

TRAP Abortion Laws and Partisan Political Party Control of State Government

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ABSTRACT. *Targeted Regulation of Abortion Providers* (or TRAP) laws impose medically unnecessary and burdensome regulations solely on abortion providers in order to make abortion services more expensive and difficult to obtain. Using event history analysis, this article examines the determinants of the enactment of a TRAP law by states over the period 1974–2008. The empirical results find that Republican institutional control of a state’s legislative/executive branches is positively associated with a state enacting a TRAP law, while Democratic institutional control is negatively associated with a state enacting a TRAP law. The percentage of a state’s population that is Catholic, public anti-abortion attitudes, state political ideology, and the abortion rate in a state are statistically insignificant predictors of a state enacting a TRAP law. The empirical results are consistent with the hypothesis that abortion is a redistributive issue and not a morality issue.

Introduction

Policy adoption is an area of considerable research interest in the political science/public choice literature. The focus and concern of much of this empirical research are the questions, “How responsive is government policy to public policy preferences? Do public policy preferences influence public policy? However, in a representative democracy, the degree to which legislators follow voter preferences is likely to vary according to the policy issue in question (Gormley 1986).

State policies can be grouped into two types: morality policies and redistributive policies. Morality policies are “those which seek to regulate social norms or which clearly evoke strong moral responses from citizens for some other reason” (Mooney and Lee 1995: 600).

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Morality policies differ from redistributive policies in several unique ways. Morality policies involve contentious conflicts over fundamental values, are highly salient to the general public, non-technical, easy to understand, and require little information for citizens to participate.

Abortion is thought to be one of the most prominent examples of a morality policy since (1) nearly everyone is familiar with the issue and has an opinion, position, or belief on abortion; (2) it requires little information for citizens to participate because proponents and opponents of abortion have framed the issue between reproductive rights versus the rights of the fetus to life; and (3) there are inflexible and uncompromising positions on the abortion issue that are dichotomous—either life begins at conception or it does not. It has been argued that legislative adoption of morality policies like abortion is affected by the resources available to the opponents and proponents of abortion and the demand for abortion services and not the public's abortion policy preferences (Meier and McFarlane 1993).

Redistributive policies transfer benefits, expenditures, or resources from one group or class to another (Greenberg and Page 2009). Medoff (2002) argues that abortion is a redistributive issue not a morality issue because it has a consumption spillover (redistributive) effect. A consumption spillover effect occurs when the consumption of a good or service by one party has repercussions or redistributive effects on other parties. A spillover effect may be positive (the education of a child provides benefits to other members of society by promoting a stable and democratic society) or negative (second-hand cigarette smoke in a restaurant affects the health of non-smoking diners). In the case of abortion, there are negative and positive consumption spillover effects associated with abortion. Those who consume abortion services cause an unintended, negative effect on those who are morally opposed to abortion and believe abortion represents the taking of an innocent life. Those who oppose abortion suffer a psychological or emotional loss. Those who consume abortion may also cause a positive effect on those who support abortion rights and believe in the liberty right of a pregnant woman to control her own fertility. Abortion has also been found to have a positive effect on members of society by reducing crime (Donohoe and Levitt 2001), reducing child abuse (Bitler and Zavodny 2004), and saving

public monies spent on federal and state medical and social welfare expenditures (i.e., Temporary Assistance to Needy Families, childcare, food stamps, Medicaid; Gruber et al. 1999). Goggin (1993) notes that if abortion is a redistributive policy, then the adoption of restrictive abortion laws is determined primarily by the political ideology of political parties and single-issue advocacy groups.

The purpose of this study is to systematically examine the determinants of the restrictiveness of a state's abortion policy. We use the event history analysis estimation technique to examine a more methodologically valid measure of a state's restrictive abortion policy in order to address several important public policy questions. Is state abortion policy a redistributive issue or a morality issue? What is the impact of the public's and legislators' abortion attitudes on the restrictiveness of a state's abortion policy? Do advocacy interest groups have an impact on a state's abortion policy? Does a state's abortion policy reflect political forces (political parties, partisanship, and ideology)? The answers to these questions will further our understanding of one of the most important aspects of policy-making in a representative democracy: the interrelationships between public opinion, the policy preferences of elected representatives, and public policy on one of the most controversial issues in contemporary American politics—abortion.

Literature Review

Previous studies of the determinants of a state's abortion policy have examined a number of different measures of a state's restrictive abortion policy. The problem is that most studies use an unreliable measure of a state's restrictive abortion policy. Meier and McFarlane (1993), Berkman and O'Connor (1993), Hansen (1993), and Norrander and Wilcox (1999) all use as a measure of a state's restrictive abortion policy whether or not a state funds Medicaid abortions for poor women.

Medicaid is a joint federal and state health insurance program that funds medical services for the poor. In 1980, the U.S. Supreme Court ruled that the federal government was not constitutionally obligated to pay for Medicaid abortions and the funding decision was left to the

discretion of each individual state. The methodological error with using whether or not a state funds Medicaid abortions as a measure of a state's restrictive abortion policy is that the vast majority of states that fund Medicaid abortions did not do so voluntarily. In 2000, there were 17 states that funded Medicaid abortions, but 14 of these states did so only because they were ordered by their state Supreme Court to provide Medicaid coverage—only three states voluntarily funded Medicaid abortions. The examination of the determinants of state funding of Medicaid abortions as a measure of a state's restrictive abortion policy will yield spurious estimates since only state Supreme Courts were responsible for a state funding Medicaid abortions. As a consequence, all of these studies find very few significant predictors of state Medicaid abortion funding.

