

Dominating the Discourse: Business-Backed Interests and Public Conversations about Family and Medical Leave Policies

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Paper Presented at the meeting of the Western Political Science Association

Las Vegas, NV

April 2-4, 2015

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“It’s time we stop treating child care as a side issue, or a women’s issue, and treat it like the national economic priority that it is for all of us”

– Barack Obama 2015 State of the Union Address

Introduction

In his 2015 State of the Union address, President Obama highlighted a policy issue that has long been debated and discussed in the American public arena - family leave. This is not the first time that a president has addressed this issue in the public sphere, nor is it the first time that the American public has discussed the possibility of paid family leave on a large scale. Indeed, throughout the 1980s and the early 1990s, Congress and the rest of the country hotly debated how and to what extent to implement any family and medical leave as part of national policy. This discussion resulted in the Family and Medical Leave Act of 1993, which is, to date, the only federal family leave policy in the U.S. As the American public once again takes up the debate in earnest on this issue – and, specifically, whether to make such leave *paid* – it is important to analyze where the conversation has *been*, in order to understand where it will likely end up in this new round of policy discussions. Specifically, it is essential to understand the way that public discourse around this topic has evolved in recent years. What did debates over family

leave look like in the past, and what might that tell us about the future prospects of a federal paid family leave policy?

This paper provides a systematic identification of the multiple and overlapping themes present in the debate over family and medical leave as it took place in the public discourse over the course of 16 years in recent American history. I look specifically at the public discourse that surrounded the adoption of two laws: the federal Family and Medical Leave Act of 1993 and California's Paid Family Leave Law of 2002. By conducting a discourse analysis of these legislative battles, I am able to document how Americans talked about family leave in America – and how that discussion looked over time. What I find is that there was *very little change* in both the language used and the themes represented in public discourse between the two pieces of legislation, despite their separation by time, their scale (federal vs. state level) and their degree of financial impact (one for unpaid leave, one for paid leave). I demonstrate that in both legislative battles, the messages communicated by both proponents and opponents of the bills emphasized market-based, or *economic* reasons for and against the proposed policies. Linking my analysis to those of other Law and Society scholars who discuss the significance of legal discourse, I conclude that even though proponents of the policies won these legislative battles, the economic emphasis of the language used to *discuss* the legislation ensured that opponents' pro-business interests remained at the top of the agenda.

Theoretical Context

Scholars across multiple disciplinary fields have long documented the significance of public discourse in shaping the world we live in – either through the impact of language on public opinion (Gamson and Modigliani 1989; Simon and Jerit 2007), the impact of public ideas on public policy (Schmidt 2008) or the role of media framing in influencing political attitudes and behavior (Iyengar and Kinder 1987; Nelson et al. 1997). Law and Society research has not ignored this important trend, and recent scholarship in this field argues that public discourse has important legal consequences, including

effects on individual and societal level legal consciousness (Haltom and McCann 2004) and rights claiming (Engel and Munger 2003), among other things.

For instance, public discourse is an important element in the work of Haltom and McCann (2004), whose work looks at how the media and public discourse helps to shape society's thinking about the issue of tort reform. Haltom and McCann highlight the significance of institutional factors in setting the standards by which interest groups (which the authors refer to as *instrumental actors*) must get out their messages. Haltom and McCann point out that newspapers, in particular, are unique in their *institutional* qualities. Specifically, newspapers shape the agenda for other news media, and are often viewed as more "true" or "reliable" sources of information (Downie and Kaiser 2002; Neuman, Just and Crigler 1992). Newspapers also share certain institutional characteristics with other types of media in how they gather, organize and report the news. "News reporting is a high-pressure, short-deadline job that privileges reliance on work routines, conventions, and formulas to simplify the choices that must be made and to standardize the operating procedures of information gathering and presentation" (Haltom and McCann 2004, 19).

