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What the Public Wants and What it Gets

Paul Burstein

Excerpt

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I

Introduction

The first day of the 101st Congress, January 3, 1989, was a busy one, as the first day of a new congress always is. Four hundred and thirty-three bills were introduced in the House of Representatives. Some were potentially important to everyone in the United States (such as H.R. 16, “to provide a program of national health insurance”), some to a smaller but nevertheless substantial number of people (H.R. 1, “to establish a National Housing Trust to assist first-time home buyers), some to only a few (H.R. 27, “to direct the Secretary of the Interior to acquire certain real property adjacent to the Andrew Johnson National Historic Site in Greeneville, Tennessee, for inclusion within the national cemetery located in that site”).

By the time the 101st Congress adjourned on October 27, 1990, 5,977 public bills had been introduced in the House and 3,271 in the Senate. Some of these were taken seriously enough to be the subject of committee hearings; some of these were debated in the House or Senate; and some of those debated were enacted into law. But the winnowing process was intense. Of the 433 bills introduced on the first day, only eleven became law. Of the thousands introduced during the entire congress (some of which were duplicates), 650 became law – a small fraction of the total.

What happened to the bills that failed to win enactment in the 101st Congress? Their sponsors could have tried again and

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reintroduced the bills in the next congress. Many did not; their proposals for policy change disappeared from the congressional agenda. Some persevered; sponsors of H.R. 181, calling for changes in benefits for some beneficiaries of Social Security, had been introducing the same bill in each congress since 1985 and would continue to do so through 1999 before giving up; sponsors of H.R. 2273, prohibiting discrimination against individuals with disabilities, had been trying to win enactment since the 92nd Congress (1971–72) before their efforts were rewarded with passage in 1990 of the Americans with Disabilities Act. Some specific proposals were abandoned, while the general issue remained on the congressional agenda, sometimes, as in the case of national health insurance, well into the 21st century.

What happened during the 101st Congress happens during every congress and raises the same questions. Why do so many bills vanish immediately after being referred to committees, never to win serious congressional attention? Why do some win serious attention but fail to gather the support needed to become law? What influences Congress as it decides which policy proposals to reject and which to enact into law?

Two answers to these questions are most often proposed. The first is that our democratic institutions really work – that we actually have, as Lincoln hoped, “government of the people, by the people, for the people.” In contemporary terms, that would mean that Congress is affected most strongly by public opinion – members of Congress nearly always want to win reelection and believe that winning depends on doing what their constituents want. As Stimson, MacKuen, and Erikson (1995:543, 560) write, “Constitutional mechanisms harness politicians’ strategies to the public’s demands. . . . This is dynamic representation, a simple idea and an old one. Public sentiment shifts. Political actors sense the shift. And then they alter their policy behavior at the margin.”

The second proposed answer is that Congress is affected most strongly, not by public opinion, but rather by organizations and individuals with the resources to get what they want by putting pressure on elected officials. They provide the campaign contributions, labor, expertise, and other resources likely to help

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members of Congress win reelection; then they lobby members of Congress, telling them what they want, and very often getting it. Social scientists often describe those pressuring Congress as organized interests (Leech 2010; Lowery, Gray, and Baumgartner 2010). In the eyes of journalists and the public, they are “special interests.”¹ Congress, responding to the wishes of the wealthy and powerful, adopts policies that enrich elites at the expense of everyone else. “For those committed to core principles of democratic governance,” Hacker and Pierson (2005:49) write, “the picture that emerges is unsettling. . . . It is now possible for policy makers to venture far from the average voter on important matters.”

There are strong arguments in favor of both these answers, but also strong arguments against them. The most obvious argument against each answer is the argument for the other. If Congress must be attuned to public opinion, it cannot be swayed by other forces. When Erikson, Wright, and McIver (1993:80) find that the relationship between public opinion and policy in American states is “awesome,” they go on to say that its impact “leaves little variance to be accounted for by other variables . . . state opinion is virtually the *only* cause of the net ideological tendency of policy in the state” (p. 81, emphasis in original). The finding of Stimson et al. (1995:557) that “there exists about a one-to-one translation of preferences into policy” carries the same implication.