Hansen (1993), Goggin and Wlezien (1993), Norrander and Wilcox (1999), Strickland and Whicker (1992), O'Connor and Berkman (1995), Medoff (2002), and Camobreco and Barnello (2008) construct an index of a state's restrictive abortion policy based on the Halva-Neubauer (1993) count of the total number of various anti-abortion regulations and resolutions passed by a state between 1973 and 1989. These include regulations or resolutions about fetal disposal, gender selection, fetal pain, private health insurance restrictions, spousal notification, calls for a constitutional convention on the abortion issue, parental involvement laws, fetal experimentation ban, conscience clauses for medical personnel, and pro-life license plates.

There are two problems with using the total number of various anti-abortion regulations and resolutions enacted in each state as of 1989 as a measure of a state's restrictive abortion policy. First, many of these anti-abortion measures were enacted prior to 1989. For example, Utah passed a parental involvement law in 1974. But the predictor variables used in these studies are as of 1989 and do not reflect a state's political, legal, or social environment when the anti-abortion measure was enacted. Thus, the above mentioned studies are implicitly assuming that a state enacting an anti-abortion regulation or resolution perhaps 15 years ago is affected by what its characteristics are today. The second problem with using total counts as a measure of the restrictiveness of a state's abortion policy is that the anti-abortion measures examined are merely symbolic and do not restrict

women's access to an abortion. As a consequence, not surprisingly, all of these studies also find very few significant predictors of their measure of a state's restrictive abortion policy.

TRAP Laws

In order to examine the determinants of a state's restrictive abortion policy a consistent and time-invariant measure of a state's abortion policy is needed. *Targeted Regulation of Abortion Provider* laws (more commonly known as TRAP laws) are state laws that single out abortion providers and impose on them requirements and regulations that are excessive and more stringent than those imposed on other medical practitioners. TRAP laws take several different forms, but the most onerous are the laws that impose on abortion providers medically unnecessary and burdensome physical plant and personnel requirements. TRAP physical plant laws impose on abortion providers requirements on the width of hallways, height of ceilings, doorway widths, counseling room dimensions, and air circulation rates. TRAP personnel laws mandate what types of medical professionals must be on staff, the qualifications of various staff members, and assign certain duties to specific staff members.

For example, Missouri requires that abortion providers must be located within 30 miles of a hospital and have procedure rooms that are at least 12 feet long and 12 feet wide with ceilings at least 9 feet high and doors at least 44 inches wide. Louisiana requires that abortions can only be performed in rooms that are a minimum of 120 square feet. North Carolina requires that abortion providers must hire a registered nurse with experience in post-operative and post-partum care that is on duty at all times as well as provide a nourishment station for serving meals or snacks. South Carolina requires that all outside areas of abortion provider facilities must be kept free of rubbish, grass, and weeds and the air temperature in its rooms must be maintained between 72 and 76 degrees. Connecticut requires that all abortion providers must have counselors who have or who are supervised by a person with a graduate degree in social work.

A state's rationale for enacting a TRAP law is to protect the life and health of the pregnant woman. According to abortion rights support-

ers, TRAP laws serve no legitimate health purposes, but the real goal of TRAP laws is to drive abortion providers out of business. The imposition of these burdensome and costly regulations forces abortion providers to extensively remodel or hire additional staff, causing some abortion providers to close.

The available empirical evidence finds that TRAP laws make it more difficult and costly for abortion providers to supply abortion services as a consequence of complying with TRAP laws. Medoff (2009) found that TRAP laws significantly affected the supply of abortion services by reducing the number of abortion provider facilities. The numerical impact of a TRAP law was to reduce the number of abortion provider facilities by 15.5 per 100,000 pregnancies as compared to states without TRAP laws. Jones and Weitz (2009) found that a TRAP law enacted in Mississippi forced the only outpatient abortion provider facility to discontinue performing abortions after 12 weeks of gestation and in Texas, all 20 of the abortion provider facilities known to perform second-trimester abortions ceased performing abortions after 16 weeks of gestation because of the enactment of a TRAP law.

TRAP laws are different from other restrictive state abortion laws, such as Medicaid funding restrictions or mandatory counseling laws, which attempt to reduce the demand for abortions by altering a woman's cost-benefit decision calculus. TRAP laws, enacted under the guise of protecting women's health, are designed to regulate all aspects of the business operations of abortion providers. The intent of TRAP laws is to deter physicians from becoming or remaining abortion providers. TRAP laws impose on abortion providers medically unnecessary requirements and regulations that are calculated to drive abortion providers out of practice or make abortions so prohibitively expensive and increasingly difficult to obtain that women will no longer be able to afford them or find a provider offering abortion services. TRAP laws create an environment where the constitutional right to make the decision to have an abortion may be moot if, because of TRAP laws, there are too few providers to perform the procedure. Through TRAP laws, abortion opponents can effectively overturn the Supreme Court's *Roe v. Wade* decision legalizing abortion. Thus, over the period 1974–2008 examined in this article, the

enactment of a TRAP law by states represents a unambiguous, direct, unmistakable, and substantive measure of a state's restrictive abortion policy.

