

*Dear NYU Workshop Participants,*

*I am absolutely delighted to get the chance to discuss parts of my book, THE DEMOCRATIC FOUNDATIONS OF POLICY DIFFUSION, with you. I include the introductory chapter and one of the empirical chapters to give you a sense of the project. The book is forthcoming from Oxford University Press, and I still have time to incorporate your comments and suggestions in the copy-editing and proof-reading stages.*

*Warm regards,*

*Katerina Linos*

#### THE DEMOCRATIC FOUNDATIONS OF POLICY DIFFUSION: ABSTRACT

Why do law reforms spread around the world in waves? In the dominant account of diffusion through technocracy, international networks of elites develop orthodox policy solutions and transplant these across countries without regard for the wishes of ordinary citizens. But this account overlooks a critical factor: in democracies, reforms must win the support of politicians, voters, and interest groups. This book claims that laws spread across countries in very public and politicized ways, and develops a theory of diffusion through democracy. I argue that politicians choose to follow certain international models to win domestic elections, and to persuade skeptical voters that their ideas are not radical, ill-thought-out experiments, but mainstream, tried-and-true solutions.

This book shows how international models generated domestic support for health, family, and employment law reforms across rich democracies. Information that international organizations have endorsed certain reforms or that foreign countries have adopted them is valuable to voters. Public opinion experiments show that even Americans respond positively to this information. Case studies of election campaigns and legislative debates demonstrate that politicians with diverse ideologies reference international models strategically, and focus on the few international organizations and countries familiar to voters. Data on policy adoption from many rich democracies document that governments follow international organization templates and imitate the policy choices of countries heavily covered in national media and familiar to voters.

The book provides a direct defense to a major criticism international organizations and networks face: that they conflict with domestic democracy. The book also explains how to design international institutions and transnational advocacy campaigns to spread laws more effectively.

## Table of Contents

Chapter 1: Introduction .....	1
Chapter 2: A Theory of Diffusion Through Democratic Mechanisms .....	12
Chapter 3: How Americans View Foreign Models.....	37
Chapter 4: National Health Services Across OECD Countries .....	69
Chapter 5: Health Reforms in the UK, Spain and Greece .....	97
Chapter 6: Family Policy Diffusion Across OECD Countries .....	131
Chapter 7: Family Policy Developments in Greece and Spain.....	153
Chapter 8: Conclusions and Implications .....	177
Acronym Table .....	190

## Chapter 1: Introduction

### *Theoretical Claims*

From environmental regulations to fundamental human rights, from market liberalization efforts to pension and health reforms, states imitate laws developed by other states or championed by international organizations. Diverse laws spread quickly within regions and around the globe, and reach the most remote corners of the world. This much is known and is well-documented in large literatures in law, sociology, political science, and beyond.<sup>1</sup>

But why do international models wield so much influence? And who decides whether to borrow laws from abroad? Much prior work is silent on these questions and pays no attention to the actors involved in spreading laws across countries. Scholars who do offer an answer focus on networks of policy elites - international organizations and informal networks of sophisticated experts who formulate policy proposals that incorporate orthodox solutions to shared problems. Their narrative goes as follows: central bankers, police chiefs, environmental regulators, and judges meet regularly with their foreign colleagues. They devise common policy recommendations and build long-term relationships with their foreign counterparts. Socialized into international networks, key decision-makers become accountable largely to each other. They develop reputations for carrying out the promised reforms in the face of domestic opposition and draw strength from their foreign colleagues to resist pressures from domestic constituencies.<sup>2</sup> Globetrotting economists and other experts are sent by the World Bank and the International Monetary Fund (IMF) to the world's parochial backwaters to spread these orthodox ideas.<sup>3</sup> In short, the dominant account is a story of diffusion through technocracy.

In this dominant account, ordinary citizens provide no real input; their interests, concerns, and

---

<sup>1</sup> See, among many others, Frank Dobbin, Beth Simmons & Geoffrey Garrett, *The Global Diffusion of Public Policies*, 33 ANN. REV. SOC. 449 (2007); Ryan Goodman & Derek Jinks, *How to Influence States: Socialization and International Human Rights Law*, 54 DUKE L.J. 621 (2004); Derek Jinks, *The Translation of Global Human Rights Norms: The Empirical Dimension*, 41 TEX. INT'L L.J. 415 (2006); Erik Voeten, *Borrowing and Non-Borrowing Among International Courts*, 39 J. LEGAL STUD. 547 (2010); Karen Alter, *The Global Spread of European Style International Courts*, 35 WEST. EUR. POL. 135 (2012); MARY DUDZIAK, EXPORTING AMERICAN DREAMS: THURGOOD MARSHALL'S AFRICAN JOURNEY (2008); Karen Alter & Lawrence Helfer, *Nature or Nurture: Lawmaking in the European Court of Justice and the Andean Tribunal of Justice*, 64 INT'L ORG. 563 (2010); Oona Hathaway & Scott Shapiro, *Outcasting: Enforcement in Domestic and International Law*, 121 YALE L.J. 252 (2011).

<sup>2</sup> See, e.g., ANNE MARIE SLAUGHTER, A NEW WORLD ORDER (2004); KURT WEYLAND, BOUNDED RATIONALITY AND POLICY DIFFUSION: SOCIAL SECTOR REFORM IN LATIN AMERICA (2007) (emphasizing the role of experts in spreading pension reforms); Kal Raustiala, *The Architecture of International Cooperation: Transgovernmental Networks and the Future of International Law*, 43 VA. J. INT'L L. 1 (2002) (clarifying the functions of transgovernmental networks); Harold Hongju Koh, *Bringing International Law Home*, 35 HOUS. L. REV. 623, 651-53 (1998) (emphasizing the role of bureaucratic compliance procedures); David Zaring, *Informal Procedure, Hard and Soft, in International Administration*, 5 CHI. J. INT'L L. 547, 547 (2005) (identifying "domestic bureaucracies" as "the primary impetus" of the internationalization of regulation).

<sup>3</sup> See, e.g., Michael N. Barnett & Martha Finemore, *The Politics, Power and Pathologies of International Organizations*, 53 INT'L ORG. 699, 713 (1999) (stating that officials in international organizations "are the 'missionaries' of our time. Armed with a notion of progress, an idea of how to create the better life, and some understanding of the conversion process, many IO elites have as their stated purpose a desire to shape state practices by establishing, articulating, and transmitting norms that define what constitutes acceptable and legitimate state behavior.").

objections get scant attention. Policy diffusion “unfolds largely inside the bureaucratic agencies of the state and is not driven in any direct way by electoral incentives and calculations.”<sup>4</sup> Poor, small, developing countries face the greatest pressures to conform. But even superpowers like the United States are not immune, as “globalized elite bourgeois values” are imposed on ordinary Americans.<sup>5</sup> According to these traditional accounts, international norms and domestic democracy are in tension.

This conventional story is not only normatively troubling; it is also inconsistent with large literatures that explain how domestic policies are formulated. Under these domestic policy accounts, elected leaders pay great attention to what ordinary citizens and domestic interest groups want in order to maintain their popularity and win re-election.<sup>6</sup> From the domestic perspective, it seems unlikely that elected leaders would follow their foreign colleagues or international organizations on a broad range of issues if this hurt them at the ballot box.

This book asserts that, contrary to the conventional wisdom, international norms and democracy are mutually reinforcing. I argue that policies spread across countries not only because of the backing of technocrats but also because of the support of ordinary voters. Technocrats still play a critical role in canvassing diverse ideas, bringing proposals to leaders’ attention, and developing policy details. But elections and other democratic processes are an engine, not an obstacle, for the spread of policies across countries and can provide critical domestic legitimacy for these policies.

My theory is built on the intuition that foreign governments’ policies and international organization proposals can serve as benchmarks against which voters can judge their government and its laws. Voters often worry that politicians are not competent and propose poorly thought-out laws that are unlikely to succeed. Voters also worry that politicians design laws in ways that enrich special interest groups and cater to fringe ideologues. Information that foreign governments have adopted similar laws can help politicians signal that their decisions are competent and mainstream. Foreign models have two distinct advantages as compared to endorsements from domestic groups, such as industry associations, unions, think tanks, and academics. First, because it is costly to adopt a law, foreign governments can send especially strong signals that they expect a proposal to succeed.<sup>7</sup> Second, foreign governments are outsiders; they don’t stand to benefit directly from election results or policy choices in a neighboring state. When many foreign countries make the same policy choice, and when an

---

<sup>4</sup> WEYLAND 2007, *supra* note 1, at 13.

<sup>5</sup> Kenneth Anderson, *Foreign Law and the U.S. Constitution*, 131 POL’Y REV. 33 (2005). For a discussion on the universalism of this exceptionalist rhetoric, see Anu Bradford & Eric Posner, *Universal Exceptionalism in International Law*, 52 HARV. INT’L L.J. 3 (2011). For discussions of how the United States received foreign models in earlier eras, see DANIEL T. ROGERS, *ATLANTIC CROSSINGS: SOCIAL POLITICS IN A PROGRESSIVE AGE* (1998) (presenting social policy exchanges between American and European progressives at the turn of the century) and MARY DUDZIAK, *COLD WAR CIVIL RIGHTS: RACE AND THE IMAGE OF AMERICAN DEMOCRACY* (2000) (outlining how Cold War politics shaped domestic civil rights initiatives).

<sup>6</sup> Bruce Bender and John R. Lott Jr., *Legislator Voting and Shirking: A Critical Review of the Public Choice*, 87 PUB. CHOICE 67 (1996); Paul Burnstein, *The Impact of Public Opinion on Public Policy*, 56 POL. SCI. Q. 29 (2003); Bingham G. Powell, *Political Representation in Comparative Politics*, 7 ANN. REV. POL. SCI. 273 (2004).

<sup>7</sup> Cf. Jackson, *supra* note 2, 116-18 (2005) (suggesting that examining the views of decision-makers whose choices have real-world consequences will yield more information than will abstract theoretical discussions).

international organization articulates this consensus and promotes it as the dominant international model, the influence of foreign models is at its peak.

There exist additional mechanisms through which voters could influence the diffusion of laws. For example, voters could collect information about policy models in neighboring countries and build bottom-up coalitions to pressure politicians for similar reforms. This is not the mechanism I propose, because voters are typically less invested in the policy-making process than are politicians. In my theory, politicians are the active (but constrained) agents. Politicians decide whether or not to introduce a law, and how to frame it in ways that will appeal to voters. Politicians end up imitating laws from countries familiar to voters disproportionately, because this allows politicians to present their proposals as competently designed and mainstream. My theory does not require voters to know much about other countries' policy choices—it only requires voters to have some general impressions about a few proximate countries heavily covered in the media. Chapter 2 spells out exactly how this theory works.

Diffusion through democracy produces different results from diffusion through technocracy; different international models are likely to resonate with these two groups. Technocrats can collect detailed information from many sources, including diverse countries and international organizations. They can investigate not only whether a foreign country adopted a policy, but also whether this policy succeeded or failed abroad. If the policy succeeded abroad, technocrats can study whether it will transplant smoothly into their home country, or whether the two contexts are too different for successful transplantation. In short, technocrats can accumulate information, and design a policy that closely fits their goals. What is not clear, however, is whether technocrats will use this information to serve the goals of the public at large, or whether they will select a policy that serves their professional interests narrowly defined, a policy that suits their future employers or one that pleases their international peers.

Voters are very different from technocrats; they seek policies consistent with their interests and values, but do so with little information, and limited patience for further research. Voters rely heavily on the media for information. Large, rich and culturally proximate foreign countries receive extensive and favorable media coverage; the rest of the world remains invisible to voters. It is these countries that resonate positively with voters; and it is these countries that politicians reference to secure voter support.

Many studies of policy diffusion emphasize learning from policy success or failure; they argue that a foreign country's experience with a policy after this policy's adoption determines whether the policy spreads. For example, some argue that hospital financing reforms associated with reduced health expenditures are particularly likely to diffuse widely.<sup>8</sup> Experts can in fact review policies from very diverse sources, and select the most successful ones, even if they come from distant and unfamiliar countries. I argue instead that, from the voters' perspective, discussions about a policy's success and failure abroad may be as confusing and partisan as debates about its likely domestic effects. As politicians from opposite camps fight over the policy's benefits, costs,

---

<sup>8</sup> Fabrizio Gilardi, Katharina Fuglister & Stéphane Luyet, Learning and the Conditional Diffusion of Health-Care Cost-Sharing Policies in Europe (July 29, 2010) (working paper) (available at [http://www.fabriziogilardi.org/resources/papers/refprice\\_july2010.pdf](http://www.fabriziogilardi.org/resources/papers/refprice_july2010.pdf)).

and overall effectiveness in a foreign country, they muddy the waters for voters.

Instead, I argue that, even though voters remain unclear about a policy's success or failure abroad, they can place confidence in the fact that this policy was adopted by rich, proximate, and familiar countries. Many sociologists and constructivists call this diffusion pathway emulation, and document that it occurs often.<sup>9</sup> This book develops micro-level foundations for these patterns of policy emulation, and explains why the policy choices of large, rich, and proximate countries receive great weight in national policy-making, even when these policies' success is in doubt. This is because politicians can signal the policy's desirability to voters by highlighting earlier adoptions by high-status actors. Conversely, it is hard to get voters to pay attention to the choices of distant or unfamiliar countries, and to find these convincing, even when technocrats believe that models from these countries are most successful.

The electoral power of simple, verifiable information that is easy to convey and hard to contest makes models that have been already widely adopted particularly influential. If many familiar countries have made the same policy choice, and better yet, an international organization has promoted this policy as the international standard, an incumbent who borrows this policy will send a strong signal of competence and mainstream values. If, instead, familiar countries are evenly divided, with some adopting one model and others a competing model, politicians should expect their choice to be contested, and should enjoy smaller electoral advantages from imitation. Note that under diffusion through technocracy, the opposite pattern should hold: Technocrats cannot draw useful inferences about what works and what doesn't if all foreign countries have made the same choice; diversity is useful for social scientific inquiry.

The appeal of clear information that is easy to transmit also gives great power to international organizations. International lawyers have long wondered why non-binding recommendations, declarations and other international organization proposals are influential.<sup>10</sup> I argue that politicians are inclined to adopt these recommendations domestically to gain electoral advantages, by clearly signaling their competence and mainstream values. Table 1.1 below summarizes some of the key distinctions between technocracy and democracy as channels of policy diffusion.

---

<sup>9</sup> See, e.g., Goodman & Jinks, *supra* note 1.. Large literatures in sociology and political science emphasize that proximate countries mimic each other's policies without explaining why this is so; Chapter 2 discusses these literatures.

<sup>10</sup> See, among others, JACK GOLDSMITH & ERIC POSNER, *THE LIMITS OF INTERNATIONAL LAW* 91-100 (2005) (outlining why states sometimes prefer treaties and at other times use non-legal agreements); Andrew T. Guzman & Timothy L. Meyer, *International Soft Law*, 2 J. LEGAL ANALYSIS 171 (2010) (presenting a theoretical framework on how states choose between hard and soft law in the international arena); Jacob E. Gersen & Eric Posner, *Soft Law: Lessons from Congressional Practice*, 61 STAN. L. REV. 573 (2008) (presenting a theoretical framework on the influence of soft law domestically); Anna di Robilant, *Genealogies of Soft Law*, 54 AM. J. COMP. L. 499 (2006) (outlining the historical uses of soft law); Kenneth W. Abbott & Duncan Snidal, *Hard and Soft Law in International Legal Governance*, 54 INT'L ORG. 421 (2000); COMMITMENT AND COMPLIANCE: THE ROLE OF NON-BINDING NORMS IN THE INTERNATIONAL LEGAL SYSTEM (Dinah Shelton ed., 2000) (presenting case studies on the effects of soft international law in human rights, trade, finance, the environment and arms control).

