

Abortion Policy and Representation: The Wisconsin Assembly

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ABSTRACT

Legislative behavior is described in terms of a trustee or a delegate. Trustee behavior has led many to believe that there is a lack of democratic responsiveness between legislators and their constituents. Incumbency has a significant impact on the behavior of legislators, by allowing them more freedom to behave as trustees.

Abortion, a highly salient and controversial policy issue, has evoked policy that has not been completely reflective of public opinion. My question determines whether members in the Wisconsin State Assembly are acting as trustees or delegates when examining abortion policy and whether incumbency affects their behavior. By comparing the number of years an assembly member has spent in office and understanding their motivations and policy priorities, I will determine whether incumbency plays a role in their inclinations to be democratically responsive to their constituents on the issue of abortion.

I will conduct my research through a mail survey and personal interviews with members of the Wisconsin assembly. I hypothesize that regardless of a legislative member's marginality he or she will act as a trustee on the contentious issue of abortion, rather than acting as a delegate and responding to constituencies.

My conclusions support this hypothesis in the regard that both older and younger members, when asked what their behaviors toward abortion policy, answered similarly: their personal convictions as opposed to constituents' viewpoints became their top motivation on this policy issue. Factors such as the polarized nature of the debate, the way abortion is debated in the assembly, pressure from special interests, and the nature of campaign politics significantly influence Wisconsin Members of the Assembly, and regardless of whether it affects their final vote, it does influence their legislative behavior in terms of acting as a trustee or delegate.

INTRODUCTION

A democracy is known to be the government of the many people, not the few or one. The voices of the many people are ideally echoed through a representative democracy where delegates are chosen to represent a group of people and are expected to be responsive to their policy needs. Due to growing distrust in government, there is reason to believe that democratic responsiveness is slipping and other factors, more so than constituent concerns, influence a legislative member's behavior and their tendency to not listen to the voices of their constituents.

Elisabeth Gerber examines the legislative process and how it influences the behaviors of congressmen (263). She depicts two models: the "delegate model" and the "institutional model". The delegate model assumes that the "delegate" votes with their district majority on policy preferences. On the contrary, the institutional model, which is often referred to as a trustee, assumes that there are other incentives that affect their behavior. This model proclaims that there are certain institutional characteristics that lead the "delegate" to act as a trustee. Three specific characteristics are pointed out in her research: legislator's party, legislator's committee positions, and the net campaign contributions received by the legislator relevant to the current issue (Gerber, 271). These are the pressures, according to Gerber, that determine the voting behaviors of legislative members. David Mayhew, however, explores a different perspective.

Mayhew argues that legislators have a sole focus and motivation and that is to get re-elected (103). According to him, house marginals are more likely than non-marginals to turn up as "district" oriented and "delegates," rather than a congressman that has a "safe seat." Interestingly enough, further research has been conducted showing that marginals have declined and there are more "safe seats" now than ever (Ansolabehere, 21). This increases the likelihood of legislators to act as trustees. This behavior is explained in all types of policy, and perhaps the distinction can be made even further in the context of morality policy.

Abortion, one of the post-materialistic issues that is evolving in American politics, has gained much attention since the *Roe v. Wade* Supreme Court decision (Sharp, 156). The history of public opinion on abortion policy has remained constant since 1973 and legislative activity has been slightly reflective of public opinion, but not totally responsive (Sharp, 148). The mass opinion suggests that acceptance of abortion remains very situational. A distinction between "medical" and "social" reasons for abortion has been made over the years. Research suggests that the public favors the legality of abortion if the mother's health is in danger, if there is a chance of a serious birth defect in the unborn child, and in the case of rape. These "medical" reasons have gained much support in the eyes of the masses (147). Abortion has a very personal tone about it, often times triggering religious beliefs. It is looked upon as being a private matter and people are more likely to form an opinion on it based upon personal experiences and values, rather than taking cues from political authorities (148). Evidence has shown, however, that although this issue is highly salient and controversial among the public and may be an "important" issue to many members of society, the vast majority of people do not consider it to be a top priority (150). Partisan elite members, however, have become extremely polarized on this issue as well as on many other "culture war" issues (Lindaman, Haider-Markel, 91).

According to Fenno, however, this accountability would only be present in one type of constituency: the primary constituency. Fenno examines member activity at home and the nature of their constituency and claims that there are four major types of constituencies: geographic, re-election, primary, and personal. These are described as "a nest of concentric circles," geographic being the largest and personal the smallest circle. In other words, legislative members appear to be responsive but are only responsive to their primary and personal constituencies. This would reinforce Sharp's conclusion that abortion has been reflective of public opinion, but not largely responsive.