Conversely, organized interests have a great many advantages over the general public when trying to influence policy; they have ready access to information and resources useful to elected officials, are able to continually monitor what elected officials do to help or hurt them, and can easily communicate with supporters and urge them to vote for or against incumbents (Clemens 1997; Granados and Knoke 2005; Lohmann 1998, 2003). More power for organized interests almost necessarily means less power for the general public. Public opinion and the activities of those especially

¹ On the power of organized interests, see, for example, Hacker and Pierson 2005; Jacobs and Page 2005; Winters and Page 2009; Lopipero, Apollonio, and Bero 2007–8; for reviews, see Lowery and Gray 2004; Leech 2010.

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concerned about particular policies may be seen as arrayed against each other in battle, with each struggle over policy having winners and losers.

This book contributes to the debate between these competing views by analyzing the impact of public opinion, organized interests, and other forces on some policy proposals considered during the 101st Congress; for proposals that had been introduced in earlier congresses, or would be introduced again later, the book traces their entire history, from first introduction until they were either enacted into law or they disappeared from the congressional agenda. My hope is that learning about those proposals will increase our understanding of the democratic political process more generally.

But the book goes beyond addressing the debate between those who believe public opinion matters most, and those who believe power belongs to organized interests. It proposes a third alternative – that on many issues there may be little struggle, and the victory of one side may not mean the defeat of the other.

Normally we say that if Congress responds strongly to public opinion, the democratic political process is working well; if Congress does not respond to public opinion, it must be responding to organized interests instead, and the democratic political process is working badly. But the public cares very little about most of the hundreds of issues on the congressional agenda at any particular time. On issues people care little about, they have no reason to acquire much information or to think about the issues very much. They may have no opinion on such issues at all. If public opinion does not exist, Congress cannot very well respond to it. Yet that does not imply that the democratic political process is working badly.

What about the power of organized interests? It seems obvious that people will try to affect policy on issues that matter most to them. They can engage in a wide variety of activities supporting or opposing policy change – activities collectively described here as “advocacy.” They can create political action committees to raise money for candidates; stage rallies, write letters, and collect signatures on petitions to let members of Congress know they care;

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and lobby members of Congress to provide information about how best to satisfy their wishes. Yet there are reasons to think they will seldom do so. They aren't likely to create organizations because of the collective action problem. As Olson (1971) explained, organizations attempting to affect policy seek a collective good that will benefit every member. Because everyone will benefit, whether or not they have done anything to win the collective good, it is rational for everyone to let others do the necessary work. The result will be little or no collective action. The same argument holds for individuals: why try to influence policy when letting others do the work will produce the same benefit? And if little effort is made to influence Congress, such efforts cannot very well have much impact.

Thus, there are very good arguments that public opinion will be the prime determinant of policy change, and that it won't; that organized interests will be the prime determinant of policy change, and that they won't; and that on many issues there may be neither public opinion nor advocacy – perhaps that's why most bills go nowhere.

There have been thousands of studies of how public policy is affected by public opinion and advocacy. What do they tell us?

PUBLIC OPINION

To say that views about the impact of public opinion on policy vary widely would be an understatement. On one side are those who find the impact of public opinion so strong that nothing else can matter – as Stimson et al. (1995:557) conclude, “there exists about a one-to-one translation of preferences into policy” in American national policymaking; Erikson et al. (1993:80) reach the same conclusion for policymaking at the state level. On the other side are the many political sociologists who consider the idea that public opinion influences policy so absurd that they refuse to consider it in their own research and simply dismiss other views (see the review by Manza and Brooks 2012).