*Table 1.1: Channels of Policy Diffusion*

	<b>Diffusion through Technocracy</b>	<b>Diffusion through Democracy</b>
<b>Voter and elite response</b>	Voters are indifferent or hostile to foreign models; only elites respond positively	Voters are receptive to foreign models, and use them to benchmark elites
<b>Countries considered</b>	Diverse countries canvassed	Large, rich and culturally proximate countries resonate
<b>Influential features</b>	Results matter	Adoption matters
<b>Dominant arguments</b>	Learning from policy success	Emulation
<b>Ideal setting</b>	Diverse models allow experimentation	Single global model sends clear signal

As Table 1.1 outlines, diffusion through technocratic elites differs in key ways from diffusion through democratic channels. First the two accounts differ on who responds to information from abroad. In diffusion through technocracy, voters are, at best, indifferent to international models; only elites are receptive. In diffusion through democracy, voters welcome foreign models, and use these models to benchmark government performance. Second, the two accounts differ on which foreign models matter. While technocrats are free to consider reforms from around the world, elected politicians focus on a few large, rich and culturally proximate countries that they can use to appeal to voters. Third, the features of foreign models that are most influential differ. Whereas technocrats can examine policy details, and study policy success and failure abroad, politicians focus on simple facts that are easy to convey and hard to contest, such as the widespread adoption of a particular policy. Fourth, the arguments about foreign models differ. For appeals to experts, arguments about policy consequences work best. For appeals to voters, simpler emulation arguments work better, arguments of the type “everyone else does X and so should we.” As a result of these features, the ideal setting for diffusion through technocracy is a policy area where significant cross-national variation exists, as this allows for experimentation and hypothesis testing. In contrast, diffusion through democracy is most powerful when there exists a dominant international model.

### ***Empirical Analysis***

This book’s empirical analysis turns to cases that are unlikely to confirm the proposed theoretical claims. “Least-likely” cases provide strong “support for the inference that the theory is even more likely to be valid in most other cases, where contrary winds do not blow as strongly.”<sup>11</sup> The

---

<sup>11</sup> John S. Odell, *Case Study Methods in International Political Economy*, 2 INT’L STUD. PERSPECTIVES 161, 165 (2001).

empirical setting for this book is the development of social policies across rich industrialized countries. Citizens' experiences of major life events, including illness, unemployment, disability, childrearing and retirement, depend critically on public social policies. Across rich countries, governments devote almost half their budget, on average, for pensions, healthcare, unemployment and family benefits.<sup>12</sup> By studying these fields, the book illustrates that international law, international norms, and diffusion through democracy are influential even when the stakes are very high: When well-organized interest groups are fighting over very large sums of money. In addition, rich data on government spending on social policies allows me to investigate whether governments follow international models in practice, or whether governments only claim to follow international standards, but never actually implement these promises.

Rich democracies provide a hard-test for my theory for another reason: They possess strong domestic policy-building capacities that reduce the need to draw inspiration from foreign developments. In developing countries, citizens have more worries that their governments are incompetent and corrupt, and more to learn from international comparisons. Yet, this book shows that rich democracies are also open to international benchmarking.

Scholars in international law and international relations have paid little attention to social policy questions, focusing instead on questions of war and trade. Conversely, a large literature in domestic and comparative social policy has largely ignored international forces, such as cross-national policy diffusion. Instead, this literature emphasizes domestic factors, such as conflicts between employers and employees, and right-wing and left-wing parties.<sup>13</sup> This inattention is surprising given the anchoring finding of social policy research in the past two decades—Gøsta Esping-Andersen's conclusion that geographically proximate countries have adopted very similar social policies, and cluster into three "worlds of welfare capitalism."<sup>14</sup> Policy clusters extend beyond rich countries: Figure 1.1 below illustrates when countries around the world adopted their earliest social insurance program.<sup>15</sup> Light shades mark early adopters and dark shades mark late adopters. The map shows that European countries first developed social insurance programs in the late 19<sup>th</sup> century. North and South American countries followed the Europeans' lead in the 1900s and 1910s, while many Asian and African countries adopted social insurance programs in later decades.

---

<sup>12</sup> For 2007, the most recent year available, the figure was 47.41%. *OECD Factbook 2010*, at <http://www.oecd.org/els/social/expenditure>.

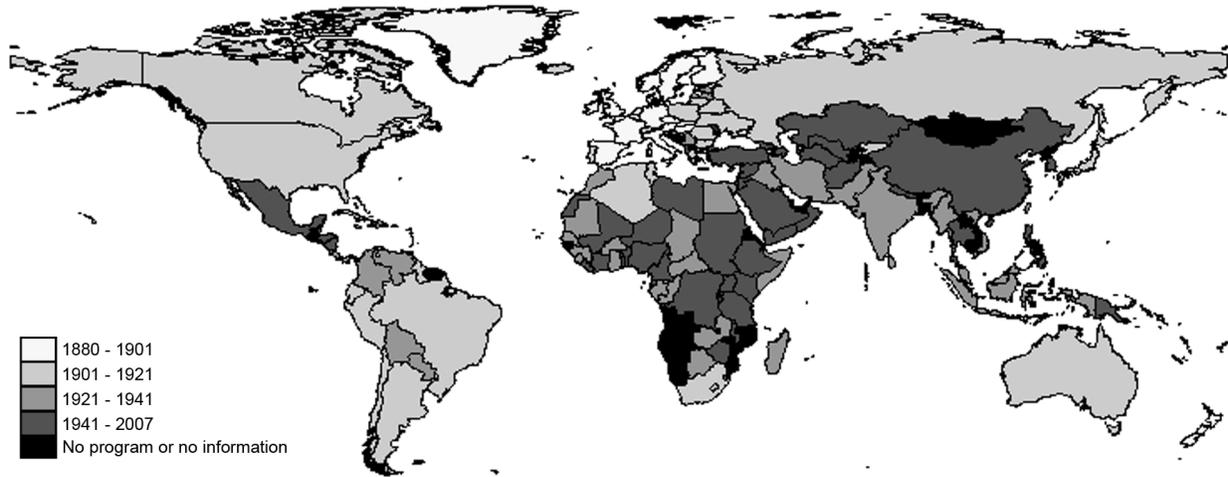
<sup>13</sup> *But see* Sarah Brooks, *Interdependent and Domestic Foundations of Policy Change: The Diffusion of Pension Privatization Around the World*, 40 INT'L STUD. Q. 273 (2005); Fabrizio Gilardi et al., *Learning from Others: The Diffusion of Hospital Financing Reforms in OECD Countries* 42 COMP. POL. STUD. 549 (2009); Detlef Jahn, *Globalization as 'Galton's Problem': The Missing link in the Analysis of Diffusion Patterns in Welfare State Development*, 60 INT'L ORG. 401 (2006).

<sup>14</sup> GØSTA ESPING-ANDERSEN, *THREE WORLDS OF WELFARE CAPITALISM* (1990).

<sup>15</sup> Data is drawn from Social Security Administration, *Social Security Programs Throughout the World* (1999), at <http://www.ssa.gov/policy/docs/progdsc/ssptw/> (last visited Apr. 10, 2007).



*Figure 1.1: Adoption of Earliest Social Insurance Programs*



Policy clusters could result from independent developments in proximate countries: Neighboring countries might have similar domestic actors and institutions, and might respond similarly to common economic shocks. Such clusters could also reflect policy diffusion, defined here as a process in which one country's adoption of a policy, or an international organization's proposal, changes the probability that another country will adopt the same policy. This book uses cross-country regression models and qualitative techniques to estimate the impact of domestic factors and the effect of international influences. It finds that, even as domestic considerations remain important, countries are more likely to adopt a policy that their neighbors have previously adopted or that international organizations recommend.

This book concentrates on two areas of social policy, health policy and family policy. Health policy exemplifies a field where domestic interest groups—medical and pharmaceutical associations—are particularly powerful, while international organizations have only made limited efforts to define and spread international models. Yet, I show that foreign countries' experience with health policy models resonates with voters. The book begins with the U.S. health reforms of 2010. It uses original public opinion data to demonstrate that even American voters change their support for these reforms as they receive information about other countries' policies. It then analyzes campaign statements and the congressional record to show how both Democrats and Republicans used foreign models to promote their ideas.

The book then moves back in time to study an even more radical transformation: The diffusion of the National Health Service model. The National Health Service model involves not only universal coverage, but also public provision of health care funded centrally through general taxation. The book documents how the British adoption of a National Health Service reverberated throughout Europe. International organizations have so far avoided recommending a specific model of health system organization and financing. The most important international instrument in this area is not a binding convention, but a non-binding recommendation, the 1978 World Health Organization's Alma Ata Declaration. This Declaration did not call for the adoption of a National Health Service, but made some steps in this direction, by recommending universal coverage and a move away from specialized care and towards primary care.

Nevertheless, I show that this instrument, limited in scope and non-binding in nature, was very influential in shaping national health systems. A combination of cross-national statistical evidence with case studies of reforms in Southern Europe illustrates how foreign country choices and international organizations influenced national health reforms.

After examining major health policy reforms, the book turns to family policy, a field that underwent an even larger transformation in the last few decades. Across developed countries, governments that once encouraged women to stay at home and rear many children now promote women's workforce participation.<sup>16</sup> Maternity leaves, once unpaid and mandatory, are now compensated and flexible. Moreover, in many cases maternity leaves have been transformed into parental leaves, to encourage men's involvement in childcare. Family allowances, once designed to promote fertility and encourage women's home-making roles, have also been restructured. Universal family allowances that depend on children's birth order, consistent with the older model of promoting large families, are among the few social benefits that left-leaning governments have cut back explicitly. Where they persist, family allowances are now promoted as gender-neutral poverty reduction tools, offered only to families that meet stringent means tests.

The book traces the influence of international organization proposals and other countries' experiences in these transformations. Family policy was an area of early and extensive international activity, in contrast with the limited input of international organizations in designing health systems. Starting in 1919, the International Labor Organization (ILO) has advocated for the adoption of maternity leave laws. Unlike the World Health Organization (WHO), which included only broad guidelines in its declarations, the ILO developed very specific policy templates through its maternity leave conventions. Moreover, the ILO focused its efforts not only on pressing states to ratify these conventions, but also on lobbying non-ratifying states to conform.<sup>17</sup> In parallel with the ILO advocacy, many rich countries introduced maternity leaves in their domestic legislation. As a result, maternity leave became the established international norm in reconciling work and family conflict. Subsequently, countries around the world adopted maternity leaves quickly and with far less domestic contestation than we would otherwise expect. I contrast the ILO strategy with that of the European Union (EU), which reached agreement on a binding directive on maternity leave only in the mid-1990s. I show that, while the EU had much stronger tools at its disposal, including extensive financial and legal resources, the ILO was much more effective at shaping national laws in Europe, because it could start promoting a norm decades earlier. This outcome demonstrates that international organizations can greatly influence national policies by defining and promoting certain policies as international standards.

To examine the proposed theory, the book combines three types of empirical evidence. First, experimental public opinion data show that even American voters respond favorably to

---

<sup>16</sup> See, e.g., CATHERINE R. ALBISTON, *RIGHTS ON LEAVE: INSTITUTIONAL INEQUALITY AND THE MOBILIZATION OF THE FAMILY AND MEDICAL LEAVE ACT* (2010); KIMBERLY MORGAN, *WORKING MOTHERS AND THE WELFARE STATE: RELIGION AND THE POLITICS OF WORK-FAMILY POLICIES IN WESTERN EUROPE AND THE UNITED STATES* (2006); Gillian Lester, *A Defense of Paid Family Leave*, 28 HARV. J. L. & GENDER 1 (2005).

<sup>17</sup> See Laurence R. Helfer, *Monitoring Compliance with Un-ratified Treaties: The ILO Experience*, 71 LAW. & CONTEMP. PROBS. 195 (2008); Laurence R. Helfer, *Understanding Change in International Organizations: Globalization and Innovation in the ILO*, 59 VAND. L. REV. 649 (2006).

international models. Second, cross-national regressions analyze policy reforms across eighteen rich democracies over several decades. These models allow me to predict the policies a country would adopt based on its domestic socio-economic conditions, the ideology of its government, the strength of key interest groups, and other domestic factors, and to carefully estimate whether and how much foreign models shape this choice. Third, qualitative case studies comparing early and late policy adopters allow us to see how voters, politicians, and interest groups change positions when international models become available. These case studies show that international models do not only influence expected supporters, but also presumptive opponents of particular reforms. Combining three methods allows us to put the theory to many rigorous tests.

### *Chapter Outlines*

Following this Introduction, Chapter 2 develops the book's theoretical argument: I explain the mechanisms through which international law and international norms can influence policy areas involving significant sums of money and well-organized domestic constituencies.

Chapter 3 examines two key assumptions of the theory: that ordinary voters respond strongly to information from abroad, and that politicians anticipate and mold this response. Americans are considered particularly unresponsive to international norms, and thus constitute a difficult case for the theory. The chapter presents original experimental public opinion data about Americans' views on health and family reforms. Surveying representative samples of US respondents shows that even American voters respond substantially to information from abroad, and that UN recommendations trigger stronger responses than information about the practices of foreign governments. Consistent with the proposed theory, voters predisposed to be skeptical of redistributive social policy initiatives—self-identified Independents and Republicans—and voters with limited information about social policy programs, respond especially strongly to information from abroad. This chapter also examines whether politicians anticipate and work to elicit this positive response. It presents policy debates surrounding the two most recent major reforms in these areas: The adoption of the 2010 Patient Protection and Affordable Care Act, and the adoption of the 1994 Family and Medical Leave Act. Qualitative data on the U.S. adoption of universal health care and family leave show that members of Congress and the President often refer to foreign models, but not necessarily to the most successful or relevant foreign models. Instead, U.S. politicians systematically refer to countries that are prominent in the U.S. media.

Chapter 4 reviews health systems across rich democracies, traces the rise and fall of the National Health Service as an international model, and uses cross-national regression evidence to show how international models contribute to the development of national health care policies. The great majority of countries around the world, and all rich democracies, have adopted some form of public health insurance. However, health systems differ on important dimensions, notably the breadth of health insurance coverage, the source of health financing, and the method of health care provision. This chapter explains how starting in the 1950s and ending in the early 1980s, an international health model developed, focused on universal access, primary care, centralized financing, and public provision. The introduction of the British National Health Service (NHS) and the World Health Organization's Alma Ata declaration were key steps in the development of this model. Regression models show that governments were substantially more likely to adopt National Health Services when the international environment was favorable. More specifically,

these reforms are particularly likely to happen when foreign countries disproportionately covered in the press had already adopted a National Health Service, when evidence of a National Health Service success abroad was stronger, and when trade competitors had already adopted a National Health Service.

Chapter 5 continues the analysis of health reforms and uses case studies to clarify how international models shape domestic actors' positions. A comparison of NHS adoption in Britain, a pioneer, to NHS adoption in two late adopters, Greece and Spain, illustrates that the availability of foreign models permitted these late adopters to introduce radical reform under less favorable circumstances. In the two late adopters, politicians of all stripes repeatedly referenced Britain, France, and Germany as well as the WHO in election campaigns and parliamentary debates; this shows politicians' expectation that voters respond positively to the choices of familiar and respected bodies covered in the news media. Politicians focused in part on the success or failure of health policies abroad, but also argued that particular choices were modern and legitimate because they were endorsed by international organizations and rich and familiar European democracies. Notably scarce were references to other South European countries with similar economies and societies: Fit and competitiveness considerations appeared less relevant in the quest to modernize. Foreign models also divided medical associations, an interest group that would have otherwise strongly opposed the reforms.

Chapter 6 begins the analysis of international influences on family policy reforms, by presenting cross-national statistical evidence drawn from 18 countries over 25 years. Governments have been trying to shape women's employment and fertility patterns for decades, by regulating leaves for parents and subsidizing families with children. What explains which laws they adopt, and how much they invest in implementing these laws? This chapter explains why international organization and country-to-country influences prove surprisingly powerful in explaining domestic regulatory and spending patterns. It compares two areas of family policy where there is significant variation in international organization activity. Maternity leaves have been the subject of substantial international efforts; both the ILO and, much more recently, the EU have promoted international and regional instruments in this field. In contrast, there has been little international activity in the field of family benefits; the ILO and EU have been constrained by their mandates to handle only aspects of family policy related to employment. I find that, even though the EU has significantly more tools at its disposal, it ended up being much less influential than the ILO, because member states could not agree on a binding directive for many decades.

