese a ello, decide intencionalmente con base en razones públicas de protección y dignidad de la niña, y en la congruencia entre los hechos acreditados y la solución excepcional que el ordenamiento permite. En contraste, la consejera del tribunal estima que debe mantenerse la regla general y esperar a la mayoría de edad para no comprometer decisiones posteriores.

Antes de resolver, la jueza escuchó a ambas partes y analizó la prueba que cada una aportó.

El tribunal dicta sentencia y acoge la solicitud, ordenando el cambio de apellido por estimar que, en el contexto descrito, la medida concreta realiza de mejor modo el interés superior de la niña.

La jueza deja constancia de que el efecto adverso previsto es secundario y no buscado, y que la decisión se adopta por razones públicas y no por preferencias personales. Años después, la inscripción se mantuvo sin nuevas gestiones, sin que conste una solicitud adicional de modificación por parte de la joven.

Viñeta N° 3, versión A

Una sala de la Corte de Apelaciones de Santiago conoce una acción constitucional presentada por un candidato a diputado. Él solicita que la corte ordene retirar de Internet un reportaje en el que se le acusa de corrupción. Sostiene que dicho reportaje daña su reputación y afecta el desarrollo de su campaña de reelección. La defensa del medio de comunicación argumenta que debería prevalecer la libertad de expresión y que los políticos deben estar sujetos al escrutinio de la prensa.

El juez presidente de la sala considera que el derecho vigente solo permite retirar contenidos que insulten, contengan falsedades manifiestas o atribuyan hechos que no hayan ocurrido. Prevé que mantener en línea el reportaje puede afectar la campaña del actor; no pretende ese resultado y lo reconoce como una razón normativa en contra. Pese a ello, decide intencionalmente conforme a razones públicas asociadas a la legalidad formal – publicidad y generalidad de la regla, estabilidad y congruencia entre norma y decisión – y a la prohibición de censura previa. En contraste, el relator del tribunal estima que, en época electoral, el reportaje puede perjudicar gravemente las opciones de reelección del actor.

Antes de resolver, el juez escuchó a ambas partes y analizó la prueba que cada una aportó. El tribunal dicta sentencia y rechaza la petición del candidato, señalando que los candidatos a cargos públicos deben soportar un nivel reforzado de escrutinio y que el trabajo periodístico se encuentra amparado por la libertad de expresión.

El tribunal explicita que el riesgo reputacional es un efecto secundario previsto y no buscado, y que la decisión se funda en razones públicas del ordenamiento.

En los meses posteriores, la campaña del actor acusa impacto reputacional, sin que sea posible establecer la influencia específica del reportaje en los resultados electorales.

Viñeta N° 3, versión B (espejo)

Una sala de la Corte de Apelaciones de Santiago conoce una acción constitucional presentada por un candidato a diputado. Él solicita que la corte ordene retirar de Internet un reportaje en el que se le acusa de corrupción. Sostiene que dicho reportaje daña su reputación y afecta el desarrollo de su campaña de reelección. La defensa del medio de comunicación argumenta que debería prevalecer la libertad de expresión y que los políticos deben estar sujetos al escrutinio de la prensa.

El juez presidente de la sala considera que, aun cuando la regla general proscribe la censura previa, el derecho vigente contempla excepciones estrictas cuando se trata de falsedades manifiestas o atribuciones de hechos no ocurridos que lesionan la honra. Prevé que retirar el contenido puede limitar el debate público y la crítica periodística; no busca ese efecto y lo reconoce como una razón normativa en contra.

Con todo, decide intencionalmente conforme a razones públicas de protección de la reputación y de la veracidad informativa en contextos electorales, y a la congruencia entre los hechos acreditados y la respuesta excepcional que el ordenamiento permite. En contraste, el relator del tribunal estima que debe mantenerse el reportaje en línea, pues el control judicial de contenidos podría afectar la libertad de expresión de manera desproporcionada.

Antes de resolver, el juez escuchó a ambas partes y analizó la prueba que cada una aportó.

El tribunal dicta sentencia y acoge la petición, ordenando el retiro del reportaje por estimar que, en las circunstancias del caso, su permanencia vulnera de modo grave y verificable la honra del actor.