Empirical Model

Dependent Variable

The dependent variable in this study, TRAP Law, is a dummy variable equal to 1 if a state enacts a TRAP physical plant/personnel law on abortion providers' facilities over the period $t = 1974-2008$.¹

Independent Variables

The literature has identified four major determinants of a state's abortion policy: the abortion attitudes of the public, interest advocacy groups, state political ideology, and the partisan composition of a state's government (Cohen and Barrilleaux 1993).

Public Abortion Attitudes

There is a large body of empirical evidence that shows that a state's abortion policy follows the public's abortion attitudes (Wilcox 1989; Cook et al. 1993). However, as noted by Goggin (1993), any connection between public abortion attitudes and abortion policy is contingent on whether a reliable measure of a state's abortion attitudes exists.

Most studies measure public abortion attitudes by constructing an index based on survey data of voters. Norrander and Wilcox (1999), O'Connor and Berkman (1995), and Camobreco and Barnello (2008) use Norrander's (2001) anti-abortion attitude index that was constructed from the Senate National Election Study opinion survey data, which asks voters, "Do you think abortion should be legal under all circumstances, certain circumstances, or never legal under any circumstances." One drawback in using opinion surveys is that they are only available for a limited number of years. However, Wetstein (1993) and Wilcox and Riches (2002) found that public abortion attitudes are remarkably stable over time and unlikely to change due to changes in the political or legal environment.

Accordingly, this study also uses Norrander's (2001) state anti-abortion attitudes index since it is the latest available and it is unlikely that over time there was a change in the public's abortion attitudes in a state that affected the position of one state relative to another. The Norrander *Public Anti-Abortion Attitudes* index ranges in value from 1 to 5. The value 1 indicates abortion should be legal in all circumstances and the value 5 indicates abortion should never be legal under any circumstances. The greater the value of the *Public Anti-Abortion Attitudes* index the more anti-abortion a state's citizens.

Anti-Abortion Interest Groups

Individual members of the public can enhance the impact of their opinions on legislators through interest groups. Interest groups may influence legislators' judgments about the preferences of their constituents. Elected officials often fear electoral reprisals from interest groups because such groups represent attentive public voters who can give, or withhold, political contributions and resources for political campaigns.

Even though advocacy interest groups appear on both sides of the abortion issue, the two advocacy groups that are mobilized, active, and fervently anti-abortion are Catholics and fundamentalist evangelical Christians. Both have intense beliefs on the sanctity of life and strong moral prohibitions against abortion equating it to murder (Wilcox 1989; Goggin 1993). As noted by Berkman and O'Connor (1993), Meier and McFarlane (1993), and Cook et al. (1993), both groups are strongly associated with anti-abortion activities including lobbying, activists, protests, education, and campaign contributions. Following Cohen and Barrilleaux (1993), Hansen (1993), Berkman and O'Connor (1993), and Roh and Haider-Markel (2003), we use as a measure of anti-abortion interest group strength the percentage of the population that is *Catholic* and the percentage of the population that belongs to an *Evangelical Christian* denomination in each state for the years 1974–2008.²

State Political Ideology

Another variable that is an important determinant of state abortion policy is the general political ideology of a state's citizens. State

legislators may have a general idea of the ideological predisposition of their constituents and respond to the general public ideology of their constituents rather than to the public's abortion attitudes. A state's general political ideology may have an influence on state abortion policy, independent of the public's abortion attitudes. Schnell (1993) found that, independent of abortion attitudes, those who are ideologically conservative were more likely to engage in political action related to the abortion issue (vote, write to a newspaper, participate in rallies, write to elected officials).

We follow the abortion literature by using Erikson, Wright, and McIver's (1993) measure of a *State's Political Ideology*, which is the percentage of a state's population who identify themselves as liberal minus the percentage who identify themselves as conservative in the CBS/New York Times Poll in each state annually from 1974 to 2008 (Cohen and Barrilleaux 1993; Meier and McFarlane 1993; Berkman and O'Connor 1993; Camobreco and Barnello 2008). A positive state political ideology number indicates a state whose populace tends to be ideologically liberal, while a negative state ideology number indicates a state whose populace tends to be ideologically conservative.³

Partisan Political Parties

Another important determinant of state abortion policy is partisan politics. Abortion is a major social and political electoral issue, which is central to the brand name of each political party (Bartels 2008; Stimson 2004). The Republican and Democratic parties have polar extreme positions on the abortion issue. Since the late 1970s, the Democratic Party has publicly endorsed legal abortion and fewer abortion restrictions, while the Republican Party has officially adopted the anti-abortion policy position that legal abortion should be repealed and favored stringent restrictions on both women's access to abortion and abortion providers (Goggin 1993; Adams 1997; Stimson 2004).

Typically, the abortion politics literature has modeled partisan strength in state legislatures by dividing the total number of Democrats in both the lower and upper houses of the state legislature by the size of the state legislature (Berkman and O'Connor 1993; Norrander and Wilcox 1999; Strickland and Whicker 1992; Camobreco

and Barnello 2008; O'Connor and Berkman 1995; Meier and McFarlane 1993). Hansen (1993) argues that it is methodologically incorrect to assume that the impact of partisan strength on abortion policy is strictly linear, increasing in direct proportion to the percentage of Democrats (or Republicans) in state legislatures. Hansen notes that a threshold level must be reached before Democrats (or Republicans) can exert a measurable impact on state abortion policy. The existence of a threshold level implies that, until the threshold level is reached, the numerical size of the political party that is in the minority in a state legislature will not have a measurable impact upon a state's abortion policy.