Chapter 7 presents qualitative evidence, and in particular case studies of various family reforms in Greece and Spain, to show how international models shaped family policy. Greece and Spain both developed similar policies on leaves, where international models were strong, much before relevant domestic pressure groups developed, using the rhetoric of joining and international community. Greece and Spain developed different policies on family benefits, where the international community offered diverse models, with Spanish socialists explicitly cutting back a redistributive but highly stigmatized policy. Analysis of the timing and content of reforms, and of the rhetoric that accompanied policy change, highlights the centrality of foreign ideas to the development of family policy.

Chapter 8 concludes and spells out policy implications of the proposed theory. Two main types

of policy implications follow from the findings that domestic constituencies substantially influence how international models spread. First, international organizations, NGOs, and others interested in spreading messages across countries could follow particular strategies to increase their influence. For example, an important choice that states, international organizations, and NGOs face is whether to design international instruments that involve binding obligations, or focus instead on creating soft law and non-binding norms.<sup>18</sup> This study departs from prior work by suggesting that soft law may be substantially more effective in changing state behavior than previously believed, and that even the strongest form of binding international law we know, EU law, has important limitations. Second, citizens, scholars, and leaders concerned about the democratic deficits of international organizations could use this research to design international institutions that are both effective and legitimate.

---

<sup>18</sup> On the tradeoffs between hard and soft law, and related institutional design questions, see Kenneth W. Abbott et al., *The Concept of Legalization*, 54 INT'L ORG. 401 (2000); Kenneth W. Abbott & Duncan Snidal, *Hard and Soft Law in International Legal Governance*, 54 INT'L ORG. 421 (2000); Kenneth W. Abbott & Duncan Snidal, *Why States Act Through Formal International Organizations*, 42 J. CONFLICT RESOL. 3 (1998); Laurence R. Helfer, *Overlegalizing Human Rights: International Relations Theory and the Commonwealth Caribbean Backlash Against Human Rights Regimes*, 102 COLUM. L. REV. 1832 (2002); Karen Alter, *Delegating to International Courts: Self-Binding vs. Other-Binding Delegation*, 71 LAW & CONTEMP. PROBS. 37 (2008); Hathaway & Shapiro, *supra* note 1 (outcasting involves denying the disobedient the benefits of social cooperation and membership).

### **Chapter 3: How Americans View Foreign Models**

The previous chapter spelled out the main theoretical claims of this book: That policy diffusion is often not driven by elites' internationalist preferences, as many other writers suggest; instead, ordinary voters' uncertainties, and politicians' re-election concerns are critical to policy diffusion. Voters use international models as benchmarks to figure out whether domestic proposals are competently designed and reflect mainstream values.

Voters base their decisions on very limited information, and politicians can communicate only a few key facts clearly and credibly. As a result, diffusion through democracy leads to the emulation of the policies of large, rich, and culturally proximate countries, not to unbiased learning from policy successes and failures from around the world. Moreover, diffusion through democracy places a premium on the existence of a single and coherent international model; in fields where such unified models exist, ideas from abroad become hard to resist.

This chapter begins the empirical investigation of the proposed informational theory of policy diffusion, an investigation that unfolds over many chapters and across many countries, time periods, and types of evidence. This chapter examines some key steps in the proposed theory. Do voters in fact tend to respond positively to information from abroad? What types of voters respond more positively, and what types of voters respond more negatively? Do politicians reference foreign countries frequently? And do they concentrate on countries prominently featured in the media? Table 3.1 below outlines the theoretical predictions I begin to investigate in this chapter. Subsequent chapters continue to test these and additional implications outlined in Chapter 2 and summarized in Table 2.2.

Table 3.1: Empirical Implications Examined in Chapter 3

	<b>Diffusion through Technocracy</b>	<b>Diffusion through Democracy</b>	
		<i>Consensus International Model (e.g., Family Reforms)</i>	<i>Diverse International Models (e.g., Health Reforms)</i>
<b>Public Opinion</b>	Ordinary voters are indifferent and even hostile to foreign models	Ordinary voters receive foreign models positively; public opinion effects are largest because there is a single international model  Foreign models have the greatest influence on persons who doubt their government	Ordinary voters receive foreign models positively; public opinion effects are moderate because diverse models exist  Foreign models have the greatest influence on persons who doubt their government
<b>Legislative Record</b>	Countries with greatest success in each area are referenced  Learning arguments predominate  Learning is objective; priors and partisanship play limited role	Countries familiar to voters are referenced across issue areas  Emulation arguments predominate  Partisanship is muted by dominant foreign model. Advocates reference dominant model frequently; some opponents accept model, but many stay silent.	Countries familiar to voters are referenced across issue areas  Both emulation and learning arguments are heard  Partisanship shapes foreign references. Advocates and opponents both reference foreign models, and disagree on what lessons to draw.
<b>Ideal Setting</b>	Diverse models permit learning	Single global model sends clearest signal	Diverse models send noisy signals

The empirical analysis begins in the United States, which is a particularly hard test case for my theory. The proposed informational theory suggests that foreign models should be most relevant in countries where domestic sources of information are of low quality and in which the media cover foreign models prominently. In contrast, American voters benefit from diverse, high-quality domestic sources of information: non-partisan governmental agencies evaluate many policy proposals, leading universities produce research on U.S. policies, and 50 state governments offer up their experiences. Moreover, the United States is significantly wealthier than most countries in the world and is geographically and culturally distant from potential rivals such as Germany and Japan. In addition, American citizens are more conflicted about international institutions than are citizens of other countries. In a recent Pew Survey, only 55%

of Americans expressed support for the UN, as compared to 84% of Swedes and 70% of Canadians.<sup>1</sup> However, surveys of elites' opinions show that U.S. politicians do not always accurately predict how supportive Americans are of international institutions and international cooperation efforts – if anything, politicians systematically underestimate voter support for these efforts.<sup>2</sup>

Contrary to the perception of Americans as hostile to international models, the empirical evidence in this chapter highlights that even Americans respond very positively to information from abroad. To examine whether foreign models resonate with ordinary Americans, I conducted public opinion experiments on representative samples of the U.S. public. Experimental methods allow us to identify causal pathways clearly and to separate out citizens' baseline views on a particular policy from citizens' views on the same policy once information from abroad is presented. These experiments show that foreign models resonate with a wide range of Americans. Indeed, an endorsement from the UN elicits stronger positive responses than a range of other endorsements, including endorsements from domestic experts. Moreover, these effects are not concentrated among liberal elites. Diverse groups of Americans respond strongly to a UN endorsement, including a particularly strong response among self-identified Republicans. These distinctive findings are consistent with the proposed theory in which foreign models serve to reassure voters who doubt their government and its policies. The next section presents these experiments and outlines their advantages and limitations.

To study how politicians use foreign models to advance their projects, I compare debates on the Obama administration's major legislative proposal, the Patient Protection and Affordable Care Act of 2010, with debates on the Family and Medical Leave Act of 1993 (FMLA). These two social policy proposals raise similar concerns about risk, redistribution, and labor market regulation, but differ on a key dimension: by the time of their respective US debates, a single international model existed for family policy but not for health policy. In both fields, politicians made many references to foreign models - far more than to U.S. states. The Congressional Record reveals over 290 references to foreign models in the FMLA debates and over 140 such references in the health care debates. In both fields, politicians focused on countries prominent in the media and familiar to voters - not on countries with the most successful or appropriate reforms for the U.S. to emulate. For example, in the family policy debates, politicians focused on Germany and Japan. Neither country had particularly successful family policies, but in the late 1980s and early 1990s, both were very prominent in the national media and relevant to voters. In the health care debates, politicians focused on Canada and Britain, even though experts highlighted reforms in the Netherlands and Switzerland.

In both areas, reform advocates sought to frame their policy proposals as basic rights offered by all rich country governments. Advocates' efforts to cast the FMLA as an issue of minimum rights succeeded because they could point to a consensus international model adopted by almost

---

<sup>1</sup> Support for the UN in other OECD countries in which the Pew survey was conducted in 2007 is as follows: Japan 51%, United States 55%, Britain 64%, France 67%, Germany 67%, Spain 70%, Canada 70%, Italy 75%, and Sweden 84%. For comparability, respondents who answered "Don't Know," an option only available in some countries, are excluded in calculating these percentages.

<sup>2</sup> See THE CHICAGO COUNCIL ON FOREIGN RELATIONS, *GLOBAL VIEWS 2004: AMERICAN PUBLIC OPINION AND FOREIGN POLICY* 50-53 (2004).



all countries and forcefully promoted by international organizations. Opponents' efforts to raise questions about whether family leave worked well in other countries fell on deaf ears. A common emulation argument was repeated by Democrats and even by some Republicans and ultimately carried the day: everyone offers leave; therefore we should too. Democrats also tried to frame health care reform as an effort to grant Americans a fundamental benefit afforded by all other rich countries. However, Republicans successfully used the diversity of foreign models to contest the Democrats' framing. Democrats could not simply point to an international consensus but had to engage with Republicans in debates about policy success and failure abroad, debates that diluted the signaling power of the international model.

That said, and consistent with my theory, the United States remains the hardest case for the diffusion of foreign models. In both health and family, the United States adopted reforms much after other rich Western countries had done so. And the precise form of these reforms differed from other countries' policies in significant ways. Nevertheless, the adoption of family leave and universal health care in any form in the United States is striking. A decade ago, Charles Blake and Jessica Adolino highlighted how unlikely the United States was to adopt universal health insurance. The United States, uniquely among industrialized countries, had a strikingly negative context for all of the cultural, economic, institutional, and political variables they studied.<sup>3</sup> Absent international models, universal health care and family leave may never have been placed on the U.S. policy agenda. To see how diverse international and domestic forces contributed to the adoption of health and family laws, I analyze data on health and family reforms across advanced rich democracies over several decades in Chapters 4 and 6 below.

### ***Public Opinion Experiments—Methodological Advantages and Caveats***

This chapter combines two types of evidence—I start with public opinion experiments of representative samples of U.S. citizens and continue with studies of politicians' statements from the congressional record and beyond. Public opinion polls are an important tool social scientists have used for decades to answer questions about voters' views. More importantly, politicians commission similar polls frequently to determine which legal reforms to propose to their constituents and, once they select those reforms, which arguments to use to effectively persuade voters to support these reforms as well.<sup>4</sup>

This chapter applies experimental techniques used in other fields to the study of the cross-national diffusion of legal reforms. Experimental designs have been introduced recently in social science and legal scholarship to identify causal pathways clearly.<sup>5</sup> Non-experimental, observational studies might show that politicians reference certain foreign models frequently and might even show a correlation between frequent references to foreign models and re-election probabilities. Such data would suggest that a politician believes that certain foreign models are likely to resonate among voters. But it is hard to use this data to pinpoint causal patterns exactly.

---

<sup>3</sup> Charles H. Blake & Jessica R. Adolino, *The Enactment of National Health Insurance: A Boolean Analysis of Twenty Advanced Industrial Countries*, 26 J. HEALTH POL. POL'Y & L. 679, 702 (2001).

<sup>4</sup> For a more extensive discussion of the literature on how politicians use polls, see generally JOHN G. GEER, *FROM TEA LEAVES TO OPINION POLLS: A THEORY OF DEMOCRATIC LEADERSHIP* (1996).

<sup>5</sup> Michael Tomz, *Domestic Audience Costs in International Relations: An Experimental Approach*, 61 INT'L ORG. 821, 837 (2007).

For example, a politician might get re-elected despite, rather than because of, his frequent references to certain foreign models. Experimental studies allow us to manipulate one variable at a time and keep everything else constant in order to more clearly identify how references to foreign models shape voters' views. There are important limitations to such public opinion experiments which I discuss immediately after presenting the results.

Results from two original public opinion experiments follow: I examine how Americans respond to information from abroad in evaluating health policy and family policy. Both policies fit well in the proposed informational theory, as it is plausible that information about foreign countries' experiences might shift at least some voters' minds. However, it is important to note that health policy was a headline issue in 2008, when the questions were fielded, whereas family policy was not. Because Americans received a barrage of information on health policy prior to the survey, one can use health policy as a difficult test case to examine the limits of the proposed theory.

I first describe the experiments and present aggregate results. I then explore how different groups respond to information about foreign models.

### ***Experiment 1—Questions on Health Policy***

In the first experiment I commissioned, respondents were asked their views about health policy reform. A representative sample of 2030 U.S. adults was used, and the questions were fielded in 2008.<sup>6</sup> Respondents were randomly assigned to one of four groups. Respondents in the first group were asked the "baseline" question: "To what extent do you agree or disagree with the following statement: 'The United States government should increase taxes in order to provide health insurance to all Americans.'" Response options were "Strongly Agree," "Somewhat Agree," "Somewhat Disagree," and "Strongly Disagree."

Respondents in Groups 2 through 4 received the same baseline question, prefaced by different introductions. For Group 2, the preface was: "Most developed countries provide health insurance to all their citizens." For Group 3, the preface was: "The United Nations recommends that all countries should provide health insurance to all their citizens." For Group 4, the preface was: "Many American health policy experts believe that the United States government should provide health insurance to all its citizens."

Figure 3.1 below presents the basic results of this experiment. In the baseline, where no introduction was given, support for a tax increase to introduce universal health insurance was moderate; about a third of Americans agreed with this proposal. However, aggregate support for a tax increase to introduce universal health insurance increased by 16-18 percentage points when

---

<sup>6</sup> Knowledge Networks administered the survey. To construct a representative sample, Knowledge Networks uses random-digit dialing and address-based sampling methods to select participants and create a panel that is representative of the entire U.S. population. Once selected, respondents answer questionnaires online. Households are provided with Internet access and hardware if necessary. Households that already have Internet access receive incentive points, redeemable for cash, for completing their surveys. In both experiments, the response rate exceeded 60%. Prior research confirms that the Knowledge Networks sample is not only representative as regards demographic variables reported in the Current Population Survey but also closely matches more specialized surveys recording interest in politics. See Michael Tomz, *Domestic Audience Costs in International Relations: An Experimental Approach*, 61 INT'L ORG. 821, 837 (2007).

it was presented as the policy choice of most Western countries or as the recommendation of U.S. experts. Aggregate support increased even more—by 24 percentage points—when the policy was introduced as a UN recommendation. As the regressions below document, the differences between each of the introductions and the baseline are highly statistically significant and persist when a variety of control variables are included in the models.

By showing that even Americans respond positively to endorsements from abroad, these aggregate results support my theory. What is most striking is how strongly the UN recommendation resonated. The large effect of the United Nations recommendations supports the claim that foreign models presented as universal solutions resonate especially strongly with voters.