Few researchers would go as far as Stimson et al. (1995) and Erikson et al. (1993), but, on balance, there is great support for the

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view that public opinion consistently influences policy, sometimes very strongly, not only in the United States, but in other countries as well, over time and on a wide range of issues. Soroka and Wlezien (2010:182) conclude their book on the relationship between public opinion and government spending in major policy domains in the United States, the United Kingdom, and Canada by writing that “Democracy works . . . the people ultimately decide” what policy will be, especially on issues the public cares about. Brooks and Manza (2007) reach similar conclusions, finding public opinion having a powerful influence on social welfare spending in 15 economically advanced countries. Even in the Russian Federation – a country not thought of as especially democratic – the strength of the relationship between opinion and policy proves to be “surprisingly high” (Horne 2012:215). In a massive review of work on public opinion and policy in the United States, Shapiro (2011:999) concludes that although there are aspects of the relationship still subject to debate, “the overall evidence – qualifications, contingencies, and all – provides a sanguine picture of democracy at work.” According to Manza and Brooks (2012:106), there is so much evidence that opinion matters that no one studying the determinants of policy can afford to ignore it.

ADVOCACY

Public opinion is a huge field of study. There is a massive amount of research being pursued, and a great deal of theoretical work as well. Though there is wide consensus about public opinion affecting public policy, there are many disagreements about how this occurs, how strong the impact is under varying circumstances, how often and how extensively opinion is manipulated by elites, and which research methods, both conventional and innovative, are most likely to advance our understanding (Shapiro 2011). But the field may be described as relatively coherent and well organized; with the exception of the political sociologists who refuse to consider public opinion, those who study it are for the most part in agreement, are aware of each other’s work, and take each other seriously.

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That is not true for the study of advocacy – indeed, there is no such thing as the study of advocacy as such (Harris and Gillion 2010). There are many studies of the impact of particular types of activities on policy, including lobbying, campaign contributions, protest demonstrations, media coverage, and letter writing. But no one has conceptualized the entire range of such activities – indeed, there has been no term used to describe all the activities people engage in as they try to influence policy. “Political participation” is often defined as including only the sorts of political activity traditionally seen as conventional – voting, lobbying, letter writing, and the like, but not protests or actions involving violence (Verba, Nie, and Kim 1978: 1). “Collective action” includes protests but excludes the actions of individuals (Earl, Soule, and McCarthy 2003:587; Opp 2009:47–48). “Claim-making” is intended by some authors to be more inclusive than collective action, but still excludes some types of activity and, more importantly, is defined simply as a list of types of activities – “the purposive and public articulation of political demands, calls to action, proposals, criticisms or physical attacks” (Koopmans et al. 2005:254) rather than analytically. Major works on lobbying (e.g., Baumgartner et al. 2009) will claim to be concerned about the determinants of policy but ignore social movements. Works on social movements may decry how narrow the field has become (McAdam and Boudet 2012:ch. 1) and argue that ignoring other forces may lead to an exaggerated sense of movements’ importance (p. 24) but cite almost no works on lobbying or interest groups. Researchers may have data on 68 kinds of political activity engaged in by Americans during the second half of the 20th century, including press conferences, speeches, and lawsuits as well as demonstrations, yet lump them altogether under the rubric of “protest” (Walker, Martin, and McCarthy 2008:35) and pay almost no attention to work on any other kind of political activity.

To encompass all of these activities, I will use the term “policy advocacy” (or just “advocacy”). “Advocacy” is a term often used in studies of policy change (e.g., Baumgartner et al. 2009:6–8; Jenkins, Leicht, and Wendt 2006); it is rarely formally defined but

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generally refers to any kind of activity aimed at achieving some policy goal. Sometimes it is defined more narrowly, limited to the presentation of arguments in support of a policy proposal (Smith 1984:45) or to “systematic efforts” as opposed to “sporadic outbursts” (Prakash and Gugerty 2010:1). Sometimes the definition is complex. The sociologists Andrews and Edwards (2004:481) define advocacy organizations as making “public interest claims either promoting or resisting social change that, if implemented, would conflict with the social, cultural, political, or economic interests or values of other constituencies or groups.” This definition goes beyond the political and requires making judgments about the consequences of an activity before deciding if it is advocacy. Here policy advocacy will be defined simply as all kinds of publicly reported activity supporting or opposing specific policies.

Just because there is no unified study of advocacy, that doesn't mean that study of various types of advocacy doesn't contribute to our understanding of policy change. In fact, it does. But there is much less agreement about the impact of advocacy than there is about the impact of public opinion.