This understanding of institutional news practices is not new. For decades, media studies have used the concept of media frames to describe both how journalists organize the news and how readers decode stories. As Todd Gitlin explains, "media frames are persistent patterns of cognition, interpretation, and presentation, of selection, emphasis, and exclusion, by which symbol-handlers routinely organize discourse, whether verbal or visual" (1980, 7). In this theory, certain key words and phrases can act as symbols of larger ideas and meanings, and the media's choice of which frames to use can have an effect on how readers view a particular issue. Public discourse is shaped by how the media choose to define terms, employ particular narratives, and focus on some elements of a story rather than others. How an issue is framed by the media – for example, whether drug use is discussed in the context of criminal justice or public health – is a key determinant of the direction that public discourse will take (Altheide 1996). As some political psychologists have argued, the choice of which frames or symbols to use – or

NOT to use - can have an effect on the reader's perception of an issue, depending on his or her own pre-existing feelings (Gamson et al. 1992; Sears 1993). Specifically, as David Sears points out, these symbols are meant to invoke particular predispositions. For example, "'busing' evokes racial attitudes, while the 'Korean War' evoked anticommunism. But," says Sears, "the more critical implication is that changing the symbolic meaning of any *given* attitude object can evoke a new set of predispositions.... A symbol like 'choice' might evoke predispositions that boost support for abortion, while 'murder' obviously would evoke less helpful predispositions" (1993, 129).

That some interest groups' voices are heard more often, and more loudly, than others within media institutions is also a phenomenon that has been well documented by researchers in various fields. As E.E. Schattschneider has pointed out, "The flaw in the pluralist heaven is that the heavenly chorus sings with a strong upper-class accent" (1960, 35). Interest groups seeking to influence the public discussion around certain policy proposals do so with the backing of immense financial and structural resources. These resources make business interests much more likely to have their messages picked up and circulated by media institutions looking for easily digestible messages and symbols (Danielian and Page 1994; Schlozman and Tierney 1986).

In public discourse around family and medical leave or paid family leave, there are essentially two types of groups vying to be heard using the institutional tools of the news media. The business lobby – comprised of various business groups, but most prominently the Chamber of Commerce – is one clear actor in both the battle over FMLA and California's paid family leave. On the other end of the spectrum are instrumental actors from women's and children's groups such as the League of Women Voters, the National PTA, senior groups such as the AARP (since both policies expand to elder care as well) and, more prominently in California, some major union lobbyists. Both "sides" of the debates over these policies are therefore certainly well-funded. However, as I will discuss in more detail below, the ability of pro-business groups to harness these resources, and couple them with a strong, centralized message,

allowed them to gain a significant amount of traction in having their chosen messages about family leave heard more prominently than others in the news media.

The institutional considerations of the mainstream media, therefore, can have a significant impact on the direction that public discourse can take on any issue in the public eye. The fact that news outlets seek to find easily digestible symbols, arguments, and other “sound bites” to represent both sides of a discussion has implications for what stories are told, re-told, and make it into the public consciousness around a proposed law or policy. In looking at the debate over family leave, therefore, it is important to understand *what messages* media outlets choose to use and re-use to tell their stories about the proposed policy. Additionally, it is also important to document *who is propagating those messages*, in order to determine who wins and who loses in the battle for the hearts and minds of the American public on a particular issue of public policy.

Data and Methods

Case Selection

I chose to look at the public discourse surrounding the Family and Medical Leave Act (FMLA) of 1993 and California’s Paid Family Leave law of 2002 for very specific reasons. First, the FMLA, which offers up to 12 weeks of unpaid leave per year, was the first federal law in the U.S. that allowed women to take any kind of leave and retain job security when having a baby. But it went far beyond that – the FMLA doesn’t just cover job security for maternity leave, it applies to both women and men, and can be used for adoption, to care for a sick parent or child, or for an employee’s own medical emergency. This leave was *not* just about women and babies – it had a broader reach to “family” needs of all kinds. Employers (excluding businesses with fewer than 50 employees) are required to hold employees jobs for them while they take this leave, so that the costs of the leave are essentially with employees (who must go without wages for the course of the leave) and employers (who must cover the costs of a leave while holding an individual’s job). The battle over FMLA began well before its adoption into law. Bills that

looked very much like what was eventually passed began making their way through Congress in earnest in the mid-1980s. Overall, approximately 8 years of earnest discussion took place in the public sphere about the bill (in one form or another) before it was passed.