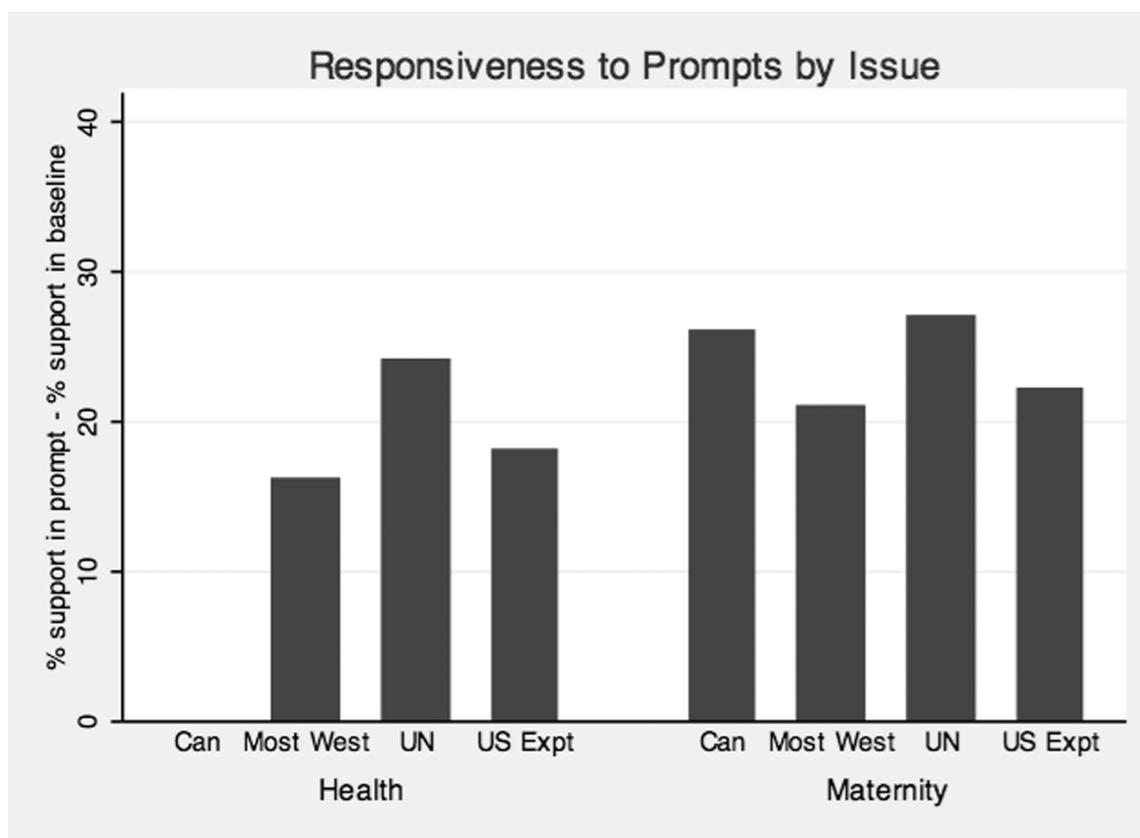
### ***Experiment 2—Questions on Maternity Leave***

The second experiment was very similar to the first one and focused on Americans' views on maternity leave. This second experiment involved a sample of 1291 U.S. adults, selected as representative of U.S. citizens. From this sample, respondents were randomly assigned to one of five groups. Respondents in Group 1, the baseline group, were asked: "To what extent do you agree or disagree with the following statement: 'The United States should increase taxes in order to provide mothers of newborn children with paid leave from work.'" Response options were "Strongly Agree," "Somewhat Agree," "Somewhat Disagree," and "Strongly Disagree."

Respondents in Groups 2 through 5 received the same baseline question, prefaced by different introductions. For Group 2, the preface was: "Canada provides mothers of newborn children with paid leave from work." For Group 3, the preface was: "Most Western countries provide mothers of newborn children with paid leave from work." For Group 4, the preface was: "The United Nations recommends that all countries should provide mothers of newborn children with paid leave from work." For Group 5, the preface was: "American family policy experts recommend that the United States should provide mothers of newborn children with paid leave from work." Figure 3.1 below also presents the basic results of this experiment.

In the baseline, no-introduction condition, support for a tax increase to introduce paid maternity leave was limited; only about a fifth of Americans agreed with this proposal. However, aggregate support increased by 21-22 percentage points when this proposal was presented as the policy choice of most Western countries or as the recommendation of U.S. experts. Aggregate support increased even more—by 27 percentage points—when the policy was introduced as a UN recommendation. Similarly, the Canada prompt resonates strongly with Americans as a whole, increasing support by 26 percentage points. The differences between each of the introductions and the baseline are highly statistically significant and robust to the introduction of diverse control variables, as the regressions below illustrate.

Figure 3.1: Responsiveness to Prompts by Issue



The aggregate effects in the maternity leave survey are larger than the effects of the health policy survey; this is consistent with the expectation that Americans who had received a great deal of information about health policy at the time of the survey from the media would respond less to information from abroad. Nevertheless, the effects in both surveys are large in absolute terms and entirely consistent. In both cases, what is most striking is how responsive Americans are to the UN recommendation prompt.

The very strong endorsement effects of the United Nations recommendation is particularly notable given that Americans are somewhat ambivalent about this institution. In this and in other studies of public opinion, a majority of Americans express favorable views of the United Nations, but a large minority expresses unfavorable ones. Prior studies of attitudes towards the United Nations help us make put the surprising UN endorsement effect I report in context. While experimental polls are novel, the Chicago Council on Global Affairs, among other bodies, has been conducting detailed polls on Americans' views towards international institutions since 1974. They conclude that Americans are strongly supportive of the goals international organizations are pursuing but ambivalent about how well international organizations are performing in their efforts to reach these goals.<sup>7</sup>

<sup>7</sup> See, e.g., COUNCIL, *supra* note 2, at 35 (2004) (“Despite the findings that Americans support giving many international organizations greater powers, overall feelings toward them are mixed. This is probably related to feelings about their performance as distinguished from the desirability of their function.”).

Moreover, while some international organization efforts are controversial, the development and promotion of human rights and of basic health and labor standards are overwhelmingly popular among Americans (as well as among citizens of other countries). For example, in recent polls, 70% of Americans supported UN involvement in the promotion of human rights, even when concerns about national autonomy were raised.<sup>8</sup> Similarly 93% of Americans supported the inclusion of minimum labor standards in trade agreements.<sup>9</sup> One way to interpret the findings above is that the UN endorsement transforms health and family benefits, which might otherwise be seen as controversial and partisan social welfare proposals, into basic labor standards and universal human rights.

An important extension of these experiments would be to examine how Americans respond when “the United Nations” is replaced by other international bodies, such as the “World Health Organization” or the “International Monetary Fund” and when “Canada” is replaced by diverse proper country names. Non-experimental public opinion work tells us that Americans feel very warmly towards the World Health Organization, are lukewarm towards the United Nations, and are cold towards many international financial institutions.<sup>10</sup> Similarly, Americans feel quite warmly towards proximate, rich, and industrialized countries like Germany and Japan, but less warmly towards countries like China.<sup>11</sup> We might expect the size of the endorsement effect to vary depending on how warmly or coolly Americans feel towards the endorser. Indeed, a new study by Zachary Elkins reports that U.S. undergraduates significantly increased their support for a policy proposal when told that England had adopted it, and they significantly decreased their support for a policy when told that Nigeria and Brazil had adopted it.<sup>12</sup> These findings are consistent with the theory I propose here and support the claim that only a handful of rich and culturally proximate countries resonate with American voters. However, we should keep an important caveat in mind and be cautious in moving from undergraduates to the population at large. As the next section explores, messages from abroad resonate differently with different demographic groups.

---

<sup>8</sup> The exact question asked was: “As you may know, the members of the UN General Assembly have agreed on a set of principles called the Universal Declaration of Human Rights. Some people say the United Nations should actively promote such human rights principles in member states. Others say this is improper interference in a country's internal affairs and human rights should be left to each country. Do you think the UN should or should not actively promote human rights in member states?” 2008 worldpublicopinion.org poll, cited in Council on Foreign Relations, *Public Opinion on Global Issues: A Web-based Digest of Polling from Around the World* 88, WORLDPUBLICOPINION.ORG (Nov. 2009), <http://www.worldpublicopinion.org/pipa/digests.php#aw> (follow “read the full report” under “Public Opinion on Global Issues”). Many other questions on human rights promotion garner even higher level of public opinion support.

<sup>9</sup> The exact question asked by the Chicago Council on Global Affairs in 2007 was: “Overall, do you think that countries that are part of international trade agreements should or should not be required to maintain minimum standards for working conditions?”. The Chicago Council on Global Affairs & Worldpublicopinion.org, *Trade and Labor Environmental Standards: March 2007*, WORLDPUBLICOPINION.ORG (Mar. 2007), <http://www.worldpublicopinion.org/pipa/articles/btglobalizationtradera/334.php?nid=&id=&pnt=334&lb=btgl> (click “questionnaire”).

<sup>10</sup> See, e.g., COUNCIL, *supra* note 2.

<sup>11</sup> *Id.*

<sup>12</sup> Zachary Elkins, *Micro-level Foundations of Diffusion Theory: Experimental Evidence* 29 (Aug. 2010) (paper presented at the meeting of the American Political Science Association).

### *Different Groups' Responses to Foreign Models*

How do different types of Americans respond to information from abroad? Some writers emphasize the expectation that only liberal elites respond to foreign models, and ordinary Americans are quite hostile to them.<sup>13</sup> However, my experimental data suggests that foreign models resonate among diverse groups of ordinary Americans: well-educated and poorly educated people, rich and poor, men and women, whites and minorities.<sup>14</sup>

The analysis that follows helps further clarify the theoretical mechanisms that explain policy diffusion. The proposed theory posits that foreign models can reassure skeptical voters that particular policy proposals are not radical, ill-thought-out experiments but mainstream, tried-and-true solutions. This theory gains further empirical support if the data show that the effects of foreign models are particularly large among people who lack information about an issue area and among people who are concerned that a proposal is radical.

Respondents in both experiments were asked how familiar they were with social policy issues, to separate out people who believed they had high and low levels of prior information. Specifically, respondents were asked: ‘Employers and employees pay taxes and fees for benefit programs such as health insurance, pensions, and childcare. In general, how well informed are you about the costs and benefits of such programs? Would you say you are very well informed, somewhat well informed, not too well informed, or not at all informed?’ About half of the respondents answered that they were either not too well informed or not at all informed. This suggests that voters face important informational limitations in evaluating social policy proposals, as my theory assumes.

To identify voters likely to be especially skeptical of the policy proposals examined here, questions about voters’ ideological leanings come in handy. We would expect voters who identify with the Republican party to be particularly skeptical of these redistributive policy proposals. This is because both parental leave and (especially) universal health care have been promoted heavily by Democratic politicians. Moreover, the question wording highlighted this left-right cleavage by presenting a tradeoff between a tax increase and the introduction of a redistributive social program. The data confirm this expectation; as described above, Republicans are much more skeptical about both policies on average. However, the analysis that follows also suggests that low information voters and Republicans respond at least as strongly – and often more strongly – than other voters to foreign endorsements. These patterns are consistent with the proposed theory.

To examine how information levels and party affiliation condition shifts in attitudes, logit models predicting support for an increase in taxes for the purpose of introducing universal health care are presented in Table 3.2 below. Similar logit models predicting support for an increase in

---

<sup>13</sup> See e.g., Steven Calabresi, *“A Shining City on a Hill”: American Exceptionalism and the Supreme Court*, 86 B.U. L. REV. 1335 (2006) (contrasting the culture of the “lawyerly elite,” who eagerly borrow from abroad, with “another culture among ordinary Americans that holds that Americans are a special people, in a special land, on a special mission.”). Chapter 2 presents and discusses these claims in greater detail.

<sup>14</sup> Cross-tabulations of the data show statistically significant responses across diverse groups. These cross-tabulations are not included in the manuscript, but they are available from the author upon request.

taxes to introduce paid maternity leave are presented in Table 3.3. In both Tables, Model I predicts baseline support based only on the experimental treatments. Model II predicts baseline support based on the experimental treatments and a set of demographic controls. Model III examines how information about social policy conditions the impact of the experimental stimuli. Model IV examines how party affiliation conditions the impact of these stimuli. Model V, the final specification, includes both types of interactions.

Table 3.2: Models Predicting Support for Universal Health Insurance

	(1)	(2)	(3)	(4)	(5)
Group 2 (Most Countries)	0.72*** (0.17)	0.76*** (0.17)	0.69*** (0.24)	0.69*** (0.22)	0.63** (0.27)
Group 3 (UN Recommend.)	1.00*** (0.16)	1.06*** (0.17)	0.92*** (0.25)	0.76*** (0.23)	0.65** (0.29)
Group 4 (US Experts)	0.78*** (0.17)	0.75*** (0.17)	0.71*** (0.24)	0.64*** (0.22)	0.61** (0.27)
Women		-0.01 (0.12)	-0.01 (0.12)	-0.01 (0.12)	-0.01 (0.12)
Children		-0.13 (0.17)	-0.12 (0.16)	-0.14 (0.17)	-0.13 (0.17)
Age		-0.01** (0.00)	-0.01** (0.00)	-0.01** (0.00)	-0.01** (0.00)
Education (High School)		0.05 (0.23)	0.04 (0.23)	0.05 (0.23)	0.05 (0.23)
Education (Some College)		0.18 (0.23)	0.18 (0.23)	0.18 (0.23)	0.18 (0.23)
Education (Bachelors +)		0.22 (0.24)	0.22 (0.24)	0.23 (0.24)	0.23 (0.24)
White		-0.02 (0.15)	-0.02 (0.15)	-0.01 (0.15)	-0.01 (0.15)
High Income		-0.34** (0.15)	-0.34** (0.15)	-0.34** (0.15)	-0.34** (0.15)
Republican		-1.00*** (0.12)	-1.00*** (0.12)	-1.39*** (0.27)	-1.38*** (0.27)
Well-informed		0.04 (0.12)	-0.10 (0.24)	0.04 (0.12)	-0.08 (0.25)
Group 2 * Well-informed			0.16 (0.33)		0.15 (0.34)
Group 3 * Well-informed			0.29 (0.34)		0.23 (0.34)
Group 4 * Well-informed			0.10 (0.34)		0.08 (0.34)
Group 2 * Republican				0.28 (0.36)	0.27 (0.36)
Group 3 * Republican				0.82** (0.35)	0.80** (0.35)
Group 4 * Republican				0.36 (0.35)	0.35 (0.35)
Constant	-0.78*** (0.12)	-0.05 (0.35)	0.00 (0.37)	0.08 (0.36)	0.12 (0.38)
N	2,030	2,024	2,024	2,024	2,024

Standard errors in parentheses

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1



Table 3.3: Models Predicting Support for Paid Maternity Leave

	(1)	(2)	(3)	(4)	(5)
Group 2 (Canada)	1.22*** (0.24)	1.32*** (0.25)	1.75*** (0.38)	1.40*** (0.31)	1.82*** (0.41)
Group 3 (Most Countries)	1.01*** (0.24)	1.15*** (0.24)	1.54*** (0.36)	0.83*** (0.30)	1.25*** (0.38)
Group 4 (UN Recommendation)	1.23*** (0.24)	1.30*** (0.25)	1.56*** (0.37)	1.11*** (0.31)	1.39*** (0.39)
Group 5 (US experts)	1.05*** (0.25)	1.11*** (0.26)	1.19*** (0.40)	0.97*** (0.31)	1.08*** (0.41)
Women		0.33** (0.15)	0.34** (0.15)	0.33** (0.15)	0.34** (0.15)
Children		0.03 (0.18)	0.03 (0.18)	0.01 (0.18)	0.01 (0.18)
Age		-0.03*** (0.01)	-0.03*** (0.01)	-0.03*** (0.01)	-0.03*** (0.01)
Education (High School)		-0.22 (0.28)	-0.21 (0.28)	-0.21 (0.27)	-0.21 (0.27)
Education (Some College)		-0.42 (0.28)	-0.42 (0.28)	-0.41 (0.28)	-0.40 (0.28)
Education (Bachelors' +)		-0.14 (0.28)	-0.15 (0.29)	-0.12 (0.28)	-0.13 (0.28)
White		-0.43** (0.18)	-0.42** (0.18)	-0.44** (0.18)	-0.43** (0.18)
High Income		0.03 (0.19)	0.03 (0.19)	0.03 (0.19)	0.02 (0.19)
Republican		-0.83*** (0.16)	-0.84*** (0.16)	-1.29*** (0.42)	-1.41*** (0.46)
Well-informed		0.26* (0.16)	0.77** (0.38)	0.27* (0.16)	0.86** (0.42)
Group 2 * Well-Informed			-0.87* (0.50)		-0.93* (0.54)
Group 3 * Well-Informed			-0.80 (0.50)		-0.91* (0.52)
Group 4 * Well-Informed			-0.50 (0.51)		-0.62 (0.53)
Group 5 * Well-Informed			-0.14 (0.52)		-0.24 (0.54)
Group 2 * Republican				-0.17 (0.55)	-0.02 (0.58)
Group 3 * Republican				0.95* (0.52)	1.08* (0.55)
Group 4 * Republican				0.71 (0.52)	0.83 (0.56)
Group 5 * Republican				0.52 (0.56)	0.62 (0.60)
Constant	-1.31*** (0.19)	0.39 (0.42)	0.14 (0.48)	0.49 (0.43)	0.23 (0.48)
N	1,291	1,284	1,284	1,284	1,284

Standard errors in parentheses; \*\*\* p<0.01, \*\* p<0.05, \* p<0.1

To interpret these effects, predicted values and first differences were calculated using simulations.<sup>15</sup> Model V in Table 3.2 indicates that when other values are held at their mean, support for a tax increase to introduce universal health insurance is 25 points lower among Republicans than among Democrats,<sup>16</sup> 9 points lower among people in the top 20% of the household income distribution as compared to less wealthy people, and 4 points lower among 50-year-olds as compared to 30-year-olds. Model V in Table 3.3 indicates that when other values are held at their mean, support for a tax increase to introduce paid maternity leave is 8 points lower among men as compared to women, 13 points lower among 50-year-olds as compared to 30-year-olds, 10 points lower among whites as compared to non-whites, and 20 points lower among Republicans as compared to Democrats. All these differences are in the expected direction and statistically significant.