We must keep in mind, however, the other factors that have been considered in this analysis. The factor of marginal and non-marginal congressmen becomes crucial to the interpretation of a trustee and delegate as noted above. Despite the growing number of "safe seats," it is legitimate to claim that both marginal and non-marginal legislators, in the larger scope of our "nest of concentric circles," will act as trustees on issues pertaining to abortion, rather than a delegate.

OBJECTIVES

The literature has proven that there are many different factors that contribute to the actions or behavior of a legislative member, which would label them as being a trustee rather than a delegate. Factors such as party affiliation, committee involvement, re-election, and campaign contributions are just a few that have a significant impact on legislators all over the country. As a mediating variable, incumbency is another important factor and one that will be of particular importance throughout my research.

Abortion policy is of particular interest as a morality policy type. The research suggests that democratic responsiveness has been slightly present, although not completely reflective. Because of an increase in party polarization, this trend has prevailed, along with the fact that legislative members seek only to please their primary and personal constituencies. Although all of these factors are very important in the influencing of legislative behavior, my primary focus is the incumbency of assembly members.

Competitive house seats bring about more "district oriented" delegates, and "safe seats," or ones with incumbents, usually invoke trustee behavior. My question involves determining whether members in the Wisconsin State Assembly are acting as trustees or delegates when examining abortion policy and whether incumbency affects their behavior. By looking at their length in office, I will be able to determine whether incumbency plays a large role on their abortion policy preferences. I chose abortion policy because it fits in the realm of morality policy. It is a policy that is highly salient and one which people have a strong preference and or opinion. Because of this policy type, I hypothesize that regardless of a legislative member's marginality, he or she will act as trustee on this issue, rather than acting as a delegate and responding to their general constituency.

METHOD

Throughout my research and analysis I will be conducting a qualitative study. This study includes 98 current Wisconsin State members of the Assembly. From the population sampled I have identified a wide distribution in the number of years that an assembly member has served. Their length in office ranges from one to 34 years. I have systematically chosen the five Democrats and five Republicans that have served in office the longest and the five Democrats and five Republicans that have served in office the least amount of time.

To gather my qualitative data, I will be using a two-step researching process. The first step consists of a mail survey that asks 20 basic questions about the member's constituencies and their policy priorities. The respondents are asked to mail this survey back if they are interested in being a part of this study. The respondents who return the mail survey are selected for the next stage: personal interviews. Approximately eight of the respondents will be asked similar questions in open-ended form, allowing for more in-depth responses and rich data collection. In addition, I will be audio-recording the interviews and transcribing the collected data. This will enable me to look for similarities and common themes among the representatives based on their length of tenure. From their responses I will compare the data to previous research and form conclusions on Wisconsin's democratic responsiveness in the context of abortion. I will then compare the findings of Wisconsin to other states and national representative trends.

RESULTS

Two things must be considered before I present my conclusions. First, interviews of Wisconsin Members of the Assembly were conducted over the summer of the 2004 election. Because of the nature of election politics and campaigning season, it is important to recognize the fact that the campaign environment in which these interviews took place may have affected the interview responses. Although I cannot prove that this played a significant role in my data collection, it would be worthwhile to do a similar study during a non-election year to see if the responses were different.

Second, I have made a distinction between members that have been in office the least amount of time and members that have been in office the most amount of time and will refer to them as "older" and "younger" members. This has no reflection, however, on their ages, just their length of tenure. I contacted and interviewed a total of eight members, four of which are older members and four of which are younger members. Each member will be assigned a letter and will be referred to by that letter throughout this essay. Older members are assigned letters A-D and younger members assigned E-H.

Last, I have divided my results into four different sections. These sections illustrate common themes that prevailed in my interviews with legislative members and aid in the explanation of their behavior and attitudes toward abortion policy and representation.

Polarized opinions

Most if not all legislators agreed that their beliefs played a large role in their abortion policy stances and that it would be impossible to "sit on the fence" when it came to the issue of abortion. Older member C contends, "This is one of those issues where you're not a delegate. You've got to go with what you believe." When given influential factors such as religious affiliation, family, party affiliation, constituents, personal committee involvement, and interest groups, older member C said that their abortion policy stance stemmed from their family, kids, and grandchildren. "My motivation definitely changes on the issue of abortion because it's all about human life, not a tax break. It is certainly different when we are talking about a human life."

Not only was there a consensus in terms of how legislators approach this type of contentious policy but there was also an agreement on the fact that this issue is a defining issue in which people must choose a side, whether it is pro-life or pro-choice. "It is important to take an opinion one way or the other," maintained younger member E. Older member D agrees.

"I think each legislator has to make a decision when he or she runs what they think the right answer is on that issue. Once they have made that decision, it is extraordinarily rare to change their minds... Once they have thought about it, I think that sort of dictates the course of action they take on many of the rest of the issues."