The enactment of a restrictive abortion law requires a majority vote of both houses of the state legislature and gubernatorial support (or, if the governor opposes the proposed legislation, a two-thirds vote of both houses of the state legislature). Thus, either house of the state legislature or possibly the governor can reject a proposed law. The ideological divide of the two political parties on abortion suggests that the crucial factor in the enactment of an abortion policy is not the partisan strength of a political party, as measured by the percent Democrats (or percent Republicans) in the state legislature, but whether a political party controls *both* houses of the state legislature *and* the governor's office. Divided government (one political party controls either the lower house, upper house, or the governor's office, but not all three simultaneously) means that no abortion policy can be enacted unless both political parties and the governor support passage of the abortion policy.

The anti-abortion ideology of the Republican Party, in conjunction with the institutional control of the legislative/executive branches of the state government, suggests that the enactment of TRAP laws is more likely when the Republican Party controls both houses of the state legislature and the governor's office than under either Democratic Party control or divided government. In order to test our hypothesis between the interaction of institutional control and Republican anti-abortion ideology on the likelihood that a state will enact a TRAP law we include the dummy variable *Republican Control*, which is equal to one when the Republican Party controls both houses of the state legislature and the governor's office in year

t and zero if either the Democrats have institutional control or there is divided government.⁴

Event History Analysis Method

In order to estimate the impact of the public's abortion attitudes, anti-abortion interest groups, state political ideology, and partisan political control of a state's government on the enactment of a state TRAP law placing physical plant/personnel requirements on abortion providers we employ the event history estimation technique first used by Berry and Berry (1990). The enactment of a TRAP law is a non-repeatable probabilistic event that may or may not occur during a given year (once a state enacts a TRAP law its probability of adoption drops to zero).

The dependent variable for a state that enacts a TRAP law in year t consists of a series of zeroes for all the years prior to year t , followed by a 1 in the year t of adoption and then the dataset for that state is truncated (stopped) at year t . States that fail to enact a TRAP law during a given year t still have a nonzero probability of enacting such a law during the period of analysis in the years after t . Once a state enacts a TRAP law that state's observations are dropped from the dataset. Therefore, the size of the dataset is decreased at the end of each year by the number of states that enacted a TRAP law that year.

The event history analysis estimation technique has several advantages over more conventional estimation methods used in previous research (ordinary least squares, logit). First, event history analysis can assess the likelihood of a TRAP law being enacted from characteristics of a state that vary substantially from year to year. Second, unlike cross-sectional models, the pooled time-series nature of the data means that the likelihood of a TRAP law being enacted is affected by *contemporaneous* independent variables. This also means that the partisan political variables do not have to be lagged because if the political party of the governor of a state changes in a given year and the state enacts a TRAP law in the same year, then a lagged political variable would incorrectly attribute the enactment of the TRAP law to the previous governor of the opposition political party. Third, event

history analysis is a better method to explain the enactment by a state of an event—a TRAP law—that is relatively infrequent. Thus, event history analysis is an estimation technique that significantly improves the ability of a model to analyze the determinants of the enactment by a state of a TRAP law.

Empirical Results

Because the dependent variable, the enactment of a TRAP law, is binary (zero or one) this study uses the maximum likelihood probit method to estimate the empirical model (Stata, version 11). The maximum likelihood probit method of estimation treats each observation as binomial with an independent outcome (the chance of success at any trial is unrelated to the results of any other trial). This leads to a joint probability or maximum likelihood function. This likelihood function is non-linear and requires an iterative solution. Convergence is achieved when the changes in the estimated parameters in the model are quite small. The maximum likelihood estimation procedure has the desirable statistical properties that all the parameter estimates are consistent, asymptotically efficient, and have an asymptotically normal distribution (Greene 2000). As with any econometric analysis, one obvious concern is multicollinearity. To test for the presence of multicollinearity, a variance inflation factor (VIF) was computed. None of the independent variables had a variance inflation factor over 2.1 when 10 is considered the threshold for a severe multicollinearity problem (Gujarati 1995: 339).

The maximum likelihood probit estimates over the sample period 1974–2008, with the dependent variable being the enactment of a TRAP physical plant/personnel law by a state, are presented in Table 1, column 1. The empirical results indicate that the enactment of a TRAP law by a state is not a function of state political ideology or public abortion attitudes. State legislators are not enacting TRAP laws in response to the public's abortion attitudes or the public's political ideology as predicted by Downs' (1957) median voter model, which argues legislators mirror the preferences of the median voter. The percent Catholic is an insignificant determinant of the enactment of a

Table 1
 Probit Estimates for Event History Analysis Model of
 Enactment of a TRAP Law

| Independent Variables | Dependent Variable | | |
|--------------------------------|----------------------|---------------------|----------------------|
| | TRAP Law (= 1) | | |
| | 1 | 2 | 3 |
| Republican Control | 0.466** (0.235) | ... | ... |
| Democratic Control | ... | -0.555** (0.260) | ... |
| Divided Government | ... | ... | 0.111 (0.197) |
| Public Anti-Abortion Attitudes | 0.496 (0.428) | 0.825* (0.465) | 0.552 (0.436) |
| % Catholic | 0.011 (0.010) | 0.009 (0.010) | 0.010 (0.009) |
| % Evangelical Christians | 0.031*** (0.009) | 0.029*** (0.009) | 0.026*** (0.009) |
| State Political Ideology | 0.003 (0.010) | 0.003 (0.010) | 0.000 (0.010) |
| Constant | -4.242*** (1.192) | -4.821** (1.261) | -4.300*** (1.225) |
| Log Likelihood | -92.087 | -91.236 | -93.745 |
| Pseudo R ² | 0.09 | 0.10 | 0.07 |
| N | 1,204 | 1,204 | 1,204 |

Note: Standard errors in parentheses. *p < 0.10, **p < 0.05, ***p < 0.01.