Figure 3.2 below shows how prior information about social policies influences responses to each of the prompts on health policy. This Figure and Figures 3.3-3.5 are again based on Model V, holding demographic variables at their means. Figure 3.2 suggests that people with high levels of information and people with low levels of information responded in similar ways to each of the prompts; the differences between these groups are not statistically significant. Figure 3.3 below shows how partisanship influences responses to each of the prompts. It suggests that both Republicans and Democrats responded in similar ways to each of the endorsements, with the exception of the UN recommendation, which resonated more strongly among Republicans. That is, when Democrats were told that the UN recommended that all countries should provide universal health insurance, they increased their support for this policy by 19 percentage points, whereas Republicans increased their support by 31 percentage points, a statistically significant difference.

---

<sup>15</sup>Michael Tomz, Jason Wittenberg, & Gary King, CLARIFY: Software for Interpreting and Presenting Statistical Results. Version 2.1. Available at (<http://gking.harvard.edu>).

<sup>16</sup> Respondents were classified as Republicans or not based on a 7 point scale. The vast majority of respondents supported or at least leaned towards either the Democratic or the Republican party. The few people who did not lean towards either party are grouped with the Democrats for all the analyses; this does not influence the results.

Figure 3.2: Health Policy Attitudes by Information Level

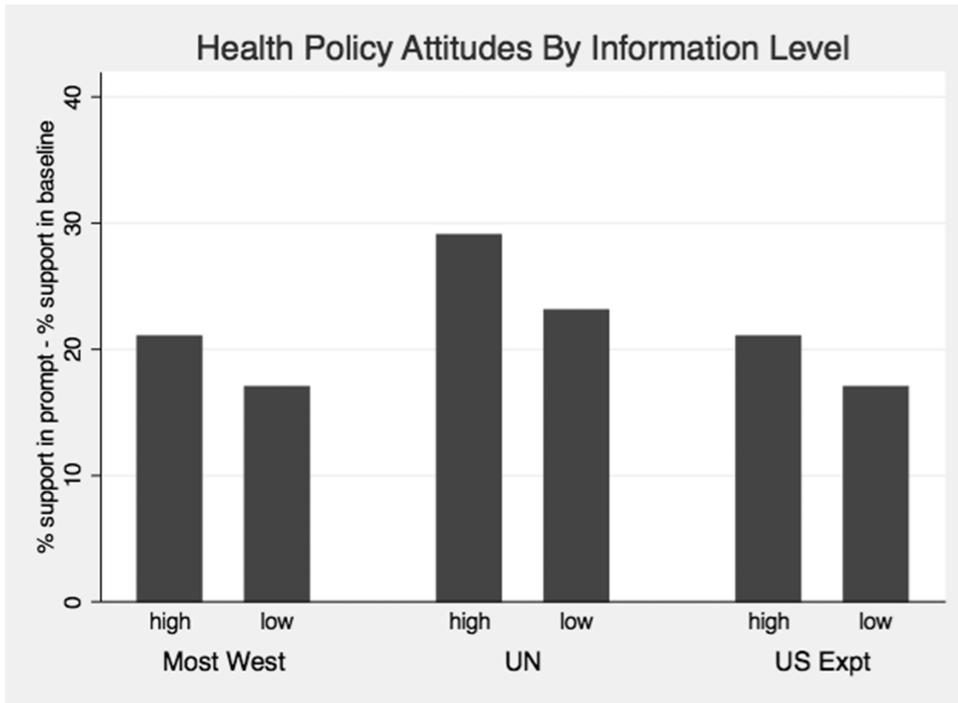
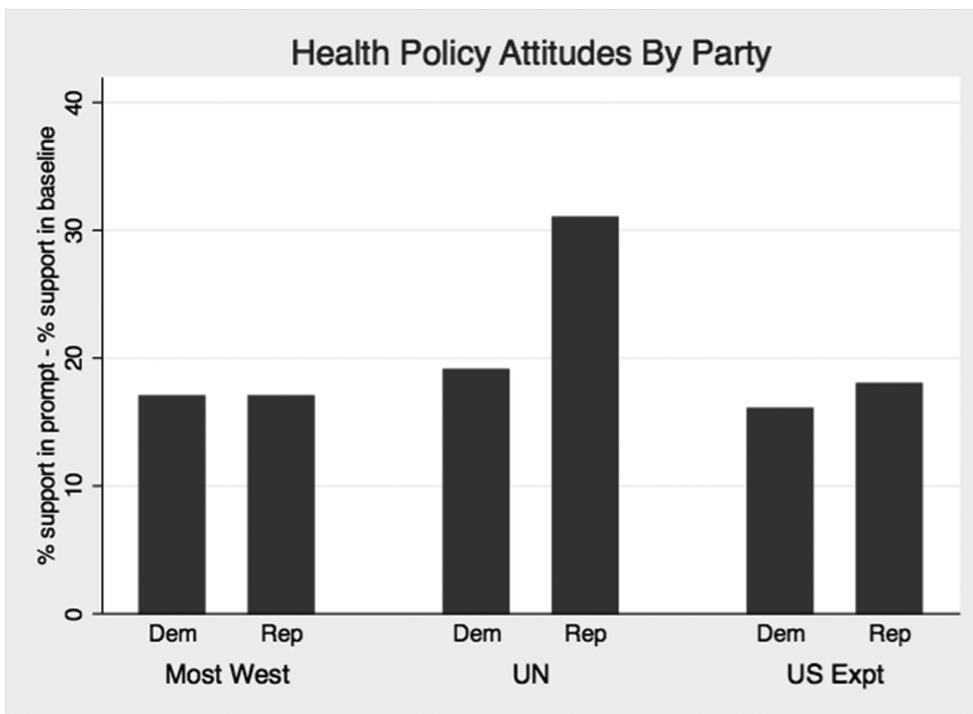


Figure 3.3: Health Policy Attitudes by Party



Figures 3.4 and 3.5 repeat the analyses for the maternity leave survey. Figure 3.4 suggests that people with low information responded more strongly to each of the endorsements from abroad,

although the difference was not statistically significant in the case of the UN recommendation. For example, whereas people familiar with social policy issues increased their support for paid maternity leave by 16 points when told that most Western countries offered this benefit, people who were unfamiliar with these issues increased their support even more, by 30 percentage points, a statistically significant difference. Figure 3.5 suggests that Republicans responded more strongly than Democrats to information that most Western countries offer maternity leave; support for this policy increased by 19 percentage points among Democrats, and by 29 percentage points among Republicans, a statistically significant difference. Similarly, Republicans responded more strongly to information about the UN, whereas Democrats responded more strongly to information about Canada; however these differences do not reach conventional significance levels.

Figure 3.4: Family Policy Attitudes by Information Level

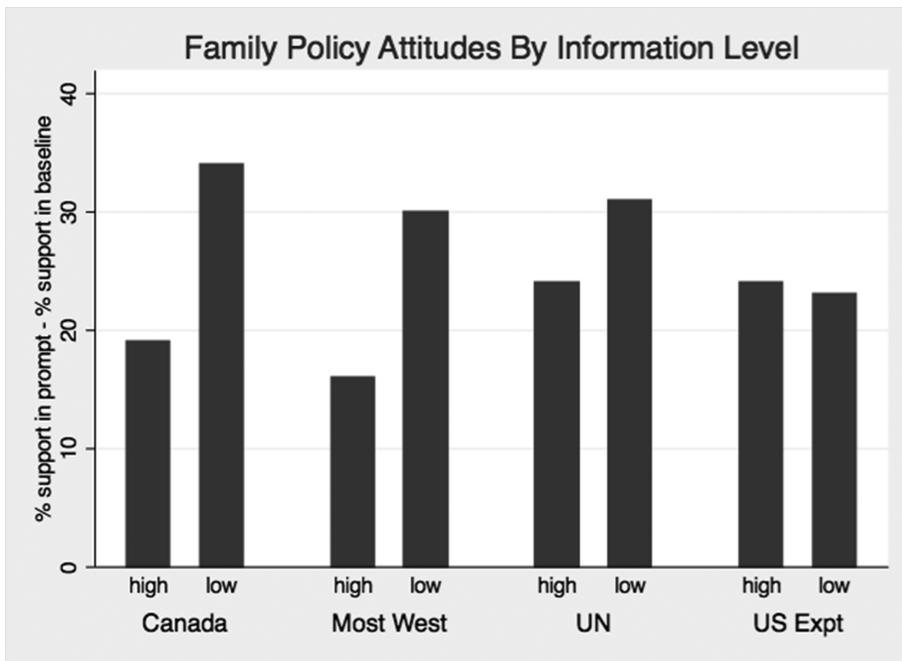
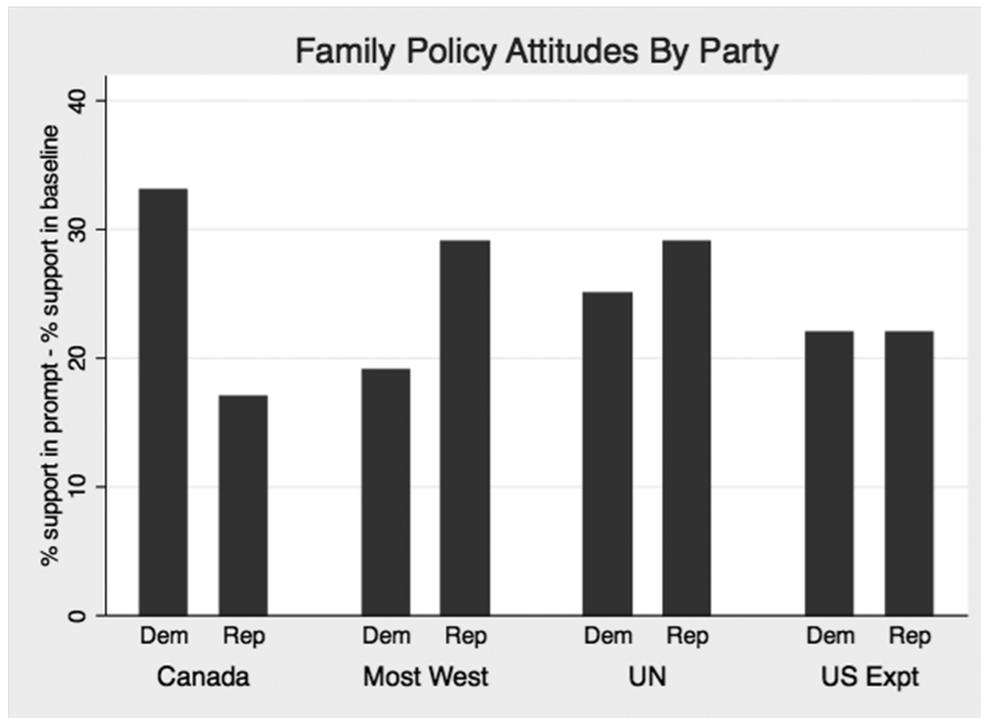


Figure 3.5: Family Policy Attitudes by Party



The finding that people with low levels of information respond more to foreign endorsements than people with high levels of information, observed in each of the endorsements in the maternity leave experiment, is consistent with the proposed claim that information is a key pathway through which foreign models influence public opinion. I do not however observe this differential in the case of health care policy, possibly because health policy was a hotly contested issue during the 2008 presidential campaign, and thus all respondents had extensive information.

The finding that Republicans respond strongly to foreign models is counter-intuitive – other theorists suggest that foreign models resonate only among liberals.<sup>17</sup> Yet this counterintuitive observation is consistent with my theory. My theory suggests that foreign models are particularly valuable to voters who worry that policy proposals are poorly designed or inconsistent with their values. Policies that raise taxes to introduce social programs tend to worry Republicans, not Democrats. Foreign governments and international organizations may not be Republicans’ most trusted source of information, but they might be more credible than typical domestic advocates for social policy programs—Democratic politicians, labor unions, and liberal think tanks. Foreign governments and international organizations enjoy an important advantage over other providers of information: they are outsiders with no stake in the next domestic election.

Importantly, while Republicans responded more strongly than Democrats to UN

<sup>17</sup> See, e.g., Erik Voeten, *Borrowing and Non-Borrowing Among International Courts*, 39 J. LEGAL STUD. 457, 552 (2010) (“The role of ideology as a motivating force for the use of external sources is frequently suggested in the U.S. context”); Jacob Foster, *Constitutional Interpretation: Lessons from South Africa*, U.S.F. L. REV. 79, 130-31 (2010) (noting “the argument that foreign law is misused by liberal jurists to move the law in a more substantively liberal direction” in the United States).

recommendations for all countries, and to information about the practices of most Western countries, they did not respond more strongly than Democrats when given information about Canada's policies. These patterns are consistent with the idea that foreign models can have two, sometimes opposing, effects: They can signal both that an idea has been vetted, and that an idea is consistent (or inconsistent) with voters' values. A reference to Canada indicates that a foreign government has vetted the proposal, evidence that should increase support for the policy across groups, for both Democrats and Republicans, a pattern we observe. On the other hand, Canada may also be shorthand for liberal values, values that increase support for the proposal among Democrats but lower support among Republicans. References to Most Western Countries and to the UN may imply values that are broadly accepted and thus mainstream, and thus trigger strongly positive responses, even among Republicans.

This logic suggests that endorsement effects should vary by policy areas. In fields in which Democrats worry that policies may be poorly designed or ideologically extreme, Democrats should respond more strongly to international endorsements. An experimental study on attitudes toward military intervention during the Bush years reveals exactly this pattern. Democrats, and more generally people who did not trust the U.S. president, shifted their views more in response to information that the UN and NATO allies had endorsed a proposed military intervention.<sup>18</sup>

In summary, the tables above show that foreign models do not only resonate among well-informed elites, or only among liberals, as was widely believed. Americans in general respond strongly and positively to foreign models. If this is true, why did we get it so wrong? Why did we believe that Americans do not respond positively to foreign models or that only liberal elites do so? This could be because, in typical observational studies, we are not able to isolate the effects of foreign models from the effects of other variables. That is, in a typical observational study, we might note that Republicans tend to disagree with proposals to increase taxes to introduce social programs, regardless of whether these proposals are presented with references to foreign models. Indeed, this conclusion is still what I find here: across all the scenarios studied, a majority of Republicans disagree with proposals to increase taxes to support universal health care or paid maternity leave. However, fewer disagree with these proposals once they are presented with a UN or other trusted foreign endorsement in support of the policy. In other words, in this experimental study, I separate out the content of the policy proposal from the international endorsement and show that even (and perhaps especially) for a proposal that is otherwise unattractive to Republicans, a UN endorsement carries great weight.

