

**ANTI-DISCRIMINATION POLICY BACKLASH:
TITLE IX AS A MASS COMMUNICATION CASE STUDY**

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Abstract

Anti-discrimination policies often generate opposition from people who disagree with how the policies are being implemented and from people who disagree with how resources and power might be reallocated if the policies are implemented. This opposition can shift the focus away from the core issues like equity, discrimination, and barriers to equal access, toward issues that undermine the policy, like reverse discrimination, survival of tradition and traditional values, and effects on the status quo. It can also pose a threat to the timing and effectiveness of anti-discrimination policy implementation.

This dissertation begins by offering a concept explication of the term “backlash” that could be used in future social science research. Then, using as a case study the 35-year conflict over the implementation of Title IX as it relates to women in sports, this dissertation explains how the opposition to Title IX has exemplified backlash.

This dissertation uses frame analysis of major newspapers and of legal and legislative sources to suggest a model for how a conflict featuring backlash is likely to evolve when the mass media are involved. It builds descriptively and theoretically on existing scholarly work, especially that related to frame theory, cultivation theory, and conflict theory. It helps to explain the conditions under which backlash frames emerge in a policy conflict and migrate to the mass media; it articulates the role of the mass media vis-à-vis the conflict over the implementation of Title IX, providing a predictive model for how backlash might appear in other public policy conflicts; and it contributes ideas that could be used in the construction of a comprehensive theory of conflict transformation involving backlash.

This dissertation concludes that backlash is part of a dynamic process that involves responsive argument adaptation and deliberate shifts in framing strategy on the part of the disputants in an anti-discrimination policy conflict.

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Chapter 1: Introduction

The Problem

Anti-discrimination policies often generate opposition from people who disagree with how the policies are being implemented and from people who disagree with how resources and power might be reallocated if the policies were implemented—even from people who support the concept of equality. In debates over anti-discrimination policy, such opposition can shift the focus away from the core issues like equity, discrimination, and barriers to equal access, toward issues that undermine the policy, like reverse discrimination, survival of tradition and traditional values, and effects on the status quo.¹ This opposition can also pose a threat to the timing and effectiveness of anti-discrimination policy implementation.² Many articles have been written on the topic of backlash as it relates to women’s rights, yet scholars note that much more investigation of the topic, in many different directions, remains to be done, and many questions regarding backlash against an anti-discrimination policy’s effects remain unanswered by the existing literature.³ Backlash is one special type of opposition to equality policy that is particularly important for its relationship to rhetorical and mass media strategies.⁴

¹ Susan L. Greendorfer, “Title IX Gender Equity, Backlash and Ideology,” *Women in Sport and Physical Activity Journal*, 7 (1998): 69-93.

² Ibid.

³ Ronald J. Burke and Susan Black, “Save the Males: Backlash in Organizations,” *Journal of Business Ethics*, 16 (1997): 933-942.

⁴ Susan Faludi, *Backlash: The Undeclared War against Women* (New York: Crown, 1991).

Therefore, this dissertation will analyze the mass media treatment of a conflict that potentially involves backlash against an anti-discrimination policy. In this analysis, it will be important to answer the following questions:

1. What is the nature of opposition and advocacy frames in the public policy debate, do they evolve over time, and do they transform the conflict?
2. What, if any, is the correlation between the appearance of opposition and advocacy frames in the policy debate and variations in reporting and commentary on the policy and debate? In other words, what do the frames that appear in the policy conflict and the placement and timing of their appearances in the mass media tell us about the role of the mass media, and what can the public expect in conflicts that involve opposition to an anti-discrimination policy?
3. What is the relationship between public opinion and the appearance of opposition and advocacy frames in the mass media?
4. How do the opposition's actions and communications constitute backlash, how are these actions and communications different from other kinds of opposition, and why is this distinction important?

Answering these questions could provide insight into the conditions that result in either success or failure of public policies designed to end discrimination and expand human rights.