El tribunal deja constancia de que la restricción al debate público es un efecto secundario previsto y no buscado, y que la decisión se adopta por razones públicas y no por preferencias personales. Tras la decisión, el medio incorpora una nota editorial indicando revisión en curso del material cuestionado, y el proceso electoral continúa sin pronunciamientos adicionales del tribunal.

Viñeta N° 4, versión A

Una sala de la Corte de Apelaciones de Santiago conoce una acción constitucional presentada por un Senador. El demandante solicita que la corte ordene retirar de Internet una fotografía en la que aparece teniendo sexo con una modelo en la terraza de su departamento. Alega que la difusión de esa imagen vulnera su vida privada y afecta de manera grave su honra. La defensa del medio de comunicación sostiene que debe prevalecer la libertad de expresión, que la foto fue tomada desde la vía pública, desde donde se veía claramente el lugar, y que los políticos están sujetos a un escrutinio más intenso por parte de la ciudadanía.

El juez presidente de la sala considera que la normativa vigente solo autoriza la eliminación de contenidos en casos excepcionales y que, como regla, el retiro forzoso de publicaciones puede constituir censura previa. Prevé que mantener disponible la imagen afectará la privacidad del actor; no busca ese resultado y lo reconoce como una razón normativa en contra. Pese a ello, decide intencionalmente conforme a razones públicas de libertad de expresión y de control ciudadano de las autoridades, y a la legalidad formal en su dimensión de generalidad, estabilidad y congruencia entre norma y decisión.

En contraste, el relator del tribunal estima que la publicación de imágenes íntimas carece de

interés público y afecta directamente la vida privada del actor. Antes de resolver, el juez escuchó a ambas partes y analizó la prueba que cada una aportó. El tribunal dicta sentencia y rechaza la petición, declarando que, en las circunstancias del caso, corresponde evitar medidas equivalentes a censura previa y resguardar el escrutinio público reforzado sobre autoridades.

El tribunal deja constancia de que el perjuicio a la privacidad es un efecto secundario previsto y no buscado, y que la decisión se funda en razones públicas y no en preferencias personales. En los días siguientes, la controversia continúa algunos días en la esfera pública y luego disminuye, sin que exista un pronunciamiento adicional del tribunal.

Viñeta N° 4, versión B (espejo)

Una sala de la Corte de Apelaciones de Santiago conoce una acción constitucional presentada por un Senador. El demandante solicita que la corte ordene retirar de Internet una fotografía en la que aparece teniendo sexo con una modelo en la terraza de su departamento. Alega que la difusión de esa imagen vulnera su vida privada y afecta de manera grave su honra. La defensa del medio de comunicación sostiene que debe prevalecer la libertad de expresión, que la foto fue tomada desde la vía pública, desde donde se veía claramente el lugar, y que los políticos están sujetos a un escrutinio más intenso por parte de la ciudadanía.

El juez presidente de la sala considera que, aun cuando la regla general proscribiera la censura previa, el ordenamiento contempla excepciones estrictas cuando la difusión de imágenes íntimas de una persona, incluso autoridad, vulnera gravemente su vida privada sin aportar información de interés público. Prevé que ordenar el retiro de la fotografía puede limitar el debate público y la crítica política; no pretende ese efecto y lo reconoce como una razón normativa en contra. Con todo, decide intencionalmente conforme a razones públicas de protección de la vida privada y de la honra, y a la legalidad formal en su dimensión de generalidad, estabilidad y congruencia entre los hechos acreditados y la respuesta excepcional permitida por la norma.

En contraste, el relator del tribunal estima que debe mantenerse el contenido en línea para resguardar la libertad de expresión y evitar un precedente expansivo de control judicial de publicaciones. Antes de resolver, el juez escuchó a ambas partes y analizó la prueba que cada una aportó. El tribunal dicta sentencia y acoge la petición, ordenando que la fotografía sea retirada por constituir una intromisión ilegítima en la vida privada del actor.

El tribunal deja constancia de que la restricción al debate público es un efecto secundario previsto y no buscado, y que la decisión se adopta por razones públicas y no por preferencias personales. En los días siguientes, el medio publica una nota editorial señalando que cumplirá la resolución y revisará sus protocolos; el debate público continúa algunos días y luego disminuye, sin nuevos pronunciamientos del tribunal.

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