### ***Limitations of Public Opinion Experiments***

How much are such effects likely to matter in practice, given that a large literature on political communication shows that voters respond differently to questions framed in different ways? A recent review of this literature concludes that there exists "a clear and systematic limit to framing," namely "perceived source credibility."<sup>19</sup> Indicatively, prior experiments show that an endorsement from the *New York Times* shifts voters' policy views, but one from the *National Enquirer* does not. Similarly, an endorsement from Colin Powell changes voters' policy views,

---

<sup>18</sup> Joseph Grieco, Christopher Gelpi, Jason Reifler & Peter D. Feaver, *Let's Get a Second Opinion: International Institutions and American Public Support for War*, 55 INT'L STUD. Q. 563 (2011).

<sup>19</sup> See Dennis Chong & James N. Druckman, *Framing Theory*, 10 ANN. REV. POL. SCI. 103, 106 (2001).

but Jerry Springer's endorsement does not do the same.<sup>20</sup> The evidence presented above adds to domestic research on endorsements by showing that the adoption of a practice by the Canadian government, or by Many Western governments is as credible an endorsement as the recommendation of U.S. experts, and that the recommendation of the UN that all countries adopt a practice can be even more credible.

While we can have some confidence in the direction of the reported effects (positive responses to foreign endorsements) and to the comparative magnitude of these effects, we cannot place great weight on the absolute magnitude of these effects. Prior research suggests that the magnitude of these effects will likely decrease when voters are presented with competing information, but that the endorsement effects will not disappear entirely.<sup>21</sup> In addition, the magnitude of these effects is likely to decrease because the method of information transmission differs in the real world and in the experimental world.<sup>22</sup> In the survey experiment, respondents were directly presented with information about foreign models immediately prior to voicing an opinion. In the real world, voters get information from many sources, some clearer than others, and likely forget much that they hear before making key decisions.

Ultimately, public opinion data as such cannot show how much endorsements will influence voters outside a controlled setting. They cannot tell us how valuable politicians perceive these foreign endorsements to be or how willing politicians are to deviate from policies they would otherwise propose in order to gain these foreign endorsements. This chapter therefore continues by examining aggregate data on how health and family policy develops by looking to politicians' rhetoric. Subsequent chapters examine how policy proposals change in light of foreign models.

### ***Politicians' Use of Foreign Models—Theoretical Expectations***

The prior section provided empirical support for a key step in my theory, the claim that diverse U.S. voters respond positively to foreign models. This part turns from voters to politicians. Do politicians also behave as the theory predicts, referencing foreign models to appeal to voters? To answer this question, I examine how politicians advocated for their proposals in congressional debates and electoral campaigns.

I turn to the most important reforms in U.S. health and family policy in recent years. I start with the major legislative proposal of the Obama administration, the Patient Protection and Affordable Care Act of 2010. To see whether the health debates were exceptional, I compare them to the debates on the Family and Medical Leave Act of 1993 (FMLA) and to the debates on President Clinton's unsuccessful health reform proposal, the Health Security Act of 1993. Both health and family reform proposals were controversial and raised similar issues of social insurance, government regulation, and risk redistribution. Both proposals pitted liberals, eager to smooth out labor market risks equitably, against conservatives who were fearful of government

---

<sup>20</sup> See generally James Druckman, *On the Limits of Framing Effects*, 63 J. POL. 1041 (2001).

<sup>21</sup> See, Dennis Chong & James N. Druckman, *Framing Public Opinion in Competitive Democracies*, 101 AM. POL. SCI. REV. 637 (2007).

<sup>22</sup> See Jason Barabas & Jennifer Jerit, *Are Survey Experiments Externally Valid?*, 104 AM. POL. SCI. REV. 226, 226 (2010); Donald Kinder, *Curmudgeonly Advice*, 57 J. COMM. 155, 157 (2007).

regulation and interventionism.<sup>23</sup> However, as described above, health and family differed on a key dimension of interest. A single international model existed for family policy, promoted by international organizations for decades and adopted worldwide, while rich countries had adopted a diversity of health care models.

Presidential campaign statements and the Congressional Record offer ample evidence that politicians referenced foreign models to gain voter support on both health and family reforms. This evidence also confirms additional theoretical predictions developed in Part I: Politicians focused on foreign countries familiar to voters and often developed simple emulation arguments to send clear signals. As my theory predicts, in both health and family debates, proponents of the legislation tried to depict their proposal as universally adopted abroad and, thus, consistent with mainstream values and likely to work well domestically. In the FMLA debates, this framing was not heavily contested, and it carried the day. In the health care debates, Republicans contested the framing with which Presidents Clinton and Obama started, that all rich countries offered universal health insurance in cost-effective way. Republicans highlighted the diversity of health financing and organization systems worldwide. Democrats and Republicans ended up discussing not only whether foreign governments had adopted particular models, but they also debated whether these policies had succeeded or failed. This helped dilute but likely did not eliminate the persuasive power of foreign models.<sup>24</sup>

While the analysis below focuses on politicians, advocates and opponents of reform also picked up on and popularized claims about foreign models. For example, Michael Moore's documentary *Sicko*, arguing that U.S. health care was inadequate relative to what foreign governments provided, reached millions of American viewers directly and grossed over \$24 million.<sup>25</sup> The media storm that followed ensured that even more Americans considered whether the U.S. health care was inferior or superior to that of foreign countries. A national poll by the Kaiser Family Foundation a month after the movie's release in August 2007 found that while only 4% of respondents had actually seen the movie, an additional 42% had heard or read about it. Of people familiar with the movie, "43 % said the movie made them more likely to think that the U.S. healthcare system needs reform—liberals and conservatives both among them—and a little over a third said it swayed them to think that other countries do a better job."<sup>26</sup>

---

<sup>23</sup> For a careful discussion of the normative concerns underpinning maternity leave proposals, see Gillian Lester, *A Defense of Paid Family Leave*, 28 HARV. J.L. & GENDER 1 (2005). See also CATHERINE R. ALBISTON, RIGHTS ON LEAVE: INSTITUTIONAL INEQUALITY AND THE MOBILIZATION OF THE FAMILY AND MEDICAL LEAVE ACT (2010) (discussing the implementation of the Act); KIMBERLY MORGAN, WORKING MOTHERS AND THE WELFARE STATE: RELIGION AND THE POLITICS OF WORK-FAMILY POLICIES IN WESTERN EUROPE AND THE UNITED STATES (2006) (discussing maternity leave debates across European countries).

<sup>24</sup> Prior experimental research suggests that contestation is a somewhat effective strategy. When voters are first presented with an endorsement and then presented with information pointing in the opposite direction, the effect of the endorsement declines in magnitude but remains positive. See Chong & Druckman, *Framing Public Opinion*, *supra* note 19. It seems plausible that Republicans questioned how foreign models worked abroad to reduce the effectiveness of the foreign endorsement.

<sup>25</sup> BOX OFFICE MOJO, <http://www.boxofficemojo.com/movies/?page=main&id=sicko.htm> (last visited Nov. 13, 2011) (only domestic sales included in 24 million figure).

<sup>26</sup> Michelle Andrews, *The Impact of 'Sicko' on Popular Opinion About Healthcare Reform*, US NEWS, Aug. 31, 2007, <http://health.usnews.com/health-news/articles/2007/08/31/the-impact-of-sicko-on-popular-opinion-about-healthcare-reform> (last visited Nov. 13, 2011). For the underlying data, see The Henry J. Kaiser Family Foundation, *The Reach and Impact of "Sicko,"* <http://www.kff.org/kaiserpolls/upload/7689.pdf> (last visited Nov. 13, 2011).



## *Foreign Models in the Clinton and Obama Campaigns*

Both health and family reforms failed many times before being finally adopted in the United States. American efforts to introduce universal health care and maternity leave began in the late 19th and early 20th century. Historians have established how the progressive movement, and Presidents Theodore Roosevelt, Woodrow Wilson, and Franklin Delano Roosevelt in particular, borrowed social reform ideas extensively from Europe.<sup>27</sup> Indeed the popularity of social reform efforts in the United States waxed and waned with Germany's military choices. While in the pre-World War I years, "progressives had found it essential to turn to Europe for precedents," World War I changed this,<sup>28</sup> and "German ideas like Bismarck's Social Insurance" became suspicious.<sup>29</sup> Both family and health reform proposals were introduced repeatedly in the subsequent decades. Comprehensive health care reform appeared on the national agenda at least six times at various points in the 20th century.<sup>30</sup> Family leave bills were repeatedly introduced in the 1980s.<sup>31</sup>

Many factors contributed to the ultimate adoption of the Family and Medical Leave Act in 1993 and the Affordable Care Act in 2010, notably Democratic control of the White House and both houses of Congress and supportive positions by key interest groups, notably labor unions and the American Medical Association. This chapter does not aim to assert that foreign models were the driving force behind the adoption of these laws or even to assess the relative contribution of foreign and domestic influences on health and family reform. Instead Chapters 4 and 6 use cross-national regressions to show how both domestic and international factors contributed to health and family reform across OECD countries. The goal is to show how politicians advocating for controversial reforms systematically used foreign models to appeal to voters in order to make reform proposals appear mainstream and well designed. I also highlight how reform opponents challenged these references in theoretically predictable ways.

This chapter concentrates on the most recent episodes of health and family reform and begins with the 1992 election campaign, a watershed moment for both reforms. Then-candidate Bill Clinton drew attention to both health and family reform proposals. In his first televised debate against President George H.W. Bush, candidate Clinton called for family leave, emphasizing foreign countries' experiences. "[Working families] deserve a strong economy, and I think they deserve a family-and-medical-leave act. *Seventy-two other nations have been able to do it. Mr. Bush vetoed it twice because he says we can't do something 72 other countries do.*"<sup>32</sup> In that

---

<sup>27</sup> See generally DANIEL T. RODGERS, *ATLANTIC CROSSINGS: SOCIAL POLITICS IN A PROGRESSIVE AGE* (1998); JAMES KLOPPENBERG, *UNCERTAIN VICTORY: SOCIAL DEMOCRACY AND PROGRESSIVISM IN EUROPEAN AND AMERICAN THOUGHT, 1870-1920* (1986).

<sup>28</sup> AXEL SCHAFFER, *AMERICAN PROGRESSIVES AND GERMAN SOCIAL REFORM, 1875-1920*, 193-94 (2000).

<sup>29</sup> See PAUL STARR, *THE SOCIAL TRANSFORMATION OF AMERICAN MEDICINE: THE RISE OF A SOVEREIGN PROFESSION AND THE MAKING OF A VAST INDUSTRY* 243-57 (1982).

<sup>30</sup> See JAMES T. MORONE, *THE POLITICS OF HEALTH CARE REFORM: LESSONS FROM THE PAST, PROSPECTS FOR THE FUTURE* 105 (1994). See also JACOB S. HACKER, *THE DIVIDED WELFARE STATE: THE BATTLE OVER PUBLIC AND PRIVATE SOCIAL BENEFITS IN THE UNITED STATES* (2002); Jacob S. Hacker, *The Historical Logic of National Health Insurance: Structure and Sequence in the Development of British, Canadian and U.S. Medical Policy*, 12 *STUD. AM. POL. DEV.* 57 (1998).

<sup>31</sup> For a brief history of U.S. family reform efforts, see Steven K. Wisensale, *The White House and Congress on Childcare and Family Leave Policy: From Carter to Clinton*, 25 *POL'Y STUD. J.* 75 (1997).

<sup>32</sup> Candidate Bill Clinton, First General Election Presidential Debate (Oct. 11, 1992) (transcript available at

same debate, Clinton also campaigned for universal health care, again pointing foreign countries' choices. Clinton argued:

I've got a plan to control health-care costs. But you can't just do it by cutting Medicare. You have to take on the insurance companies, the bureaucracies and you have to have cost controls, yes. *But keep in mind we are spending 30 percent more on health care than any country in the world, any other county. And yet we have 35 million people uninsured. We have no preventive and primary care. The Oregon plan is a good start, if the Federal Government's going to continue to abandon its responsibilities. I say if Germany can cover everybody and keep costs under inflation, if Hawaii can cover 98 percent of their people at lower-health care costs than the rest of us, America can do it, too.*<sup>33</sup>

Candidate Clinton repeated these themes throughout the campaign.<sup>34</sup> Once he won the presidency, he introduced health and family reform proposals by inviting Americans to benchmark their governments against international standards,<sup>35</sup> and many Congressmen echoed this rhetoric, as the discussion below illustrates. Family leave passed and was the first law President Clinton signed, doing so in a highly publicized Rose Garden ceremony.<sup>36</sup> In signing the FMLA, President Clinton concluded with the theme he started with, highlighting that “American

---

<http://www.presidency.ucsb.edu/ws/index.php?pid=21605#axzz1jw8vSJML>) (introducing the Family and Medical Leave Act ) (emphasis added).

<sup>33</sup> Candidate Bill Clinton, First General Election Presidential Debate (Oct. 11, 1992) (transcript *available at* <http://www.presidency.ucsb.edu/ws/index.php?pid=21605#axzz1jw8vSJML>) (introducing his health reform proposal) (emphasis added).

<sup>34</sup> For example, in the second Presidential debate, Candidate Clinton argued: “*We spend 30% more of our income than any nation on earth on health care. And yet we insure fewer people. We have 35 million people without any insurance at all. I see them all the time. A hundred thousand Americans a month have lost their health insurance just in the last four years. So if you analyze where we're out of line with other countries, you come up with the following conclusions: No. 1, we spend at least \$60 billion a year on insurance, administrative costs, bureaucracy and government regulation that wouldn't be spent in any other nation. So we have to have, in my judgment, a drastic simplification of the basic health insurance policies of this country. Be very comprehensive for everybody.*” Candidate Bill Clinton, Second General Election Presidential Debate (Oct. 15, 1992) (transcript *available at* <http://www.presidency.ucsb.edu/ws/index.php?pid=21617#axzz1ksuNhlew>) (emphasis added). Independent candidate Ross Perot also adopted a similar strategy of pushing for health reform by reference to foreign models. In that same Richmond debate, Perot argued: “*We have the most expensive health-care system in the world; 12% of our gross national product goes to health care. Our industrial competitors who are beating us in competition spend less and have better health care. Japan spends a little over 6% of its gross national product, Germany spends 8%. It's fascinating. You bought a front-row box seat and you're not happy with your health care, and you're saying we've got bad health care but very expensive health care.*” Candidate Ross Perot, Second General Election Presidential Debate (Oct. 15, 1992) (transcript *available at* <http://www.presidency.ucsb.edu/ws/index.php?pid=21617#axzz1ksuNhlew>) (emphasis added).

<sup>35</sup> In introducing his health care proposal, President Clinton argued: “*We're blessed with the best health care professionals on Earth, the finest health care institutions, the best medical research, the most sophisticated technology . . . . And in spite of all this, our medical bills are growing at over twice the rate of inflation, and the United States spends over a third more of its income on health care than any other nation on Earth. And the gap is growing, causing many of our companies in global competition severe disadvantage. There is no excuse for this kind of system. We know other people have done better.*” President Bill Clinton, Speech Introducing Health Care Reform to Congress. (Sept. 22, 1993) transcript *available at* <http://millercenter.org/president/speeches/detail/3926> (last visited Oct. 2, 2011).

<sup>36</sup> See Wisensale, *supra* note 29, at 83 (contrasting Clinton's decision to sign the FMLA in a highly publicized Rose Garden ceremony, with his decision to sign the Defense of Marriage Act at midnight, alone in the Oval Office).

workers in all 50 states will enjoy the same rights as workers in other nations.”<sup>37</sup> Then, in campaigning for re-election in 1996, Democrats chose “Families First” as their slogan. Clinton repeatedly emphasized how he signed and sought to extend the FMLA, while his opponent, Senator Bob Dole, had voted against it twice and engineered filibusters to prevent its passage.<sup>38</sup>

While family leave was a crowning accomplishment for President Clinton, health reform was a stunning failure. Many factors likely contributed to this, including sustained attacks by the insurance industry and concerted Republican opposition.<sup>39</sup> Critically however, Democrats interpreted this failure as a result of political missteps, not as a result of the content of the proposal.<sup>40</sup> Thus, subsequent Democratic candidates, including most importantly Barack Obama, heavily promoted universal health care in their bids for the White House.

