

A War of Words

A Legal Framing Contest and the Undue-Burden Standard

Research Question

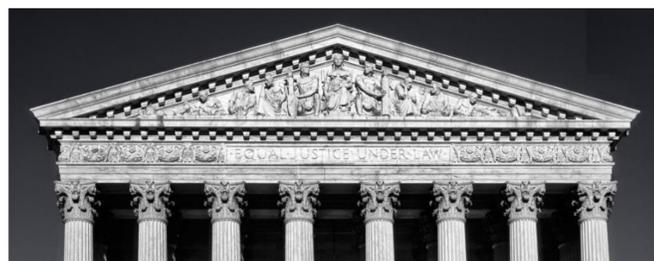
How can computerized text analysis be utilized to explore recurring structural aspects of a framing contest between opposing sides in a discursive legal dispute?

Abstract

Lawyers aligned with the antiabortion and reproductive-rights movements have argued numerous legal cases before the U.S. Supreme Court. Beginning with the 1992 *Planned Parenthood v. Casey* decision, a core focus of this legal debate has been the undue-burden standard. The debate considers, does a law restricting abortion access place an undue burden on an individual's legal right to seek an abortion?

In this project, I use the undue-burden legal debate to discern basic and recurring structural elements in the legal-framing contest. I examine the litigant briefs in a set of abortion cases to discern core frames articulated by both sides in the debate. I then follow use of these frames in the unfolding dispute across a group of key Supreme Court abortion cases where the undue-burden debate takes place.

More specifically, I trace this undue-burden legal-framing contest using computerized text analysis as a tool to discern these key structural elements in the discursive struggle. The analysis uncovers two structural features, both a) framing innovations and persistence and b) dialogic and monologic framing.



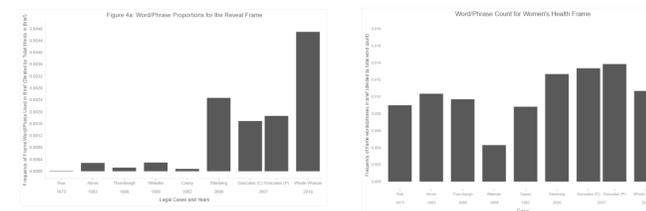
Text Analysis

To discern structured aspects of the abortion undue-burden legal-framing contest, I use computerized text analysis to assess the arguments. I begin with a qualitative step, multiple close readings of the litigant briefs in the key legal cases to discern a core set of frames utilized by the legal advocates. I then generate a dictionary of key words and phrases used by the brief writers in each case as they articulate the various frames. To track use of a particular frame across legal cases, I worked with Data Science master's student, Amanda Konet, to generate graphs indicating the overall proportion of words in a brief devoted to the frame's key words and phrases. We relied on R to generate the word and phrase counts for the graphs. Distinct graphs were plotted for each frame and for each side in the case using the frame. The graphs offer a visualization of cases where the frames are utilized with greater frequency and instances where important shifts in framing occur. The graphs, then, allow us to see framing innovations and persistence as well as dialogic and monologic framing.

Framing Innovation & Persistence

The graphs here provide a visualization of counts of words and phrases associated with particular legal frames utilized in Supreme Court abortion cases in which the undue-burden legal-framing contest occurred. The series of legal cases are listed chronologically on the horizontal axes of the graphs below and the framing counts are indicated on the vertical axes.

The graphs immediately below illustrate both an innovation and persistence in the legal-framing contest. In the graph on the left, you can see that the language associated with a particular frame was effectively not utilized until about midway through the (horizontal) list of legal cases. Then at about the midpoint in the list of cases, the framing language begins to show up in the legal cases. That is, the bars become substantially higher in the graph. This indicates a new, innovative legal frame being introduced at this juncture in the legal debate.



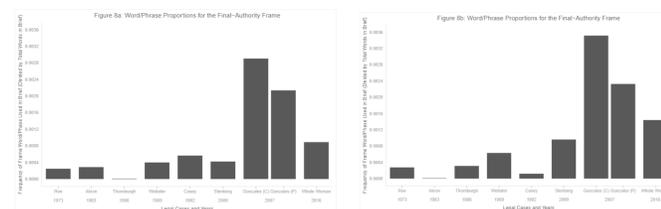
The graph on the right (just above) shows a legal frame that is used fairly routinely across the set of legal cases. Unlike the graph on the left, the graph on the right indicates a legal frame that persisted across legal cases in the framing contest.

Overall, then, the two graphs, with their computerized text analysis results, illustrate a framing innovation and frame persistence.

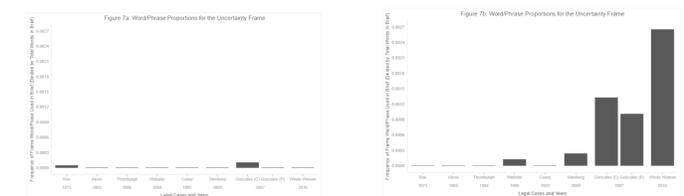
Dialogic & Monologic Framing

The next two sets of graphs illustrate dialogic and monologic framing, the second structural feature in the framing contest.

In the two graphs below, you can see an example of dialogic framing. Dialogic framing occurs when both sides in the debate engage in a discursive struggle over an ideational element, with actors on both sides attempting to infuse their preferred meaning into the particular concept or term. In the graph on the left, you can see the reproductive-rights side's framing of the particular concept or frame and, on the right, the antiabortion side's framing of the very same concept or frame. The two sides engage in this framing at pretty much the same time in the legal debate, and thus the graphs suggest a dialogic framing struggle over the particular discursive element.



The two graphs just below illustrate monologic framing. In the graph on the left, the figure shows almost no use of the specific frame by the reproductive-rights legal advocates. The graph on the right, on the other hand, particularly in later legal cases, shows substantial use of the frame. In monologic framing, as these graphs indicate, only one side engages the frame. That is, in these court cases, only one side articulates this type of legal framing. These graphs then indicate monologic framing.



Conclusion

Using computerized text analysis, I identify recurring structural aspects in the undue-burden legal-framing debate unfolding across a series of pivotal Supreme Court cases. While this investigation examines a dispute in a legal context, these structural features may occur in other framing contests, in individual-level, less formal disputes or in other advocacy-based disputes in other institutional settings.

Suggested Readings

Luna, Zakiya. 2020. *Reproductive Rights as Human Rights: Women of Color and the Fight for Reproductive Justice*. New York: University Press.

Pedriana, Nicholas. 2006. "From Protective to Equal Treatment: Legal Framing Processes and Transformation of the Women's Movement in the 1960s." *American Journal of Sociology* 111(6):1718-61.

Steinberg, Marc W. 1999. "The Talk and Back Talk of Collective Action: A Dialogic Analysis of Repertoires of Discourse among Nineteenth-Century English Cotton Spinners." *American Journal of Sociology* 105(3):736-80.

Snow, David A., E. Burke Rochford, Jr., Steven K. Worden, and Robert D. Benford. 1986. "Frame Alignment Processes, Micromobilization, and Movement Participation." *American Sociological Review* 51(4):464-81.

Ziegler, Mary. 2020. *Abortion and the Law in America: Roe v. Wade to the Present*. New York: Cambridge University Press.

Acknowledgements

I am grateful to Amanda Konet, Graduate Student, Vanderbilt Data Science Institute, for assistance with the text analysis for this project.

I am also extremely grateful to Vanderbilt's Center for Digital Humanities for both material support and warm collegiality over the past academic year.