Overview of the Study

This dissertation will build descriptively and theoretically on the base established by existing scholarly work, especially that related to framing and that related to conflict

framing and categorization. It will contribute to the knowledge of the meaning of backlash in terms of its significance in the greater struggle for human equality and our society's cultural values. It also will allow an understanding of the conflict transformation process in which backlash against a public policy in the mass media is a factor.

In constructing this dissertation, it was believed that if one could 1) identify and categorize opposition and advocacy frames in a conflict over the implementation of an anti-discrimination policy that involves backlash, 2) identify the emergence of those frames and their relation to backlash, 3) identify the appearance of those frames in the mass media, especially the timing of their migration from official legislative and court documents to the mass media, and 4) identify the media treatment of those frames, then one could 1) suggest a model for how a public policy conflict featuring backlash is likely to evolve when the mass media are involved, 2) contribute to the existing literature about conflict frames, and 3) contribute to the literature about the mass media's role in shaping public opinion.

Importance of the Study

Why should anyone care about this topic? To the extent that public opinion is affected by the media agenda, as manifested in the frames that appear specifically in the mass media, and considering that policymakers are part of that public, the media agenda and the public policy agenda are intertwined.⁵ As basically a third party to a public

⁵ John W. Kingdon, *Agendas, Alternatives, and Public Policies* (Boston: Little, Brown and Company, 1984), 64.

policy dispute, with a choice about what views to support, a policymaker may very well aim at satisfying what is perceived to be the majority of the public.⁶ Indeed, one observer wrote, “The spectators are an integral part of the situation, for, as likely as not, the *audience* determines the outcome of the fight.”⁷ Another wrote, “To judge is to decide with reference to the expectations of an audience that defines the process of decision.”⁸ The bottom line is that the mobilization of constituents of a particular view can help to influence a decision in a conflict situation.⁹

To the extent that backlash can become more intense and more broad-based if a threat to the status quo is more broadly perceived,¹⁰ this is where mass media exposure becomes especially important in a public policy context, because there is much evidence to support the idea that media attention to public policy issues influences the form and magnitude of official policy responses to those issues.¹¹ In other words, media exposure

⁶ Boaventura de Sousa Santos, “The Law of the Oppressed: The Construction and Reproduction of Legality in Pasagada,” *Law & Society*, 12 (1977): 19.

⁷ Elmer E. Schattschneider, *The Semisovereign People* (New York: Holt, Rinehart, and Winston, 1960), 2.

⁸ Lief H. Carter, *Reason in Law* (Boston: Little, Brown, 1979), 227.

⁹ Lynn Mather and Barbara Yngvesson, “Language, Audience, and the Transformation of Disputes,” *Law & Society Review*, 15, no. 3-4 (1980-81): 782.

¹⁰ Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics* (New York: Simon & Schuster, 1995).

¹¹ See Frank R. Baumgartner and Brian D. Jones, *Agendas and Instability in American Politics*. (Chicago: University of Chicago Press, 1993); James W. Dearing and Everett M. Rogers, *Agenda-Setting* (Thousand Oaks, Calif.: Sage, 1996); William J. Gonzenbach, *The Media, the President, and Public Opinion: A Longitudinal Analysis of the Drug Issue, 1984-1991* (Mahwah, N.J.: Erlbaum, 1996); Michael Bruce MacKuen, “Social Communication and the Mass Policy Agenda,” in Michael Bruce MacKuen and Steven Lane Coombs, eds., *More than News: Media Power in Public Affairs* (Beverly Hills, Calif.: Sage, 1993), 139-143; and Craig Trumbo, “Longitudinal Modeling of Public Issues: An Application of the Agenda-Setting Process to the Issue of Global Warming,” *Journalism and Mass Communication Monographs*, 152 (1995): 1-57.