Obama used foreign models to frame his health care proposal throughout his campaign, starting with his very first speech introducing his health care plan, “The Time Has Come for Universal Health Care” in January 2007.<sup>41</sup> He argued: “[It’s] wrong when 46 million Americans have no health care at all. In a country that spends more on health care than any other nation on Earth, it’s just wrong.” He continued: “Some of the biggest corporations in America, giants of industry like GM and Ford, are watching foreign competitors based in countries with universal health care run circles around them, with a GM car containing twice as much health care cost as a Japanese car.”<sup>42</sup> About a month later, in a civil rights rally in Selma, Alabama, Obama repeated these claims. He said: “We’ve got 46 million people uninsured in this country despite spending more money on health care than any nation on earth. It makes no sense.”<sup>43</sup> He continued: “Some of the biggest corporations in America, giants of industry like GM and Ford, are watching foreign competitors based in countries with universal health care run circles around them, with a GM car containing seven times as much health care cost as a Japanese car.”<sup>44</sup> Obama kept reiterating these and related ideas, over and over, throughout the campaign.<sup>45</sup> And once elected President, in

---

<sup>37</sup> 1993 U.S.C.C.A.N. 54 (daily ed. Feb. 5, 1993) (statement of President Clinton).

<sup>38</sup> See Wisensale, *supra* note 29, at 84.

<sup>39</sup> For a narrative of what went wrong, see JACOB HACKER, *THE ROAD TO NOWHERE: THE GENESIS OF PRESIDENT CLINTON’S PLAN FOR HEALTH SECURITY* (1999).

<sup>40</sup> See Paul Starr, *What Happened to Health Care Reform?* *THE AMERICAN PROSPECT*, at 20 (Dec. 1994) (presenting several strategic miscalculations in negotiations for health reform, from the perspective of a leading Clinton health advisor). See also Theodore Marmor & Jonathan Oberlander, *The Patchwork: Health Reform, American Style*, 72 *SCI. & MED.* 125, 126 (2011) (explaining that “the conventional wisdom was that the Clinton plan failed because of a series of mistakes and political mistakes”).

<sup>41</sup> Candidate Barack Obama, *The Time Has Come for Universal Health Care* (Jan. 25, 2007) (transcript available at <http://usliberals.about.com/od/extraordinaryspeeches/a/ObamaHealthIns.htm>) (introducing his health care plan at the Families USA Conference in Washington, DC).

<sup>42</sup> *Id.*

<sup>43</sup> Candidate Obama, *Remarks at the Selma Voting Rights March Commemoration in Selma, Alabama* (March 4, 2007).

<sup>44</sup> *Id.*

<sup>45</sup> For examples of campaign speeches where Barack Obama made these arguments see *Remarks at a Labor Day Rally in Manchester, New Hampshire* (Sept. 3, 2007); *Remarks at a Town Hall in Springfield, Missouri* (July 30, 2008); *Remarks at a Town Hall in St. Petersburg, Florida* (Aug. 1, 2008); *Remarks at a Town Hall in Titusville, Florida* (Aug. 2, 2008); *Remarks at Kettering University in Flint, Michigan* (June 16, 2008); *Remarks at Macomb Community College in Warren, Michigan* (May 14, 2008); *Remarks at the Building Trades National Legislative Conference in Washington, DC* (Apr. 15, 2008); *Remarks in Dover, New Hampshire* (Sept. 12, 2008); *Remarks in Newport News, Virginia* (Oct. 4, 2008); *Remarks in Pittsburgh, Pennsylvania* (June 26, 2008); *Remarks in*

his speech introducing health care to Congress, Obama argued: “We are the only democracy—the only advanced democracy on Earth—the only wealthy nation—that allows such hardship for millions of its people.”<sup>46</sup> He continued: “We spend one and a half times more per person on health care than any other country, but we aren't any healthier for it.”<sup>47</sup>

### *Foreign Models in Congress*

Democrats in Congress picked up on and repeated themes on which Presidents Clinton and Obama had campaigned on, to argue in favor of both health care and family leave reform. How did the Republicans respond? Republicans were initially opposed to both health and family reform. In the health care debates, Republicans successfully used the diversity of foreign models to weaken Democrats’ framing of health care as a universal right, afforded by rich governments to all their citizens. In contrast, in the family policy debates, Republicans were faced with a coherent and widely adopted international model. In response, Republican politicians either remained silent on the question of foreign models or joined the Democrats in calling for the United States to adopt leave rights guaranteed the world over. In the tables below, I analyze the congressional record because, as the official record of debates in Congress, it offers a comprehensive compilation of the arguments Democratic and Republican politicians want their constituents to hear.

### *Frequency*

In the development of health and family policy, arguments about international models occupied center stage in Congressional debates. There were 135 references to international models in the 2009-10 health care debates, 224 in the 1993 health care debates, and 287 in the FMLA debates.<sup>48</sup> That references to foreign models were especially frequent when health care reform was first proposed by the Clinton administration is consistent with evidence from other diffusion studies which suggest that foreign models are most relevant in the early, agenda-setting stages of the policy process. References to foreign countries were even more frequent in the FMLA debates than in the health care debates.<sup>49</sup> In addition, in the FMLA debates, there were repeated

---

Washington, DC: "Changing the Odds for Urban America" (July 18, 2007); Remarks on Health Care at the University of Iowa (May 29, 2007); Remarks to the Alliance for American Manufacturing in Pittsburgh, Pennsylvania (Apr. 14, 2008); Remarks with Senator Hillary Clinton in Unity, New Hampshire (June 27, 2008) (transcripts *available at* [http://www.presidency.ucsb.edu/2008\\_election\\_speeches.php?candidate=44&campaign=2008OBAMA&doctype=5000](http://www.presidency.ucsb.edu/2008_election_speeches.php?candidate=44&campaign=2008OBAMA&doctype=5000)). Observe that these speeches were delivered in key swing states for the 2008 presidential campaign. In these most crucial electoral regions, the notoriously data-driven Obama campaign employed references to international models to persuade voters critical to the election outcome.

<sup>46</sup> President Barack Obama, Obama’s Health Care Speech to Congress (Sept. 9, 2009) *in* N.Y. TIMES (Sept. 9, 2009), <http://www.nytimes.com/2009/09/10/us/politics/10obama.text.html?pagewanted=all>. The media extensively covered Obama’s speech introducing healthcare reform. See, for example, Sheryl Gay Stolberg & Jeff Zeleny, *Obama, Armed With Details, Says Health Plan Is Necessary*, N.Y. TIMES, (Sept. 9, 2009), <http://www.nytimes.com/2009/09/10/us/politics/10obama.html?ref=politics>, a version of which appeared on the front page of the *New York Times* on Sept. 10, 2009.

<sup>47</sup> President Barack Obama, *supra* note 45.

<sup>48</sup> For these totals, and for tables 7, 8, and 9 below, the reference to a particular country, state, or region is the unit of analysis.

<sup>49</sup> For a review of this literature, see Katerina Linos, Note, *When Do Policy Innovations Spread?*, 119 HARV. L. REV. 1467 (2006).

references to groups of countries (“all countries,” “the industrialized world,” “even the third world”). These likely reflect senators’ and representatives’ correct and shared understanding that only a single global model was available for family leave, whereas multiple foreign models were available for health care.

These references are particularly frequent in comparative perspective; I also examined how frequently U.S. states were referenced in these debates for comparison. The 50 U.S. states are often described as “laboratories for democracy,” test-grounds where policies can be introduced on a small scale before they are adopted nationwide. U.S. states had experimented both with family leave and with universal health care prior to the introduction of these policies at the national level. By the time the FMLA was introduced, over a dozen states had adopted some version of family leave.<sup>50</sup> And before the Affordable Care Act, Massachusetts had pioneered a very similar reform in 2006, while several other states had also experimented with expansive health care reforms.<sup>51</sup> Yet references to foreign countries were substantially more frequent than references to these state-level efforts, even though Senators and Representatives are generally eager to reference their home states on the Senate Congressional floors.

### *Partisanship*

Partisanship is a regular feature of debates on health, family, and related social policy issues, as redistributive issues often define and distinguish conservative and progressive politicians. My theoretical model helps explain when these partisan differences carry over to the use of foreign models. As Part I explains, in fields where a single foreign model exists, this often becomes the dominant solution and mutes partisan debates. In contrast, where diverse foreign models co-exist, partisanship thrives, as reform opponents and proponents advocate for the model that best suits their partisan beliefs. In turn these partisan debates complicate matters for voters, weakening the signal that foreign models send.

Partisanship was very strong during both in the 1993 and 2009-10 the health care debates. Republicans typically incorporated foreign references in comments hostile to the legislation, while Democrats incorporated them in comments friendly to the legislation. However, regardless of party affiliation, senators and representatives frequently engaged in rather than refraining from international comparisons. For example, Democrats argued that the Canadian health care system was cost-effective, while Republicans argued that the Canadian health care system involved long wait times. Many Senators and Representatives, as well as Presidents Clinton and Obama, highlighted that their preferred policy was consistent with American values. However, comments about the uniqueness of the United States system and the irrelevance or illegitimacy of foreign comparisons were rare, even though conservative jurists have called for ignoring foreign models. The few positive comments Republicans made about foreign health models emphasized limitations on litigation, an issue Democrats did not emphasize, and pharmaceutical pricing, an

---

<sup>50</sup> See Donna R. Lenoff, & Sylvia M. Becker, *Family and Medical Leave Legislation in the States: Toward a Comprehensive Approach*, 26 HARV. J. LEGIS. 403 (1989); Jane Waldfogel, *Family Leave Coverage in the 1990s*, MONTHLY LAB. REV., Oct. 1999, at 13.

<sup>51</sup> See, e.g., Michael S. Dukakis, *Hawaii and Massachusetts: Lessons from the States*, 10 YALE L. & POL’Y REV. 397, 397 (1992) (former Democratic presidential candidate explaining that while “[p]ractices in other countries like Germany and Canada have received considerable media attention lately and may influence the course of national health care reform here,” we should also study the United States).

issue Democrats raised too.

In contrast, partisanship was far more muted in the discussions about foreign models and the FMLA. Democrats were overwhelmingly positive in their references to the FMLA. However, Republicans were in a bind because of the existence of a dominant international model. Many chose to remain silent—only 19 statements about foreign models came from Republicans during the FMLA debates, far fewer than in the health care debates.<sup>52</sup> More strikingly, half of these references were positive ones. And the types of arguments Republicans made in favor of the FMLA were very similar to the arguments Democrats made—namely that essentially every country but the United States had adopted family leave. This is not to imply that the Family and Medical Leave Act of 1993 was not controversial—after all, President George H. W. Bush had vetoed the Family Medical Leave Act of 1992. Instead, I suggest that the existence of a single prominent international model muted opposition, prompting conservative Republicans to stay silent and helping moderate Republicans explain to voters why they were joining the Democrats in support of the bill.

### *Most Referenced Countries*

My theory suggests that, unlike technocrats, politicians will seek to persuade voters by referencing rich, proximate, and familiar countries, rather than those countries that have been the successful in particular issue areas. This is in fact what we see. While Democrats and Republicans made very different arguments in the health and family debates, they referenced the very same countries to make these arguments. Many of these countries were only marginally relevant to the debate at hand, but they were familiar to ordinary Americans. In contrast, countries that experts consider most relevant to the U.S. debates were not mentioned frequently unless those countries were also prominent in the media. The data below support the proposition that legislators cannot cherry-pick the countries they reference. Not only can they not select the countries that most help their argument, but they cannot even focus on those countries that experts would consider most relevant to the U.S. debate at hand, because of their success in particular policy areas, or because of their similarity to the United States in particular fields.

In the 1993 health care debates and 2009-10 health care debates, both supporters and opponents of the legislation referenced Canada and the UK repeatedly while making very few references to the Netherlands and on Switzerland, two countries on which health experts focused because of their success in managing health systems with significant private provision and insurance.<sup>53</sup> In the 1992-93 FMLA debates, Germany and Japan figured prominently in statements by both

---

<sup>52</sup> The unit of analysis for this figure is the statement – not the country. That is, if a Republican said we should not adopt family leave because labor regulation increases unemployment, and mentioned both France and Spain as examples, this would count as a single statement.

<sup>53</sup> For example, in January 2009, the Commonwealth Fund issued a much-publicized study concluding that “policies in the Switzerland and Netherlands that achieve near-universal coverage and low administrative costs can help inform the U.S. health care reform debate.” THE COMMONWEALTH FUND, *New Study: Swiss and Dutch Health Systems Can Provide Lessons for U.S. on Achieving Universal Coverage, Low Administrative Costs* (Jan. 16, 2009), <http://www.commonwealthfund.org/News/News-Releases/2009/Jan/New-Study--Swiss-and-Dutch-Health-Systems-Can-Provide-Lessons-for-U-S--on-Achieving-Universal-Covera.aspx>. See also Kieke G.H. Okma, Theodore R. Marmor & Jonathan Oberlander, *Managed Competition for Medicare? Sobering Lessons from the Netherlands*, 365 NEW ENG. J. MED. 287 (2011).

opponents and proponents of the legislation. These countries were prominent in the news media in the 1980s and 1990s because of their rapid industrial development, however, their family policies never stood out as particularly successful. In contrast, references to Sweden, a country advocates of family leave have focused on, were far fewer.

Tables 3.4—3.6 below present countries that were referenced 5 times or more in each debate. For these tables, the unit of analysis is the country, not the statement. For example, if a Congressman states that we should adopt health care reform because Germany and Japan offer it, this is counted as 1 reference to Germany and 1 reference to Japan.

*Table 3.4: 2009-10 Health Care Debate References by Country and Attitude*

Country/Region	Count	Positive	Negative
Canada	32	16	16
Europe	28	7	21
UK	24	12	12
France	10	9	1
Japan	9	8	1
Germany	8	6	2
Sweden	5	4	1
Spain	5	5	0
Italy	5	5	0

*References to foreign countries made fewer than 5 times:* Australia (3); Denmark, Switzerland (2); Belgium, the Netherlands, India, China, Ireland, Taiwan (1).

*References to U.S. States:* TX(15); MA(13); CA(10); MN(8); WA(4); VT, AZ, MO(2); OR, WI, AK, FL (1)

*Table 3.5: 1993-94 Health Care Debate References by Country and Attitude*

Country/Region	Count	Positive	Negative
Canada	105	42	63
(West) Germany	30	14	16
UK	25	11	14
Japan	16	9	7
France	10	8	2
Sweden	10	4	6
“Other countries”	7	6	1
Europe	6	1	5

*References to foreign countries made fewer than 5 times:* Italy, the Netherlands (4); Belgium (2); Israel, Mexico, Norway, South Africa, Switzerland (1).

*References to U.S. States:* HI(11); OR (5); WA(4); TN(3); FL(2); AZ, CA, CT, KY, MA, MN, MO, MT, NH, PA, UT, VT (1)

Table 3.6: 1992-93 FMLA Debate References by Country and Attitude

Country/Region	Count	Positive	Negative
Japan	46	42	4
(West) Germany	46	42	4
Canada	23	21	2
South Africa	20	18	2
Europe	19	13	6
Industrialized world	19	19	0
Sweden	13	9	4
France	11	8	3
UK	10	8	2
Italy	9	6	3
Third world	8	8	0
Austria	6	4	2

*References to foreign countries made fewer than 5 times:* “All countries,” Asia, Chile, Finland, Iran (4); Australia, Cuba, Ireland, Korea, Libya, Switzerland, Middle East (2); Central America, Africa, Belgium, Burkina, Denmark, East Germany, Guinea-Bissau, Iceland, India, Indonesia, Iraq, Israel, Kuwait, Laos, the Netherlands, New Zealand, North America, Norway, Poland, South America, Spain, Sudan (1)

*References to U.S. States:* NJ, OR, PA (1)

### *Argumentation*

The proposed theory also has implications for the types of arguments reform proponents and opponents are likely to employ. The diffusion literature distinguishes between emulation, learning, and competition. Emulation arguments, both positive and negative, focus only on the identity of the foreign country—that is, legislators merely highlight that Canada, or socialist countries, or Western countries, adopted a law. Emulation arguments in the Congressional Record were very similar in structure to the prompts given in the public opinion experiments above. Learning arguments offer some additional information about the success and failure of the policy abroad—they contain evidence that was not known at the time the policy was adopted abroad. Competition arguments focus on what perceived competitors to the United States are doing.