California's Paid Family Leave (PFL), on the other hand, was passed in a very different legislative context. The discussion took place on the state level, though there was some national discussion, because California was the first state to attempt to implement a paid leave program – in that sense, a “historic first” that warranted some national attention. Like FMLA before it, PFL intended to cover more than just women having children, but other types of family and medical emergency leave needs. It differed significantly from FMLA in two ways – first, so that employees did not have to shoulder the cost of unpaid leave, the costs were shifted up front in the form of a mandatory pay deduction into a state disability insurance fund, which would then pay employees 55% of their wages should they need to take the leave. This amounted to an average of \$27 a year per employee. The other difference was that employees of small businesses were also covered, but, like FMLA, their employers were not required to hold their jobs for them. The final distinction between the two laws was that the battle over PFL was extremely short-lived in comparison with the FMLA – less than one year (Milkman and Appelbaum 2013).

Methods

In order to capture a snapshot of public discourse over the implementation of the FMLA and PFL, I gathered 50 newspaper articles from each public discussion (100 articles in total). In the case of the FMLA, I actually gathered articles between 1986 (when the bill was first seriously considered in Congress) and 1993, in order to ensure that I was capturing the public discussion of the bill throughout its most significant time in the spotlight. In California, the bill to enact paid family leave was in fact considered and passed relatively quickly, so the newspaper articles I collected for discourse surrounding this legislation are only from 2002. The selection of which 50 articles to code from the hundreds that

surfaced in my LexisNexis searches was largely done at random, after articles that I considered to not actually be about the bills were weeded out. This allowed me to gain access to a span of 16 years in public discourse.

Using interpretive methods, I conducted an initial reading of these documents to identify four key themes and fourteen subthemes before beginning the coding process. During this second reading, I detected two additional subthemes. I then re-read each piece a third time to re-check my original coding and to code for these additional subthemes. Finally, I documented all of my coding guidelines (below) and went through all of the documents a fourth time to check my previous coding against my written guidelines.

I did not overlap in my coding – none of the themes/subthemes that were coded once could be coded a second time in another subtheme. However, I did code for the number of instances that each subtheme was used. An “instance” (for my purposes) is not simply confined to a sentence. Rather, each time a subtheme is separately mentioned, even if it is in the same sentence, then I coded for it. Most of the time, a single subtheme did not occur multiple times in the same sentence. However, at times, they did. One subtheme that tended to do this more than others was the “Costs too much or hurt business” subtheme. Here, writers would sometimes list multiple types of costs that a company might incur, such as having to hire temporary workers, needing to cover medical benefits for no work, and administrative costs. I would code such a sentence as three instances. The total number of instances coded for the articles about FMLA were 983, and there were 935 instances coded in the articles about California’s paid family leave.

In order to analyze more recent public discourse around paid family leave, as it has emerged since President Obama’s 2015 State of the Union address, I conducted a similar content analysis that was more limited in scope. I once again searched Lexis Nexis newspapers for “paid family leave”, and identified 29 recent newspaper articles that primarily covered the subject as it related to Obama’s proposal between January 21st 2015 (the day after the State of the Union address) and Feb 19th, 2015. I then narrowed the

extent of this analysis further to the newspaper that is most nationally recognized among the search results – *The New York Times* – which ran four pieces on the topic of various kinds in the short time period. I used these four articles to run a brief analysis for the purposes of drawing the speculative conclusions that are presented about this ongoing public discourse below.

Finally, it is important to note that because I am interested specifically in identifying which themes and language were picked up and recycled over and over again, I was not interested in coding whether an argument was being made for or against family leave as a policy. Rather, if an editorial in favor of the bill mentioned the costs to business only to argue that there are no costs or that they are minimal, I would still code the reference as a “cost to business” subtheme, since it is clearly a subtheme that is part of that writer’s thinking about the topic – even if this subtheme is being refuted. Additionally, these themes are not necessarily separate from one another in each writer’s mind. For instance, an opinion piece in favor of the FMLA may incorporate two or more of these themes. Nevertheless, as is evident in the data presented below, certain themes do seem to dominate in one side of an argument for or against the proposed policies. I will further discuss this finding and its implications in the next section of this paper.

Findings: Four Primary Themes

As noted previously, my analysis of the newspaper coverage of both the FMLA and California’s Paid Family Leave policy yielded evidence of four primary themes and seventeen subthemes. These are summarized for ease of reference in Table 1. In the remainder of this section, I briefly discuss the content of these themes and subthemes.