McCammon (2012:11) begins her study of the movement for the inclusion of women in juries by writing that “Social movements are one of the primary agents of social change in modern society. . . . In fact, a sizable body of scholarly study provides evidence of the far-reaching effects of collective action” (see also Snow, Soule, and Kriesi 2004 for a similar view). In a recent review on “The Political Consequences of Social Movements,” Amenta and his co-authors (2010) are quite a bit more cautious: “Determining whether a movement has had any consequences and, if so, which ones, is not an easy task” (p. 300). They conclude, a bit vaguely, that “The biggest and best-studied movements have been shown to be politically influential in various ways, and movement protest is especially influential in helping to set policy agendas,” while noting how little we know about the less-studied – that is, the vast majority – of movements. McAdam and Boudet (2012:24) warn that “we should be wary of the affirming evidence” about movement impact because so many

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studies leave out other forces, part of whose impact may be incorrectly attributed to movements (see also Amenta and Caren 2004:476).

The study of interest groups is a bit different only in that the contrast between expectations and findings is so stark. Leech (2010:534) notes that “politicians, the public, and most other political scientists all are convinced that interest groups are so powerful,” yet the actual influence is amazingly difficult to “pin down” in their research. Review articles find that sometimes interest groups influence policy and sometimes they don’t, leaving conclusions about impact at best “inconclusive” (Baumgartner and Leech 1998:187; Smith 1995:123; also see Francia 2010). Ansolabehere, de Figueiredo, and Snyder (2003:117) confront a similar paradox in their analysis of campaign contributions – although everyone is sure that contributions affect how legislators vote, contributions in fact “have no detectable effects on the behavior of legislators” once legislator ideology is taken into account. In my own review with April Linton of many articles in major journals (Burstein and Linton 2002), we found social movement organizations (SMOs) and interest groups together (collectively called “interest organizations”) affected policy less than half the time. Confronting all the negative findings in light of their own theoretical arguments, Baumgartner et al. (2009:22) begin with an expectation that must be viewed as counterintuitive – that “the relation between control over material resources and gaining the policy goals that one wants in Washington is likely to be close to zero.”

Thus, oversimplifying only a little, we may say that there is considerable evidence for the view that policy is clearly affected by public opinion and that the evidence about the influence of advocacy is mixed. As to the possibility that often neither public opinion nor advocacy will affect policy because neither exists for many issues, there seems to have been no research, and so we can’t reach any conclusions at all.

These conclusions may seem unlikely to some and inadequate to others (certainly the total absence of conclusions about the latter possibilities is inadequate). No one would

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agree more than many of the researchers who have done the studies and written the reviews; they often highlight major problems in their own work and that of their colleagues. Here I will summarize some of their major concerns, and add some of my own, in order to point the way to improving our research. The book will then try to address the concerns with new approaches to research that will advance our understanding of the policy process.

CONCERNS ABOUT THE STUDY OF POLICY CHANGE

Sampling

Although it is widely believed that public opinion strongly affects policy, Page (2002) disagrees – he believes that the actual impact is much weaker than we think. We overestimate the impact of opinion on policy, he argues, partly because we mostly study issues on which the impact is especially likely to be strong – issues especially important to the public. It is on those issues that legislators are most likely to do what the public wants – the legislators know that the public is paying attention to what they do, and feel they have little choice other than doing what the public wants, because they want to be reelected (Page 2002; Shapiro 2011:986, 991). Our estimates of the impact of opinion are too high, in other words, because of sampling bias; if we studied a random sample of issues, we would get a more accurate – and lower – estimate of the impact of opinion on policy.

Leech (2010:540) contends that those studying organized interests make the same mistake. Political scientists trying to gauge the impact of organized interests on policy tend to analyze issues that are especially prominent and provoke a lot of interest group activity. “All these factors,” she writes, “increase the interest group’s chance of success.” McAdam and Boudet (2012:181) state that past work has “dramatically exaggerated the frequency and causal significance of true social movements.” Why? In large part because the movements studied most often are “wildly nonrepresentative” of all such movements. Other scholars also