TRAP law by a state. This latter result is consistent with prior research that a schism exists between the official position of the Catholic Church on abortion and the abortion practices of Catholic women (Medoff 1988, 1997). The percentage of a state's population who are evangelical Christians has a significantly positive ($p < 0.01$) impact on a state's enactment of a TRAP law. This suggests that, relative to other

advocacy groups, evangelical Christians have a disproportionate influence on the enactment of a TRAP law.

Republican Party institutional control has a statistically ($p < 0.05$) and numerically significant positive effect on the likelihood of a TRAP law being enacted by a state. As hypothesized, the anti-abortion ideology of the Republican Party in combination with the institutional control of the legislative/executive branches of state government is the strongest single determinant of a state enacting a TRAP law. This indicates that ideologically anti-abortion Republican legislators do not respond to the public's abortion preferences or political ideology as predicted by the median voter model.

In order to provide further support for the hypothesis between partisan political party abortion ideology and legislative/executive institutional control we substituted the dummy variable *Democratic Control*, equal to one when the Democratic Party controls both houses of the state legislature and the governor's office, for the variable Republican Control and reestimated the model. The empirical results appear in Table 1, column 2.

Over the sample period 1974–2008, Democratic Control has a statistically and numerically significant ($p < 0.03$) negative impact on the enactment of a TRAP law. Democratic legislators do not respond to the public's abortion preferences or political ideology or anti-abortion interest groups. None of the other variables is a statistically significant predictor of the enactment of a state TRAP law.

The above results provide strong support for the hypothesis that the enactment of a state TRAP law is related to the partisan abortion ideological divisions between the two political parties combined with institutional control of the legislative/executive branches of state government. In order to determine if the impact of Republican Control or Democratic Control is causal or spurious, the model in Table 1 was reestimated replacing Republican Control or Democratic Control with a dummy variable equal to one if there was *Divided Government*—the same political party does not control all three branches of the state government. The empirical results appear in Table 1, column 3.

The Divided Government variable is not statistically significant. This result provides strong support for the partisan abortion ideology—

institutional control hypothesis. The polar extreme ideological positions of the Republican Party and the Democratic Party on the issue of abortion means that when divided government occurs there is little likelihood of a TRAP law being enacted.

TRAP Laws: Redistributive or Morality Issues?

Hwang and Gray (1991) and Goggin (1993) argue that the major determinant of redistributive issues is the ideology of partisan political parties. The empirical results reported in the previous section found that the major determinant of abortion policy, as measured by the enactment of a TRAP law, is partisan political party abortion ideology in conjunction with partisan political control of state government. Policymakers do not, as predicted by Downs' (1957) median voter model, mirror the abortion preferences of their constituents. Lawmakers are not influenced by the abortion attitudes of their constituents in enacting a TRAP law. These results are consistent with the proposition that abortion is a redistributive issue.

Meier and Johnson (1990) argue that one of the major determinants of a morality issue is the demand for the immoral good. Previous research has found an association between public demand for abortion and the views on abortion by elected policymakers. Medoff (1989) and Chressanthis et al. (1991) found there was an association between a state's demand for abortion and the abortion policy stance by a state's U.S. Senators. Kahane (1994) found that governor, state senate, and state house views on abortion policy were significantly affected by their constituent's demand for abortion.

If abortion is a morality issue, then one would expect to find an association between a state's abortion demand and the enactment of a TRAP law by a state. The failure to include a state's abortion demand as a predictor variable in the estimation of the model means that the estimated results reported in Table 1 may be artifacts of omitted variable bias. The estimated coefficient of the Republican Control (or Democratic Control) variable will be biased if partisan political party institutional control of the legislative/executive branches of state government is correlated with a state's demand for abortion because the estimated coefficient of the Republican Control (or Democratic

Control) variable includes some of the effects of the omitted state demand for abortion.

In order to address the question of whether TRAP laws are a morality issue or a redistributive issue, we reestimated the model including as a predictor variable a state's demand for abortion: *Abortion Rate*—the number of abortions per 1,000 women of childbearing ages (15–44 years) lagged one year to minimize any possible endogeneity with TRAP laws for each state over the period 1974–2008. The lagged abortion rate variable also controls for variations in states' health care policies and levels of social spending (funds for family planning, health childcare, cash assistance for needy families, food stamps, and certificate of need requirements).⁵ If abortion were a morality issue then one would expect a significant association between a state's abortion demand and the enactment of TRAP laws. The empirical results appear in Table 2, column 1 (with Republican Control), column 2 (with Democratic Control), and column 3 (with Divided Government).

Regardless of the model specification, a state's abortion rate is not a significant determinant of the enactment of a TRAP law. State legislators are neither responding to the public demand for abortion nor are they reacting to the public demand for abortion. This finding provides strong confirmation for the proposition that a state's abortion policy, as measured by the enactment of a TRAP law, is a redistributive issue and not a morality issue.