The Public/Private Divide

The first two of the four primary themes that emerged from my analysis are closely connected, in that they both express distinct visions of what is public and what is private. American cultural discourse has long used the public/private distinction to more easily categorize important aspects of society. The “private” in particular has often been used to distinguish the space where the State should not interfere

(Weintraub 1997). Several sociolegal scholars have done work on the complications that come about when the state gets involved in the private domain – even for compelling reasons such as preventing or punishing domestic violence (Kelly 2002a; 2002b; Gilliom 2001; Fineman and Mykitiuk 1994). The area of work/life balance is arguably even more treacherous territory, given the potential for double-infringement on privacy by the state. As Okin (1991) points out, there are two mainstream conceptions of a public/private divide. The first is on the level of the marketplace, where the public (state) is separate from the private (market). The second level of public/private division essentially lumps the spheres of the marketplace and politics together as public space and contrasts them with the private space of the domestic sphere. Therefore, regulation of work/life balance holds the potential for the government to encroach on business, but also for the government *and/or* business to encroach on the personal.

Primary Theme 1. Public (Government) / Private (Business) Dichotomy

The first primary theme that I observed in both battles over family leave is consistent with the first trend in dichotomizing public and private. In my observation of this theme, the language used to discuss the FMLA or paid family leave explicitly distinguishes the government from the business sphere. This theme was also, by far, the most commonly used among all four themes I observed. Arguments that were made under this primary theme were largely economic in nature, with a direct focus on business and/or the economy and how legislation might impact these things. As with all of the themes, often both supporters and opponents of the law employed arguments within this primary theme. The subthemes I observed are *Government Imposition* on business interests, the proposed policies will *Hurt Business/Economy*, the proposed policies are *Good for Business/Economy*, and businesses are *Already Doing Things* voluntarily, without the need for government intervention.

Primary Theme 2. Public (Government and Business Together) / Private (Individual or Family) Dichotomy.

The second primary theme that emerged from my content analysis mirrors other scholars' observations of an ideology in public discourse that views the public/private split rather differently than that found in the first theme. In contrast with the first primary theme, this theme identified a split between a public sphere and a private sphere, where the private was primarily conceptualized as the home, the individual, or the family. Here, the "public sphere" is that which is outside of the private. The public, in this sense, is therefore either the government *or* the workplace. The subthemes all reflect some notion of the family or individual as being affected by the law, or set the family or individual up as dichotomous to the public. These subthemes covered the proposed policy's *Effect on Private Decisions*, the notion that *Business Interests are Trumping Individual Needs*, an explicit separation, or dichotomization of *Work/Family*, an emphasis on the *Needs of children*, and an emphasis on the policy's aim to *Allow Workers to Spend More Time with Family*.

Primary Theme 3. Equality

The third primary theme I detected was not connected to the ideological prevalence of the public/private divide in American public discourse, but did seem to reflect another, widely-used ideological concept – equality. The definition of "equality" here is very loose, as different speakers seemed to use the term with a wide spectrum of meanings, ranging from "equality with men" to "equality of opportunity" and everything in between. It does not require a massive literature review here to make the point that equality has been a foundational and pervasive theme in American cultural and political thought. Yet it is important to recognize that certain ideas about equality that are expressed in public discourse reflect specific veins of feminist legal theory that were developing before the introduction of the Family and Medical Leave Act in the 1980s. Martha Fineman (1995) argues that the emphasis on the notion of "equality" by dominant legal feminists in the 1960s and 1970s was largely in reaction to legal norms such as those articulated in *Bradwell v. Illinois*, which used women's differences as a justification for discrimination, to, as Fineman says, "exclude women from the 'public' or market sphere, to set them apart, outside of the main avenues to power and economic independence" (36). Therefore, as Fineman

argues, the goal of legal reform for the dominant strain of early legal feminism was *assimilation* into broader aspects of society from which they had previously been excluded (most specifically employment), and the standard by which that goal was to be judged was *equality* (37). This emphasis, which was necessary for mainstream early feminists to use in order to achieve *formal* equal treatment under the law, was in fact limited in its ability to bring women *actual* equality in areas such as the domestic and care workload, pay equity, and other aspects of women's day to day lives that were outside the reach of the law.