Older member D continues by explaining the importance and consequences of making a stance on this issue.

"If you change your mind on an issue like that, the constituency that you're newly trying to appeal to is suspicious of you to begin with, and the constituency that you left hates you. So, this is an issue that is so difficult to have a lot of flexibility in."

Legislative flexibility

The word flexibility brings up a good question in terms of explaining legislative behavior and abortion policy. Is there any room for flexibility on this issue? The consensus thus far is that there isn't, however, there is evidence to suggest the contrary. Legislators were very adamant in defining abortion beyond the polar opposite labels of pro-life and pro-choice. In fact, it was brought to my attention several times that the abortion debate is rarely debated in the context of pro-life and pro-choice jargon, rather the debate has expanded to issues related to abortion policy.

"There are a lot of issues that are peripheral to abortion but not really about abortion. . . it is about efforts to heighten the conditions under which abortions are legal but doesn't deal specifically with abortion," stated older member D.

Some of the issues mentioned included the conscience clause that would allow a pharmacist to refuse to sell specific items if it violated his or her conscience. Another issue mentioned was stem cell research, an issue that directly does not affect the Roe v. Wade decision of a woman's right to choose but has been criticized by an older legislator as an effort made to "heighten the conditions which abortions are legal." Younger member E viewed the issue in the context of women's health, saying that questions on abortion are brought up often on the health committee. Younger member H concurred.

"You might be asking about abortion but really it's beyond abortion. I mean women can't even get access to prescription drugs though healthcare like men can. This is about equality. There is nothing that happens with a man's body that he cannot make a choice on."

After examining the statements of the legislators and how each of them defined the issue differently, it is clear that the debate and ideology remains polarized but is allowing for more exceptions. Furthermore, as the debate expands to other areas such as stem cell research and the conscience of a pharmacist, it appears that there is more room to be flexible on this issue, and thus, creating policy based on one's personal beliefs becomes the preferred solution.

One could speculate on whether flexibility is a good or bad characteristic of abortion policy ideology, but according to some members, flexibility has its consequences. Because of the polarized nature of the party ideology and the politics involved, any deviation from these party lines leads to tremendous pressure from special interests and even party leadership in some instances. Older member A explains, "I am against abortion, however, I do believe that there are some exceptions. Our party leadership gets pressure from interest groups, which puts pressure on us." This member, when asked to state their biggest influence on their general policy stance, chose constituents as their main influence and interest groups as their second most influential factor. This was ranked higher than party leadership, party affiliation, committee involvement, religious affiliation, and personal convictions. Older member C even went so far as to explain to me how intense these special interests have become.

"I've had the Pro-Life and Right to Life leave messages on my constituents' answering machines saying 'Your representative wants to put human embryos in animal uterus'... they even put me on a list saying that I shouldn't receive communion. They have had a profound effect on my personal faith."

This pressure from special interests, according to one of the older members, has a direct effect on relations with the party and party leadership. In reference to this, older member C contends, "They'd like me to be more pure and cater to pro-life and right wing religious groups.. leadership will say don't get them mad, they'll go after you. I just let them go after me."

These accounts are important in terms of legislative behavior because they reinforce the notion that legislators do act as trustees on the issue of abortion, as opposed to a delegate. Not only do they have their own deeply held convictions but their party does as well, and according to many of the comments made, a legislator runs the risk of either being badgered by special interests or receiving alienation from some party members if he or she does not follow the policy stances of the party. Noteworthy of explanation, is the fact that most of the members that identified this pressure deemed themselves to be moderate on the issue of abortion.

Legislative accessibility

Perhaps the most interesting and surprising piece of data was collected even before the interviewing process had begun. As stated before, contacts with legislators were made during the summer right before the 2004 election. Because of this, it was very difficult to get a hold of legislators. Younger members were very scarce and older members were even scarcer. Women were more prompt in their responses and more agreeable to proceed to the interview process. Many speculations can be made as to why older members were harder to reach and why women seemed to readily agree, but one commonality that was found in most of the members was their hesitance toward participating in my research and their skepticism throughout the interviews and a lot of it had to do with the fact that I was inquiring about a very controversial issue right before an election.

With the exception of younger member G, I received much hesitance upon my request for a personal interview. I was asked many different questions as to why I was researching, where it would be published etc. Some legislators went as far as requesting a copy of the questions before the interview and many denied my project altogether because of their skepticism. My goal was to get eight face-to-face 30-minute interviews, which would have required me taking several trips to the capitol over the course of the summer. This plan did not work out because legislators preferred or rather, "had more time" to participate in a 30-minute telephone interview.