provided to backlash frames in a conflict over anti-discrimination policy could give those frames relevance and strength in a public policy process, including in the implementation or alteration of the policy. Therefore, the existence of backlash frames in the mass media could help to explain the lack of movement toward, or slow movement toward, full implementation of an anti-discrimination law. Moreover, media coverage is an important component of any social change movement because what appears in the media may first serve to promote social change and it also may later represent an end product of social change that has taken place.¹²

What is the relevance of this dissertation to the field of mass communication? The aim of this dissertation will be to suggest ideas for building a theory of transformation and evolution of backlash, especially as it relates to anti-discrimination policy and the mass media; as yet no theory enables one to predict how any given dispute is likely to evolve or be transformed,¹³ let alone how a dispute featuring backlash is likely to evolve or be transformed when the mass media are involved. To date, apparently no studies have been done, applying mass media communication methods and theories, to look systematically at the complex processes and interactions, including backlash framing, used in debating the implementation of an anti-discrimination policy.

¹² Daniel Riffe, Stephen Lacy, and Frederick Fico. *Analyzing Media Messages: Using Quantitative Content Analysis in Research*, (Mahwah, N.J.: Erlbaum, 2005).

¹³ Mather and Yngvesson: 782.

With this dissertation, one objective is to make the following scholarly contributions:

- Provide a concept explication for the term “backlash” that could be used as a precise term and concept in future scholarly research in the social sciences. To date, the term has been used loosely in scholarly and popular literature to describe a variety of concepts.
- Help to explain the conditions under which backlash frames emerge in a mass media context.
- Articulate the role of the mass media vis-à-vis a specific conflict involving backlash so that future researchers might understand what to expect of the mass media in other public policy conflicts.
- Assert ideas that could be used in the construction of a theory of transformation and evolution of conflict that involves backlash.

The Public Policy Case Study: Title IX

The case study for this dissertation will be the conflict over the implementation of Title IX of the Education Amendments of 1972, a.k.a. the “Patsy T. Mink Equal Opportunity in Education Act” (hereafter, “Title IX”). Title IX says,

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...¹⁴

¹⁴ *Title IX of the Education Amendments of 1972, U.S. Code*, vol. 20, secs. 1681-1688 (1972), <http://www.usdoj.gov/crt/cor/coord/titleixstat.htm>, accessed 27 December 2008.

It was the first comprehensive federal law to prohibit sex discrimination at educational institutions that receive federal funding. The law requires educational institutions to maintain policies and programs that do not discriminate based on sex. Under Title IX, men and women are expected to receive equal treatment in all arenas of public schooling, including financial aid and scholarships, work-study employment, facilities, housing, scholarships, and athletics. It is in this last arena, athletics, where the greatest controversy has taken place, and it is on that arena that this dissertation will focus.

The implementation of Title IX in relation to athletics constitutes a significant, three-decades-old, ongoing public policy controversy, and it probably will continue to be a significant topic for a long time into the future. The conflict over the implementation of Title IX in athletics involves two distinct sides: the one side favors the swift and complete implementation of the law, as written, at any cost, in the context of athletics; the other side opposes the implementation as proscribed, especially inasmuch as it would require any reallocation of resources or transfer of power, in the context of athletics.¹⁵ This dissertation will show that the conflict has spawned opposition and advocacy frames, and, moreover, it will show that the opposition frames exemplify backlash. Understanding the framing could provide insight into why the conflict has persisted. In turn, this study has the potential to offer insight into the use of frames in similar public policy debates and the role of the mass media in those debates. This makes Title IX an attractive topic for this dissertation.

There is another aspect of Title IX as it relates to sports that makes it a particularly attractive topic for a mass communication dissertation: Sports are primarily a

¹⁵ Greendorfer.

mass media-driven spectacle in terms of how people participate as fans of individual sporting events, in terms of how people consume sports news in general, and in terms of how people learn about issues affecting sports.¹⁶ Mass media outlets are the natural settings in which people come into contact with issues relevant to sport.¹⁷ Non-sports-related policy debates typically would offer the media dimensions of only regular news coverage and editorials for examination. Yet because Title IX is sports-related, there is an additional dimension for examination: sports news media, such as the sports sections of newspapers.