The argument for maternity and/or family leave sprang from a change in the mainstream feminist movement from one that called for formal legal equality of women to one that recognized the differences between women and men, specifically in the physical aspects of childbearing, and instead emphasized equality of *opportunity*. Christine Littleton refers to this as a transition from “symmetrical” models of sexual equality to “asymmetrical” models ([1987] 1991). Herma Hill Kay's arguments for maternity leave as a method of dealing with women's physical differences in childbearing are an example of this “asymmetrical” model: “During the temporary episode of a woman's pregnancy...she may become unable to utilize her abilities in the same way she had done prior to her reproductive conduct. Since a man's abilities are not similarly impaired as a result of his reproductive behavior, equality of opportunity implies that the woman should not be disadvantaged as a result of that sex-specific variation” ([1985] 2002, 328). It is possible to see all of these variations of notions of “equality” in this primary theme, and the subthemes I coded reflect this. The subthemes that emerged reflect the confusion around the word's definition. The subthemes included the concept of “*Changing times*” for women in the workplace, which recognizes a greater participation of women in the workforce, references to the proposed policy's *Gender Neutrality*, as well as *Comparisons with Other “Equality” Policies* such as labor or wage laws.

Primary Theme 4. Social Imperative

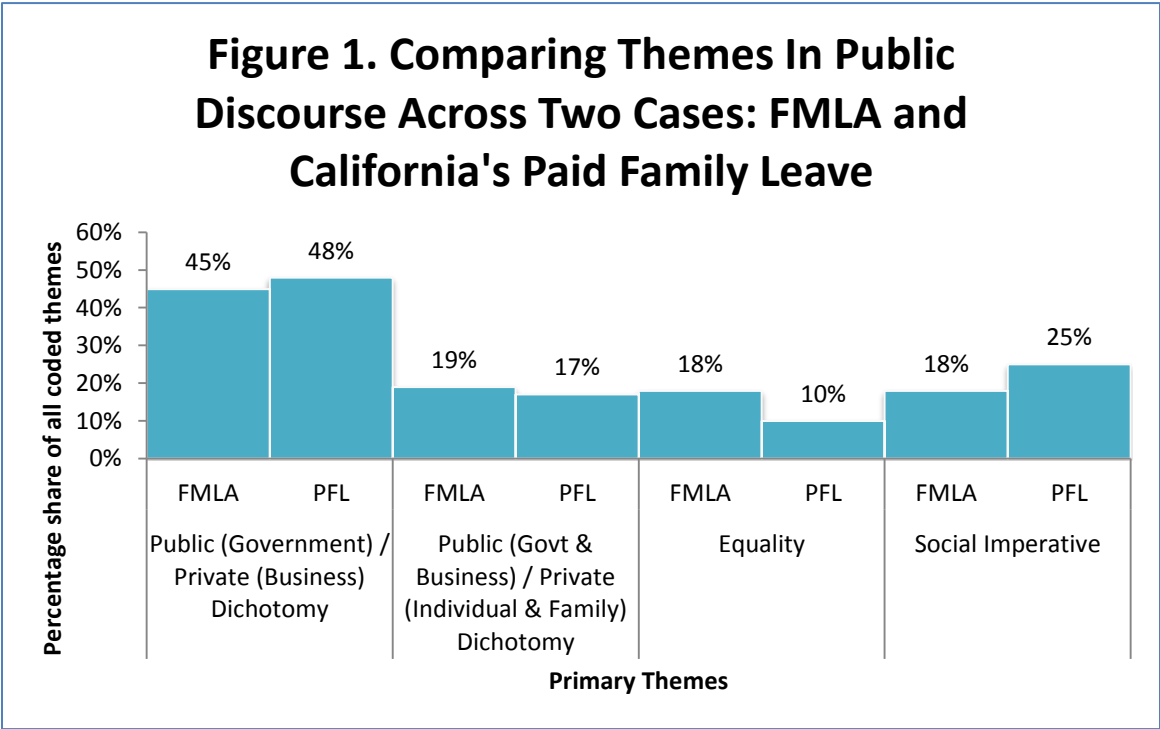
The final primary theme contained perhaps the most varied subthemes, but each of these subthemes makes claims about social justice in some way. These primary themes are all, in some way, about promoting or reinforcing certain *values*. The social imperative theme is perhaps the most direct in doing so, in that it essentially expresses a “golden rule” ideology – one in which it is an inherently “good” idea to help others. Certain ideas about the role of philanthropy in good governance were fundamental to the founders’ conceptions of republican government (Rosano 2003), and indeed the principles of charity and the necessity of helping one’s neighbor go back even to colonial America and pre-American Judeo-Christian teachings that migrated to the colonies along with settlers (Trattner 1999). The subthemes I observed under this final theme were: *Comparison with Other Countries*, citations of *Public Opinion* for or against the policies, an emphasis on the *Financial Needs of Families*, such as job security, the argument that *Family Needs are Social Imperatives*, and finally an argument that the proposed policy *May Hurt Workers*.