When a single international model exists, advocates can rely on emulation alone and send a simple and coherent message. In emulation arguments, advocates can argue that everyone has this policy and so should we. However, when multiple foreign models co-exist, conversations about which foreign models work better begin and discussions about what we can learn from abroad occur. While these learning arguments connect the adoption of a policy to a positive or negative consequence, they are often partisan, general, and unscientific—they are not the types of learning arguments that would persuade experts. That said, learning arguments are more complex than emulation arguments; they can muddy the waters for voters and weaken the persuasive power of foreign models.



Tables 3.7 and 3.8 below classify the types of arguments used in the health and family debates. The unit of analysis in Tables 3.7 and 3.8 is the individual statement—each statement might contain references to several foreign countries. The column “Only Argument” only includes statements that contained one of the three types of arguments. The column “All Arguments” includes statements that made more than one type of arguments. As described above, emulation arguments were popular in both debates but far outnumbered all other types of arguments in the FMLA debates. In contrast, learning arguments, i.e. arguments that emphasized various dimensions of the policy supported by data (broadly defined), were very common in the health care debates.

*Table 3.7: FMLA Debate References by Nature of Argument*

	Only Argument	All Arguments
Emulation	49	76
Learning	2	6
Competition	8	33

*Table 3.8: 2009-10 Health Care Debate References by Nature of Argument*

	Only Argument	All Arguments
Emulation	22	30
Learning	27	35
Competition	2	2

### *Arguments in the Health Care Debates*

In the 2009-10 health care debates, arguments about learning and emulation were prevalent, but arguments about competition were surprisingly few. Democrats supportive of the Obama reform echoed the emulation argument that, since every industrialized country offers universal health insurance, so should the United States. For example, Senator Ken Conrad argued: “Every other industrialized country in the world has universal coverage. They have figured out a way to provide health insurance to every family in their countries. France, Germany, Great Britain, Japan, every other major industrialized country has figured out a way to provide health insurance for every one of their citizens. It is time for America to do the same.”<sup>54</sup> Relatedly, Democrats used rankings developed by the UN and the WHO to support an expansion in health care access.<sup>55</sup> Interestingly, reform opponents felt the need to respond to this argument by discussing the ranking methodology, while conceding that the U.S. system did not provide the best possible health care for its poor.<sup>56</sup>

<sup>54</sup> 155 CONG. REC. S11853 (daily ed. Nov. 20,2009) (statement of Sen. Conrad).

<sup>55</sup> 156 CONG. REC. S1953 (daily ed. Mar. 24, 2010) (statement of Sen. Feinstein); 155 CONG. REC. S12059 (daily ed. December 1, 2009) (statement of Sen. Feinstein); 155 CONG. REC. S11854 (daily ed. Nov. 20,2009) (statement of Sen. Conrad).

<sup>56</sup> 155 CONG. REC. S12503 (daily ed. Dec. 5, 2009) (statement of Sen Ensign).

Additionally, several emulation arguments were negative. What distinguishes emulation from learning is the focus on identity of prior adopters, rather than on the consequences of policy reform abroad. To take an example of a negative emulation argument, opponents of the health care reforms criticized them as a socialist attempt to establish a European-style welfare state with little further elaboration on the drawbacks of such systems.<sup>57</sup>

In addition to the emulation arguments just discussed, lawmakers also engaged in efforts to draw lessons from other countries' experiences. Learning arguments were relatively simple and direct, designed to put forward a clear message that ordinary Americans easily understand. More specifically, Democrats emphasized that foreign countries managed to spend significantly less than the United States on health care and yet achieved comparable or better results.<sup>58</sup> They also identified various ways in which foreign health care systems are more successful in constraining costs. According to reform advocates, foreign countries allow parallel imports of drugs,<sup>59</sup> spend more on prevention and public health,<sup>60</sup> manage distinct stages of treatment in conjunction with one another,<sup>61</sup> and discourage medical tort litigation.<sup>62</sup> Moreover, a key selling point by reformers was that people with pre-existing conditions easily get treatment in foreign countries but have difficulty in securing health insurance in the U.S.<sup>63</sup> For reform advocates, providing health care for everyone in need was as both a moral imperative and an institutional design achievement.<sup>64</sup>

Health reform critics referred to foreign countries' experiences in order to highlight two main and related disadvantages of the proposed reforms: Long waitlists and the rationing of health care. First, critics complained about the long wait lists by offering the slogan "care delayed is care denied."<sup>65</sup> To back up this argument, critics provided information about how long it took to start certain treatments in various countries.<sup>66</sup> They emphasized that, for illnesses such as cancer where early treatment is key the United States achieves better health outcomes.<sup>67</sup> The second key

---

<sup>57</sup> 156 CONG. REC. E510 (daily ed. Mar. 25, 2010) (statement of Sen. Rep. Larson); 156 CONG. REC. H1884 (daily ed. Mar. 24, 2010) (statement of Rep. Ryan); 156 CONG. REC. S1848 (daily ed. Mar. 23, 2010) (statement of Sen. Bond); 155 CONG. REC. S11826 (daily ed. Nov. 20, 2009) (statement of Sen. McConnell); 155 CONG. REC. H12855 (daily ed. Nov. 7, 2009) (statement of Rep. Ryan); 155 CONG. REC. H12881 (daily ed. Nov. 7, 2009) (statement of Rep. Dent).

<sup>58</sup> 156 CONG. REC. H1899 (daily ed. Mar. 21, 2010) (statement of Rep. Sanchez); 156 CONG. REC. S1710 (daily ed. Mar. 18, 2010) (statement of Sen. Carper); 156 CONG. REC. H1163 (daily ed. Mar. 4, 2010) (statement of Rep. Ellison); 155 CONG. REC. S11850 (daily ed. Nov. 20, 2009) (statement of Sen. Harkin); 155 CONG. REC. S11854 (daily ed. Nov. 20, 2009) (statement of Sen. Conrad).

<sup>59</sup> 155 CONG. REC. S11876 (daily ed. Nov. 20, 2009) (statement of Sen. Dorgan).

<sup>60</sup> 155 CONG. REC. S13661 (daily ed. Dec. 21, 2009) (statement of Sen. Harkin).

<sup>61</sup> 155 CONG. REC. S13677 (daily ed. Dec. 21, 2009) (statement of Sen. Kerry).

<sup>62</sup> 155 CONG. REC. S12501 (daily ed. Dec. 5, 2009) (statement of Sen. Chambliss).

<sup>63</sup> 155 CONG. REC. S11875 (daily ed. Nov. 20, 2009) (statement of Sen. Dorgan); 155 CONG. REC. S11872 (daily ed. Nov. 20, 2009) (statement of Sen. Boxer).

<sup>64</sup> 155 CONG. REC. S11853 (daily ed. Nov. 20, 2009) (statement of Sen. Conrad).

<sup>65</sup> 156 CONG. REC. S6370 (daily ed. July 28, 2010) (statement of Sen. Barasso); 155 CONG. REC. S11838 (daily ed. Nov. 20, 2009) (statement of Sen. Barasso).

<sup>66</sup> 155 CONG. REC. S12501 (daily ed. Dec. 5, 2009) (statement of Sen. Ensign).

<sup>67</sup> 155 CONG. REC. S12503 (daily ed. Dec. 5, 2009) (statement of Sen. Ensign); 155 CONG. REC. S12144 (daily ed. Dec. 2, 2009) (statement of Sen. Ensign); 155 CONG. REC. S11954 (daily ed. Nov. 21, 2009) (statement of Sen. Bennett).

warning that health reform opponents raised was that foreign countries keep costs down by rationing, and ultimately denying, health care to some patients.<sup>68</sup> In addition, critics worried that government control can discourage private initiative in medical research and innovation.<sup>69</sup> While emulation and learning arguments were plentiful in the health care debates, competition arguments were scarce. This is striking given that health care expenditures constitute 17% of U.S. GDP and thus could clearly impact firm relocation choices. Neither proponents nor opponents of the reform highlighted this in Congress, even though competition had figured prominently in both the Clinton and Obama electoral campaigns.

### *Arguments in the FMLA Debates*

In the FMLA debates, arguments about the emulation of foreign countries' policies dominated the discussion in Congress, from start to finish. "The U.S. is currently the only industrialized country in the world without laws mandating parental or maternity leave." Senator Dodd made this argument in introducing the legislation.<sup>70</sup> Dozens of Senators and Representatives echoed these themes. In signing the FMLA, President Clinton concluded with this theme, as described above. Emulation arguments were very prevalent in the FMLA debates—politicians offered very little information other than the fact that many foreign governments had adopted maternity leave policies. In the health care debates, many emulation arguments were positive and many were negative. In the family policy debates, almost all emulation arguments, even those made by Republicans, were positive. For example, Representative Olympia Snowe echoed a claim made by many Democrats and argued: "Until recently the United States was alone among industrialized nations, with that well-known center of enlightened government, South Africa, in lacking a family leave policy. Now even South Africa has adopted a more progressive policy than we have, leaving us in shameful isolation."<sup>71</sup> Proponents of the reform characterized maternity leave as a key feature of modern family policy that should be valued "in the 20<sup>th</sup> century."<sup>72</sup> They saw the lack of such a policy as "backwardness"<sup>73</sup> and as a "disgrace."<sup>74</sup> The few emulation arguments casting foreign countries in a negative light described these countries' laws as paternalistic regimes that do not respect freedom and individual choice.<sup>75</sup>

Competition between the United States and other industrialized countries was a second significant theme in the FMLA debates. Those worried about the FMLA stressed the importance

---

<sup>68</sup> 156 CONG. REC. S1944 (daily ed. Mar. 24, 2010) (statement of Sen. Kyl); 156 CONG. REC. H1826 (daily ed. Mar. 21, 2010) (statement of Rep. Ryan); 155 CONG. REC. S12587 (daily ed. Dec. 7, 2009) (statement of Sen. Coburn); 155 CONG. REC. H12850 (daily ed. Nov. 7, 2009) (statement of Rep. Hensarling).

<sup>69</sup> 156 CONG. REC. S1967 (daily ed. Mar. 24, 2010) (statement of Sen. Grassley).

<sup>70</sup> 139 CONG. REC. S987 (daily ed. Feb. 2, 1993) (statement of Sen. Dodd).

<sup>71</sup> 136 CONG. REC. H2176 (daily ed. May 9, 1990) (statement of Rep. Snowe). Similar references are plentiful. For example, Rep. Payne stated: "What do the Sudan, Burkina, Guinea-Bissau, and South Africa have in common with the United States? The one thing that those 5 countries have in common is that not a one of them has a family medical leave act. Every other country on the planet enacted some sort of a family medical leave act years and years ago." 136 CONG. REC. H2083 (daily ed. May 8, 1990) (statement of Rep. Payne). Other references in this manner include 136 CONG. REC. S8003 (daily ed. June 14, 1990) (statement of Sen. Mitchell) and 136 CONG. REC. H2177 (daily ed. May 9, 1990) (statement of Rep. Unsoeld).

<sup>72</sup> 137 CONG. REC. E3862 (daily ed. Nov. 13, 1991) (statement of Rep. Sanders).

<sup>73</sup> 139 CONG. REC. S873 (daily ed. Jan. 28, 1993) (statement of Sen. Boxer).

<sup>74</sup> 138 CONG. REC. H8226 (daily ed. Sept. 10, 1992) (statement of Rep. Sanders).

<sup>75</sup> 137 CONG. REC. S14134 (daily ed. Oct. 02, 1991) (statement of Sen. Hatch).

of flexible labor laws for job creation. In contrast, proponents of FMLA argued repeatedly that, since the two major competitors of the United States at the time, Germany and Japan, had both adopted generous maternity leave policies, maternity leave would not place the US at a competitive disadvantage.<sup>76</sup> Others argued that maternity leave in fact confers a competitive advantage to Germany and Japan, because workers who enjoy a rich and stable family life will ultimately be more productive.<sup>77</sup> This presence of competition arguments in the context of the FMLA are surprising. Because the FMLA only provides for unpaid leave, it likely has a very small impact on firms' bottom line and relocation decisions. While sophisticated audiences would likely find competition arguments unpersuasive, voters concerned about the competitive position of the United States vis-à-vis Germany and Japan in the late 1980s and early 1990s might be reassured that their government is benchmarking its performance against key competitors, never considering that this policy area was unlikely to have a major impact on national competitiveness.

Learning arguments were also made, but infrequently. For example, Representative Curt Schroeder worried that "American families are breaking up at a 100-percent faster rate than any other country." In general, politicians seeking to draw lessons from other countries' experiences provided fact-based justifications for their positions. However, these justifications were expressed in simple and unscientific terms - they were arguments addressed to ordinary Americans, and would likely not persuade sophisticated audiences.

In summary, the patterns that emerge from the Congressional Record are consistent with the theoretical predictions outlined above, in Figure 3.1. First, references to foreign models were frequent. Second, they were colored by partisanship. Democrats used foreign models to support both health and family reform. Republicans' responses differed in the two issue areas. In health care, where diverse foreign models were available, Republicans' references were primarily negative, while in family policy, where a single foreign model was dominant, Republicans' references were mixed. Third, both Republicans and Democrats focused on the same few countries familiar to voters, rather than on countries that were most successful in particular issue areas. Fourth, emulation arguments were prevalent in both debates and dominant in debates on the FMLA. In this debate, Democrats and even some Republicans simply repeated the claim that since almost all other countries offer leave, the United States should as well. In the health care debates, both learning and emulation arguments were made, as Republicans highlighted the diversity of foreign models to weaken the rhetorical power of the Democrats' pitch.

## ***Conclusions***

This chapter has examined empirically two key theoretical propositions: The proposition that voters respond to information about foreign models and the proposition that politicians reference particular foreign models to show voters that they are pursuing desirable goals in a competent fashion. There is significant support for both claims. Original experimental data suggest that even Americans respond positively to information from abroad. This positive response is

---

<sup>76</sup> 136 CONG. REC. H2157 (daily ed. May 9, 1990) (statement of Rep. Slaughter); 136 CONG. REC. H2166 (daily ed. May 9, 1990) (statement of Rep. Clay).

<sup>77</sup> 139 CONG. REC. H370 (daily ed. Feb. 3, 1993) (statement of Rep. Woolsey). 139 CONG. REC. H421 (daily ed. Feb. 3, 1993) (statement of Rep. Swett).

widespread, not concentrated among liberal elites as previously believed. People with limited education and highly educated people, people with low and high incomes, men and women, whites and non-whites all respond positively to foreign endorsements. Across these groups, recommendations from the UN resonate particularly strongly; indeed UN endorsements are especially likely to shift Republican's views on contested issues of redistribution.

These experimental findings are novel to the academic literature, but they comport with politicians' intuitions. Politicians frequently reference foreign countries to increase support for proposals they support. Politicians who oppose policy proposals challenge these references, concerned about their persuasive power. In both the family and health care debates, references to foreign countries were made significantly more frequently than to U.S. states.

What this data does not tell us is how much influence foreign models ultimately have on policy adoption. What might have happened if many Western European Countries never adopted family leave or universal health care? Would these ideas have been adopted in the United States in 1993 and 2010?<sup>78</sup> Would they have been adopted much later with much greater tensions between their opponents and supporters? Or might they have never been on the table at all, rejected out of hand as communist fantasies? The chapters that follow investigate these questions.

---

<sup>78</sup> Compare JACOB S. HACKER, *THE ROAD TO NOWHERE: THE GENESIS OF PRESIDENT CLINTON'S PLAN FOR HEALTH SECURITY* (1996), with Jacob S. Hacker, *The Road to Somewhere: Why Health Reform Happened*, 8 PERSP. POL. 861 (2010).