In addition, the empirical results in Table 2 show that Republican Control is still significantly positive ($p < 0.06$), Democratic Control is still significantly negative ($p < 0.04$), and Divided Government is still not significantly different from zero. Moreover, the estimated coefficients of Republican Control and Democratic Control are virtually identical to their respective counterparts in Table 1, columns 1 and 2, respectively. Also, the enactment of a TRAP law by a state is not a function of a state's political ideology, anti-abortion interest group strength, or the public's abortion preferences. Hence, even with the inclusion of a state's demand for abortion, the impact of partisan political party abortion ideology coupled with legislative institutional control on the enactment of a TRAP law is causal not spurious.

Table 2

Probit Estimates for Event History Analysis Model of
Enactment of a TRAP Law with Abortion Demand

| Independent Variables | Dependent Variable | | |
|--------------------------------|----------------------|----------------------|---------------------|
| | TRAP Law (= 1) | | |
| | 1 | 2 | 3 |
| Abortion Rate Lagged | 0.000 (0.015) | -0.000 (0.014) | -0.008 (0.014) |
| Republican Control | 0.469* (0.255) | ... | ... |
| Democratic Control | ... | -0.554** (0.268) | ... |
| Divided Government | ... | ... | 0.109 (0.197) |
| Public Anti-Abortion Attitudes | 0.502 (0.492) | 0.819 (0.540) | 0.408 (0.488) |
| % Catholic | 0.011 (0.010) | 0.009 (0.010) | 0.010 (0.010) |
| % Evangelical Christians | 0.031*** (0.010) | 0.029*** (0.009) | 0.026*** (0.009) |
| State Political Ideology | 0.003 (0.010) | 0.003 (0.010) | 0.000 (0.010) |
| Constant | -4.268*** (1.559) | -4.797*** (1.627) | -3.727** (1.508) |
| Log Likelihood | -92.087 | -91.235 | -93.543 |
| Pseudo R ² | 0.09 | 0.10 | 0.08 |
| N | 1,204 | 1,204 | 1,204 |

Note: Standard errors in parentheses. *p < 0.10, **p < 0.05, ***p < 0.01.

Discussion

Targeted Regulation of Abortion Providers (or TRAP) laws systematically impose medically unnecessary and burdensome state regulations on abortion providers that are more stringent than those imposed on

other medical practitioners. These regulations range from onerous structural/facility requirements to staffing requirements and/or qualifications. The implicit or explicit intent of TRAP laws is to effectively overturn the Supreme Court's *Roe v. Wade* decision legalizing abortion by driving abortion providers out of practice and making it extremely difficult for women to exercise their legal right to choose to have an abortion. TRAP laws create an environment where the constitutional right to make the decision to have an abortion may be moot because there are too few providers to perform the procedure. As a consequence, the enactment by a state of a TRAP law represents a substantive, as opposed to a merely symbolic, measure of a state's restrictive abortion policy. The politics of abortion can be better understood by examining the determinants of the enactment of TRAP laws by states.

This article examines the determinants of the enactment of a TRAP law by states, over the period 1974–2008, using the event history analysis estimation technique. The empirical results find that partisan political party control of a state's legislative/executive branches is the most important factor affecting the enactment of a TRAP law by a state. The institutional control of a state's government (where one political party holds a majority of both houses of the state legislature and the governorship) by the ideologically anti-abortion Republican Party is significantly positively associated with a state enacting a TRAP law, while the institutional control of a state's government by the ideologically pro-choice Democratic Party is significantly negatively associated with a state enacting a TRAP law. Divided government (where the same political party does not hold a majority of both houses of the state legislature and the governorship) is not a significant predictor of a state enacting a TRAP law. When divided government occurs there is little likelihood of a TRAP law being enacted.

The results also indicate that the percentage of a state's population that are Catholic, public abortion attitudes, or state political ideology are not statistically significant predictors of the enactment of a TRAP law by a state. These latter results stand in stark contrast to Strickland and Whicker (1992), Hansen (1993), Meier and McFarlane (1993), Berkman and O'Connor (1993), O'Connor and Berkman

(1995), and Camobreco and Barnello (2008), who found that state Medicaid abortion funding policy or the total number of anti-abortion regulations/resolutions enacted by a state are significantly affected by public abortion attitudes and/or the membership strength of anti-abortion religious groups. However, the state abortion policies these studies examined were either determined by state courts (Medicaid abortion funding) or merely symbolic abortion policies that may reflect external issues and not a state's restrictive abortion policy (a vote in favor of pro-life license plates or conscience (refusal) clauses by a state legislator may be a free speech or civil rights issue).

Several important theoretical conclusions emerge from our analysis of the determinants of the enactment by a state of a TRAP law. First, our finding that ideologically anti-abortion Republican state legislators or ideologically pro-choice Democratic state legislators do not respond to the public's abortion preferences or political ideology supports Meier and McFarlane's (1993) contention that abortion is a policy issue where the median voter model—a legislator will mirror the preferences of the median voter in order to increase the probability of being reelected—may not be applicable. On this highly charged emotional issue, state legislators do not mirror the abortion attitudes of the median voter. State policymakers are not responsive to the public's preferences about abortion policy. A state legislator's vote on abortion policy is more likely to be cast in accordance with the legislator's own abortion preferences rather than those of the median voter. Second, our finding that the enactment of a TRAP law by a state is not affected by the public's demand for abortion suggests that state legislators are neither responding to the public's demand for abortion nor are they reacting to the public's demand for abortion. This result provides strong support for the argument that because the major determinant of the enactment of a TRAP law by a state is partisan political control of state government and not anti-abortion religious groups' strength, public abortion attitudes, state political ideology, or public demand for abortion services, abortion policy is a redistributive issue rather than a morality issue. Third, our results suggest that political party abortion ideology in conjunction with institutional control of the legislative/executive branches of state government is a crucial factor that ought

to be included in any model that is examining the determinants of a state's restrictive abortion policy.