For the most part, the members that agreed to participate in the interview gave me very honest and thought-provoking answers without any evidence of skepticism. Still, there were a few who simply did not trust my integrity

or my motives. Younger member H, when asked what they thought the role of government should be on the issue of abortion stated that the question was "looking at something in a vacuum." After sharing some of their own personal accounts they seemed a little less at ease with our conversation stating,

"So, when you say should government be involved and ask me to rank that, ya know, I guess now, I am very uncomfortable with the conversation being taped because I don't know you, know anything about you, your character or know what your intentions are today or the future."

Not only did I receive questions on my motives, but also I received much skepticism on my interview questions. Older member D had me citing the sources in which I had based my research and interview questions, claiming that I "didn't leave very much room for independent thinking". He or she was convinced that I had a very "jaundice" view of politics and that I had alternative motives. The ironic part about this is that this member was the first person to call me back regarding an interview and the first person to agree to it. This person was definitely an anomaly to my study because their skepticism prevailed all the way through the end of the interview. In the other interviews I felt I gained a sense of trust and credibility and because of that the interviews ended on a relatively positive note.

The inaccessibility and skepticism of the legislators leads me to believe that there is a discrepancy in delegation, since part of a "delegates" job is to inform and educate the public. With an exception to one, it was very difficult to get an interview from the legislators. It took weeks for me to get a hold of them, and I was turned down repeatedly.

In fact, only *one* member returned my call before had to start making the second round of calls. The questions and answers I was inquiring from them were not meant to sabotage them in any way, yet it seemed that many thought I had alternative motives. However, as stated before, given the campaign environment that these interviews were held, I do not think that it is fair to assume that this lack of delegation is constant. To make this claim would require further research during a non-election year.

Non-professional politics

Although the each legislator had very different reasons for running, all had very non-professional backgrounds. Most legislators did not come right out of college to run for office. Most of them claimed they ran because they had life experience. In fact, some of the oldest members in terms of age were freshman legislators. Younger member E discussed the fact that he or she had spent 30 years in the health industry before running for office.

"One thing that has changed over time is that legislative duty has turned into a full time position. It was not ever intended to be that way. Full time legislation is a bad idea. It should be part time and should be enough to keep the district happy. The idea is for representatives to live with the people in their district and to feel and taste what the people feel and taste."

Younger member G confirms his or her delegate behavior by explaining their background as a veterinarian. "You see I was in practice in the area that I represent, I am a veterinarian, and I was in practice for 50 years. I had a real good handle on what people's problems were and what they had to deal with." The idea of living and feeling what your constituents lived and felt seemed to be an overwhelmingly popular concept among the legislators. Older member C uniquely stated that he or she was "cut from the same cloth" as their constituents. Member C furthermore stated that this approach toward legislation should be what is "driving your policy." This degree of non-professionalism is especially poignant because it perhaps suggests, unlike abortion policy, that legislators are more likely to behave as a delegate.

All legislators agreed that they were delegates and they were either more or equally district-oriented than their colleagues. When asked what issue or problem were the biggest concern to constituents the responses were unanimous: jobs and health care. From Oshkosh to the La Crosse area, these were the two issues that most concerned constituents, and each legislator felt that they had contributed to policy affecting these areas. Not one legislator deemed the issue of abortion as a top priority to their constituents, which is perhaps another reason why we see trustee behavior evoked in abortion policy.

CONCLUSION

This analysis provides us with some answers in terms of legislative behavior and democratic responsiveness for Wisconsin policy. On the issue of abortion, the polarized nature of the debate, the way abortion is debated in the assembly, pressure from special interests and party leadership, and the nature of campaign politics significantly influence Wisconsin Members of the Assembly, and regardless of their length of tenure legislators will act as trustees on the issue of abortion.

This conclusion is neither good nor bad. It serves the purpose of explaining legislative motivation and behavior on contentious issues such as abortion policy. The dichotomy of the terms "trustee" and "delegate" are not meant to harm legislative integrity; they only help us understand behavior, and as we have seen in abortion policy there are a lot of exceptions. As constituents this explanation aids in the understanding of democratic responsiveness and

factors that might contribute to the policy-making decisions undertaken by legislators on a daily basis. Although this conclusion has deemed our Wisconsin representatives as "trustees" on the issue of abortion we have much to discover on their responsiveness to other types of policy.

ACKNOWLEDGEMENTS

First, I would like to acknowledge the UW-L Undergraduate Research Grants Program for investing their time and money in student research projects. They funded this project and without them I would not have been able to have personal interviews in Madison. My experience was invaluable, and it is important to send this message to other students pursuing research grants. Most of all I would like to thank my advisor and mentor, Kara Lindaman, who has been an inspiration to me throughout my college career. It was she who brought this opportunity to life, and her guidance and dedication allowed for me to not only have a meaningful capstone project, but an exciting future in graduate school. Kara, thank you for your dedication to students.

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