<p>1. Public (Government) vs. Private (Business)</p> <p><i>Government imposition on business interests</i></p> <p><i>Policies will hurt business or the economy</i></p> <p><i>Policies are good for business or the economy</i></p> <p><i>Businesses are already doing things proposed in the policies</i></p>	<p>2. Equality</p> <p><i>“Changing times”</i></p> <p><i>Gender neutrality</i></p> <p><i>Comparisons with other policies that emphasize equality</i></p>
<p>3. Public (Government & Work) vs. Private (Family)</p> <p><i>Policies will affect private decisions</i></p> <p><i>Business interests are trumping individual needs,</i></p> <p><i>Work and family explicit dichotomy</i></p>	<p>4. Social Imperative</p> <p><i>Comparison with other countries</i></p> <p><i>Public opinion</i></p> <p><i>Financial needs of families</i></p>

<i>Needs of children</i>	<i>Family needs are social imperatives</i>
<i>Policies allow workers to spend more time with family</i>	<i>Policies may hurt workers.</i>

Discussion: The Dominance of the Public/Private Dichotomy

What is immediately striking when referring to Figure 1 is the overall prevalence of the first primary theme in the coverage of discussion around the FMLA and California’s Paid Family Leave. That this prevalence of this theme is remarkably similar across both case studies, despite the gap of over a decade between the implementation of these two policies, suggests that this theme may be particularly amenable to the conventions of newspapers as institutions. Primary Theme 1, therefore, is where I focus my attention in the remainder of the analysis in this paper.



Upon deeper examination of this theme, and its uses, a few important trends emerge. First, it is noteworthy that Primary Theme 1 was the most frequently used by opponents of the proposed policies.

Indeed, this finding confirms the work of Lori Dorfman and Elena Lingas (2003), who conducted a content analysis of newspaper and television coverage of the battle over Paid Family Leave in California. Dorfman and Lingas were most concerned with identifying and comparing the kinds of messages used by opponents and proponents of the proposed legislation. They found that 59% of the arguments made by opponents of the bill discussed it as an “unfair burden” upon businesses in the state, and an additional 24% framed their arguments in terms of a “nanny state” or “slippery slope” argument about the proper role of government vis a vis businesses. Furthermore, Dorfman and Lingas found that other economic arguments, such as the bill creating a “competitive disadvantage” or was a “tax on jobs” made up another 30% and 29% of opponents’ messages, respectively.

What my own comparative analysis of the FMLA and California’s Paid Family Leave battles reveals is that this tendency of this legislation’s opponents to focus on economic interest arguments, and the government/business divide was not contained to California’s case alone. Some columnists writing in opposition to the FMLA, for instance, discussed government intrusion into private businesses as inherently undesirable. “Employee benefits designed in Washington will reduce employers’ responsiveness to the particular needs of their own workers... the issue is the appropriate role of government.” reads one 1990 editorial in *USA Today*. Another subtheme captured under this larger theme of government intrusion is that this intrusion would hurt businesses or the economy. Again, writing in opposition to the proposed FMLA, an editorialist in the *St. Louis Post-Dispatch* wrote, “[B]y mandating an employee leave of absence, this bill would create an inflexible and expensive employee benefits package that would most likely cost jobs and increase prices.” Similar arguments were made by opponents of California’s Paid Family Leave legislation. One editorialist for UCLA’s *University Wire* wrote, “I urge those who support this legislation and those who view profits as evil and self-serving to remember that profits are the only thing increasing employment opportunities. Falling profits will restrict the amount of money available to hire new employees and lead to greater unemployment.”