Future research into the politics of abortion must take into account our empirical finding that abortion is a partisan political issue. Abortion may represent an example of "issue ownership" in which a pro-choice or anti-abortion policy stance is identified with the Democratic Party or the Republican Party, respectively (Petrocik 1996; Adams 1997). The consequences of abortion being a partisan political issue are important areas for future research. It would be of obvious interest to investigate whether our findings are robust with respect to other state laws that are enacted to restrict women's access to an abortion.

Notes

1. The data on the enactment of TRAP Laws are from the NARAL Pro-Choice America (various years).

2. The percentage of the population that are Catholic and the percentage of the population that belongs to fundamentalist evangelical Christian denominations in each state for the years 1974–2008 is from Quinn et al. (1982, 1992) and Jones et al. (2002).

3. The data was obtained from Gerald Wright's website (<http://www.php.indiana.edu/~wright1>). The Erikson, Wright, and McIver measure of state ideology is available annually from 1976 through 2003. The 1976 score is used for the 1974–1975 period while the 2003 score is used for the 2004–2008 period. Data was unavailable for Alaska and Hawaii.

4. The data on the partisan composition of state legislatures and the governorship was supplied by Robert Lowry and also from the *Statistical Abstract of the United States*. Nebraska is excluded from the analysis because its state legislature is nonpartisan.

5. Certificate of need programs are statutes that require approval by state health agencies before the acquisition, expansion, or creation of hospitals or nursing homes. Certificate of need programs were enacted because of the concern that excess hospital or nursing home capacity would cause many patients to be hospitalized or admitted to nursing homes unnecessarily. Certificate of need programs may not be particularly applicable to the enactment of TRAP laws since most abortion providers' facilities are free standing clinics and TRAP laws require substantial renovation or remodeling, not expansion of the existing facilities. However, the prior presence of certificate of need programs may have deterred some abortion providers from entering the market.

References

- Adams, G. (1997). "Abortion: Evidence of an Issue Evolution." *American Journal of Political Science* 41: 718–737.
- Bartels, L. M. (2008). *Unequal Democracy*. Princeton: Princeton University Press.
- Berkman, M. B., and R. E. O'Connor. (1993). "Do Women Legislators Matter?" In *Understanding the New Politics of Abortion*. Ed. Malcolm L. Goggin. Newbury Park, CA: Sage Publications, 268–284.
- Berry, F. S., and W. D. Berry. (1990). "State Lottery Adoption as Policy Innovations: An Event History Analysis." *American Political Science Review* 84: 395–415.
- Bitler, M. P., and M. Zavodny. (2004). "Child Maltreatment, Abortion Availability, and Economic Conditions." *Review of Economics of the Household* 2: 119–141.
- Camobreco, J. F., and M. A. Barnello. (2008). "Democratic Responsiveness and Policy Shock: The Case of State Abortion Policy." *State Politics and Policy Quarterly* 8: 48–65.
- Chressanthis, G. A., K. S. Gilbert, and P. W. Grimes. (1991). "Ideology, Constituent Interests and Senatorial Voting: The Case of Abortion." *Social Science Quarterly* 72: 588–600.
- Cohen, J. E., and C. Barrilleaux. (1993). "Public Opinion, Interest Groups and Public Policy Making: Abortion Policy in American States." In *Understanding the New Politics of Abortion*. Ed. Malcolm L. Goggin. Newbury Park, CA: Sage Publications, 203–221.
- Cook, E. A., T. G. Jelen, and C. Wilcox. (1993). "State Political Cultures and Public Opinion About Abortion." *Political Research Quarterly* 46: 771–781.
- Donohoe, J. J., and S. D. Levitt. (2001). "The Impact of Legalized Abortion on Crime." *Quarterly Journal of Economics* 116: 379–420.
- Downs, A. (1957). *An Economic Theory of Democracy*. New York: Harper and Row.
- Erikson, R. S., G. C. Wright, and J. P. McIver. (1993). *Statehouse Democracy: Public Opinion and Policy in the American States*. Cambridge: Cambridge University Press.
- Goggin, M. L. (1993). "A Framework for Understanding the New Politics of Abortion." In *Understanding the New Politics of Abortion*. Ed. Malcolm L. Goggin. Newbury Park, CA: Sage Publications, 1–18.
- Goggin, M. L., and C. Wlezien. (1993). "Abortion Opinion and Policy in the American States." In *Understanding the New Politics of Abortion*. Ed. Malcolm L. Goggin. Newbury Park, CA: Sage Publications, 190–202.
- Gormley, W. T. (1986). "Regulating Issues Networks in a Federal Science." *Polity* 18: 595–620.

