

The Expansion of Interest Power

A recent consensus exists among judicial scholars—that judicial power is expanding. The power and politicization of the courts is continually being reconsidered. Assuming that this consensus is valid, judicial expansion has major implications in American Politics. One such implication is the impact of judicial expansion on interest group behavior. If judicial power is truly increasing, we should see an increase in the use of the courts by interest groups engaging in political action. We have also seen more attention given to religious influence in our various branches of government. Religious interests groups have been growing in number and power.

My dissertation most broadly falls into the judicial politics subfield, but also encompasses both religion and politics, and interest group politics. In it, I examine interest group participation in the Supreme Court by way of *amicus curiae* briefs. Scholars agree that the power of the judiciary has been increasing over time. It is also clear that as this has occurred, interest groups have attempted to use this branch more often to seek political impact. Groups approach the court in many ways; one of the most visible is filing an *amicus curiae* brief in a case. The scholarly work that has been done mostly supports the finding that these briefs are not successful in influencing case outcome. The puzzle then is why is the number of *amicus curiae* briefs, and thus the amount of money groups must put toward them, continuing to increase significantly if these briefs are irrelevant? Case outcome is obviously not all that matters to these groups.

The substantive matter of my dissertation is based on my interest in religion and politics. The first section looks at the trends in filing briefs of religious groups, and which religious traditions seem to be most active. The second section addresses more specifically what type of cases in which they are filing; this spans from religion clause cases to social justice and social morality issues. The third section is a quantitative analysis of the efficiency of these briefs. Work has certainly been done in this area, but my approach is unique and the case selection is much more extensive than existing projects. I build on the most comprehensive judicial database available, the United States Supreme Court Database (Spaeth 2007) by adding variables to specific cases regarding the *amicus curiae* briefs and the party they are supporting. The final section includes a qualitative analysis and case study of several of the most active groups, why and how they are seeking the courts for political change.

One of the difficult components of my dissertation, but also one of my favorites, is that it provides so many avenues of future research. One idea that I already have is to examine court issued opinions for citations of these *amicus curiae* briefs to see if groups are making an impact regularly in this way. Another idea is to follow up on the types of interest groups working in the courts—are they branches of bigger interest groups or are they groups formed for the express purpose of influencing the courts? Although my case selection is within my substantive area of interest, this type of research is not relevant only to those who study religion and politics, but is more broadly applicable to anyone studying interest groups and the court.

If the courts are truly expanding in power, it makes sense that interest groups would seek to maximize their utility of this political avenue. Much attention has been given to interest group influence within legislatures, but interest groups could be seeking to gain more access in the judiciary as well. Those concerned with the democratic aspects of interest group politics should spend time examining an increasing influence in the courts. Furthermore, those that concern themselves with the separation of church and state must also consider religious influence in the courts.