While this trend by opponents to latch on to this particular message is significant, it is also to be expected. After all, as already discussed, opponents of the FMLA and Paid Family Leave tended to be business interest groups. These groups are, for obvious reasons, naturally going to be more likely to use arguments to oppose these policies that center on their economic effects. Additionally, since it is business groups who are likely to feel the pressure of governmental “intrusion” of these policies most keenly, it is also unsurprising that their argumentation should take on an “us vs. them” attitude toward the government.

What is perhaps less easy to explain, however, is the prevalence of these lines of argumentation in the language of those who *support* these policies. Again, Dorfman and Lingas’s excellent study of messaging in California’s battle for a paid family leave policy does not take into account the existence of economic and government vs. business frames even among proponents of the legislation. What figures 2-4 demonstrate is that the first Primary Theme, which dichotomizes the government and business, and calls attention to economic considerations of the bill, is found in large quantities in those newspaper articles that were either coded as “neutral” or “in favor” of the proposed legislation.

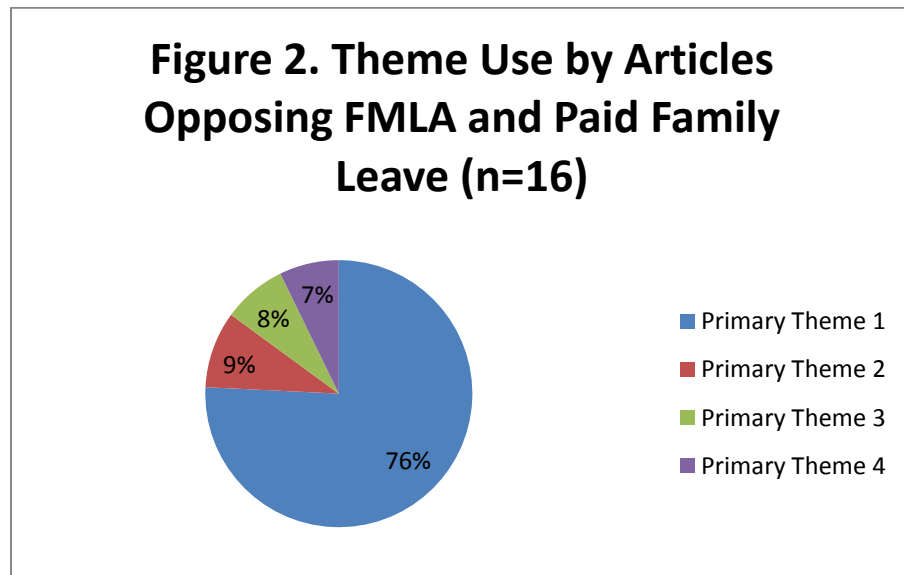


Figure 3. Theme Use by Articles Favoring FMLA and Paid Family Leave (n=40)

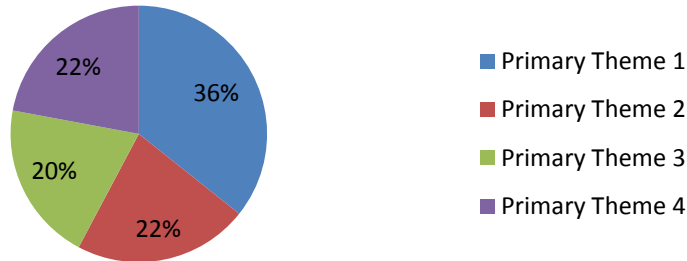
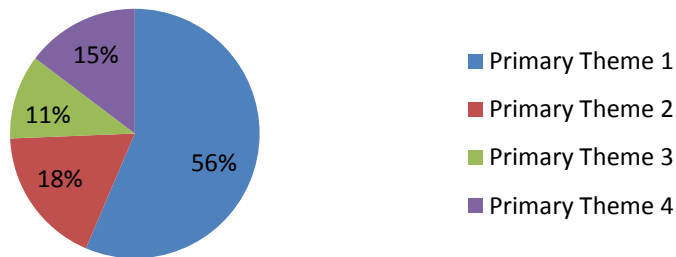