- Greenberg, E. S., and B. I. Page. (2009). *The Struggle for Democracy, 9th edition*. New York: Longman.
- Greene, W. (2000). *Econometric Analysis*. New Jersey: Prentice Hall.
- Gruber, J., P. B. Levine, and D. Staiger. (1999). "Abortion Legalization and Child Living Circumstances: Who is the Marginal Child?" *Quarterly Journal of Economics* 114: 263–298.
- Gujarati, D. N. (1995). *Basic Econometrics*. New York: McGraw-Hill.
- Halva-Neubauer, G. A. (1993). "The States After *Roe*: No Paper Tigers." In *Understanding the New Politics of Abortion*. Ed. Malcolm L. Goggin. Newbury Park, CA: Sage Publications, 167–189.
- Hansen, S. B. (1993). "Differences in Public Policies Toward Abortion: Electoral and Policy Context." In *Understanding the New Politics of Abortion*. Ed. Malcolm L. Goggin. Newbury Park, CA: Sage Publications, 222–248.
- Hwang, Sung-Don, and V. Gray. (1991). "External Limits and Internal Determinants of State Public Policy." *Western Political Quarterly* 44: 277–299.
- Jones, B. S., and T. A. Weitz. (2009). "Legal Barriers to Second-Trimester Abortion Provision and Public Health Consequences." *American Journal of Public Health* 99: 623–630.
- Jones, D. E., S. Doti, C. Grammich, J. E. Horsch, R. Houseal, M. Lynn, and R. H. Taylor. (2002). *Religious Congregations and Membership in the United States 2000*. Nashville, TN: Glenmary Research Center.
- Kahane, L. H. (1994). "Political Ideological and Economic Determinants of Abortion Position: An Analysis of State Legislatures and Governors." *American Journal of Economics and Sociology* 53: 347–360.
- Medoff, M. H. (1988). "An Economic Analysis of the Demand for Abortions." *Economic Inquiry* 26: 353–359.
- . (1989). "Constituencies, Ideology and the Demand for Abortion Legislation." *Public Choice* 60: 185–191.
- . (1997). "A Pooled Time-Series Analysis of Abortion Demand." *Population Research and Policy Review* 16: 597–605.
- . (2002). "The Determinants and Impact of State Abortion Restrictions." *American Journal of Economics and Sociology* 61: 481–493.
- . (2009). "The Relationship Between State Abortion Policies and Abortion Providers." *Gender Issues* 26: 224–237.
- Meier, K. J., and C. Johnson. (1990). "The Politics of Demon Rum." *American Politics Research* 18: 404–429.
- Meier, K. J., and D. R. McFarlane. (1993). "Abortion Politics and Abortion Funding Policy." In *Understanding the New Politics of Abortion*. Ed. Malcolm L. Goggin. Newbury Park, CA: Sage Publications, 249–267.
- Mooney, C. Z., and Mei-Hsien Lee. (1995). "Regulating Mortality in the American States: The Case of Pre-*Roe* Abortion Regulation Reform." *American Journal of Political Science* 39: 599–627.

- NARAL Pro-Choice America (various years). *Who Decides? A State-by-State Review of Abortion Rights*. Washington, DC: National Abortion Rights Action League.
- Norrander, B. (2001). "State Politics Measuring State Public Opinion with the Senate National Election Study." *State Politics and Policy Quarterly* 1: 111–125.
- Norrander, B., and C. Wilcox. (1999). "Public Opinion and Policymaking in the States: The Case of Post-Roe Abortion Policy." *Policy Studies Journal* 27: 702–722.
- O'Connor, R. E., and M. B. Berkman. (1995). "Religious Determinants of State Abortion Policy." *Social Science Quarterly* 76: 447–459.
- Petrocik, J. R. (1996). "Issue Ownership in Presidential Elections, with a 1980 Case Study." *American Journal of Political Science* 40: 825–850.
- Quinn, B., H. Andersen, M. Bradley, P. Goettinghall, and P. Shriver. (1982). *Churches and Church Membership in the United States 1980*. Atlanta, GA: Glenmary Research Center.
- Quinn, B., M. Bradley, P. Goettinghall, and P. Shriver. (1992). *Churches and Church Membership in the United States 1990*. Atlanta, GA: Glenmary Research Center.
- Roh, J., and D. P. Haider-Markel. (2003). "All Politics is Not Local: National Forces in State Abortion Initiatives." *Social Science Quarterly* 84: 15–31.
- Schnell, F. (1993). "The Foundations of Abortion Attitudes: The Role of Values and Value Conflict." In *Understanding the New Politics of Abortion*. Ed. Malcolm L. Goggin. Newbury Park, CA: Sage Publications, 23–43.
- Statistical Abstract of the United States*. Various editions. Washington, DC: U.S. Government Printing Office.
- Stimson, J. A. (2004). *Tides of Consent: How Public Opinion Shapes American Politics*. Cambridge: Cambridge University Press.
- Strickland, R. A., and M. L. Whicker. (1992). "Political and Socioeconomic Indicators of State Restrictiveness Toward Abortion." *Policy Studies Journal* 20: 598–617.
- Wetstein, M. E. (1993). "A LISREL Model of Public Opinion on Abortion." In *Understanding the New Politics of Abortion*. Ed. Malcolm L. Goggin. Newbury Park, CA: Sage Publications, 57–70.
- Wilcox, C. (1989). "The Fundamentalist Voter: Politicized Religious Identity and Political Attitudes and Behavior." *Review of Religious Research* 31: 54–67.
- Wilcox, C., and J. Riches. (2002). "Pills in the Public's Mind: RU486 and the Framing of the Abortion Issue." *Women & Politics* 24: 61–80.