Figure 4. Theme Use by Articles "Neutral" to FMLA and Paid Family Leave (n=44)



Clearly the articles that appeared in the newspaper coverage favoring family leave policies (whether paid or unpaid) outnumbered those in opposition to it. This weighting in the media coverage of these policy battles probably fairly reflects the public levels of support for these policies as well. Milkman and Appelbaum (2013), for instance, cite polling data that suggests a full 92% of voters between the ages of 18-34 favored the policy one year after its implementation, in 2003. This outpouring of public support

is probably what accounts for the eventual success of both policies. At first glance, then, this overwhelming dominance in the discourse around these policies seems not to have mattered. If both bills passed through the legislatures with a great deal of popular support, the prevalence of opposition-backed messaging appears to have failed to win business interests their favored outcome.

Upon further reflection, however, it becomes apparent that business interests were not entirely defeated in these policy debates. On the contrary, the emphasis of business-backed frames in these debates may in fact explain the numerous amendments that both bills underwent in the lead up to their passage. California's paid family leave policy, for instance, changed from an initial 12 weeks to 6 weeks of paid leave. Additionally, the bill was originally written so that both employers and employees would contribute to the costs of the leave, so that, in the end, only employees contributed to the scheme (Dorfman and Lingas 2003; Milkman and Appelbaum 2013). Similarly, the FMLA underwent several permutations and amendments between the mid-1980s, when a bill was first introduced in Congress, and 1993, when it was finally passed (Grossman 2004). In the case of both policies, these amendments favored business interests – in other words, these amendments did not *expand* the proposed policies, but rather contracted them in order to make them more favorable to business interests.

Additionally, it is worth mentioning briefly the numerous times that paid family leave policies have been introduced on either the state or the federal level *without* meeting success. While the scope of this paper is not to explore the discourse around *every* battle for family leave over the past three decades, it is perhaps worth noting that many states other have attempted to implement laws similar to that of California since 2002, and have failed,¹ or have taken the form of a limited insurance-based program like California's (www.ncsl.org).

¹ New York, Colorado, and Washington State, to name just a few. Washington's was perhaps the most promising of these, as it was passed by the legislature in 2007, and was due to be implemented in 2009, but has still not been implemented (www.ncsl.org).

Conclusion

How we talk about legislation matters. This paper certainly does not assert a direct causal link between business-backed messaging and policy success. What I am proposing, in line with other research on media and politics, is that business-backed messaging *has* had a significant effect on agenda setting in this particular public policy debate. It is particularly salient that I find a prevalence of business-backed messaging in the language and argumentation of the policies' *proponents*. This finding suggests that business interests – while not always finding success in their battles against expanding family and medical leave policies – often dictate how the debate over these policies plays out.

I opened this paper with a quote from E.E. Schattschneider, and another is equally appropriate here: “In politics, as in everything else, it makes a great difference whose game we play” (1960, 47). The fact that proponents of family leave policies are enmeshed in the same economic and business-centric language that opponents of the bill espouse is, in large part, probably reflective of their need to combat these powerful messages. However, the focus on these messages necessarily restricts the prevalence and power of *alternative* messages. For instance, in my analysis of primary themes, I noted several potential alternative frames that proponents of the policy – who clearly outnumbered opponents in these battles for media coverage – might have given more time and attention to. Messages emphasizing caregiving as a social imperative, or that these kinds of policies are designed to bring about greater social equality, for instance, might have dominated public discourse instead. Had these alternative themes been given quite the same degree of weight in the public consciousness around these proposed policies, it is quite possible that the legislation itself might have looked different.

In his 2015 State of the Union Address, President Obama chose to highlight the *economic* benefits of family leave policy as his chief argument in favor of such legislation.² This choice of language

² “It’s time we stop treating child care as a side issue, or a women’s issue, and treat it like the national economic priority that it is for all of us” (President Obama’s State of the Union, 2015)

clearly echoes past discourse around family leave in the United States. If public discourse can indeed shape the legislative agenda, then the stage looks set for business interests to take the reins in dictating just how far such a proposed policy expansion may go.

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