Description of Dissertation Chapters

The rest of this dissertation is divided into six chapters, as follows:

- Chapter 2 provides a rigorous and much-needed concept explication of the term “backlash” that could be used in future social science research.
- Chapter 3 reviews four bodies of literature relevant to this dissertation: the literature on the implementation of Title IX, the literature on conflict, the literature on rhetoric as it relates to conflict, and the literature on mass communication as it relates to the impact of mass media messages on public opinion and public policy.
- Chapter 4 provides a summary of prior exploratory research by the author that informs this dissertation’s methods and analysis.

¹⁶ Lawrence A. Wenner, ed., *Media Sport* (London: Routledge, 1998).

¹⁷ *Ibid.*

- Chapter 5 details the data used and the methods used to collect and analyze it to investigate the dissertation's research questions.
- Chapter 6 provides findings, including the identification of opposition and advocacy frames used in the conflict over the implementation of Title IX. This chapter also includes analysis of the dynamic, transformational processes involved in the conflict and of the relationship between the appearance of frames in official public policy contexts and in newspapers (the mass media source data used in the analysis). In addition, this chapter includes discussion of the relationship between media coverage and public opinion as it relates to the ongoing conflict over Title IX.
- Chapter 7 explains how the actions and communications of the opposition side of the conflict over the implementation of Title IX exemplify backlash. It also explains limitations of the current research and gives suggestions for future research.

Chapter 2: Backlash, Explicated

There have been many articles written on the topic of backlash, and the term has often been used loosely to describe resistance to the liberalization or expansion of rights. This use of the term was especially advanced by Susan Faludi's popular culture book, *Backlash: The Undeclared War against Women*. This book has been quoted in over 500 academic articles,¹⁸ even though Faludi failed to provide an explication of the concept. Moreover, the term is typically either not defined in academic articles that use it, or it is defined so broadly and so vaguely as to be of little value in any serious analysis. Yet when used in the context of opposition to the liberalization or expansion of rights extended through public policy, the term's meaning often diverges greatly from its original meaning; therefore, it requires a rigorous explication.

This chapter will provide an explication of the concept of "backlash" for the purposes of this dissertation. It is most important to put forth this explication because a) the relevance of mass media to the term backlash is a function of the term's meaning in the context of social science and b) this explication of the term backlash will inform the review of the literature appearing in the next chapter of this dissertation. Moreover, the loose definitions of backlash that exist do not allow a serious analysis of the topic; indeed, the lack of a concrete definition of the term might explain the dearth of work devoted specifically to examining this phenomenon. Consequently, this explication will provide a basis for analysis of the phenomenon in this dissertation and also allow a

¹⁸ Google™, Inc., Google™ Scholar, <http://scholar.google.com/scholar?q=susan+faludi&hl=en&lr=>, (Mountain View, Calif., 2007), accessed 28 April 2007.

cogent body of research, based on a common understanding of the concept, to be developed elsewhere over time.

This chapter will look first at dictionary definitions of the term backlash and offer a sort of composite definition that includes critical elements of the concept. The chapter will then look at how the term backlash has been extended for use in social science contexts and will explain the need to narrow the term to something more restrictive than has been used in order to make it more useable in a social science context. Finally, a well-contained conceptual definition and an operationalization of it will be offered.

Dictionary Definitions

Originally, the term “backlash” was an engineering or mechanical term defined as follows:

1. a quick, sharp recoil
2. a snarl in a reeled fishing line
3. in mechanics, the jarring reaction of loose or worn parts; play.¹⁹

And, alternatively, as follows:

1a: a sudden, often violent backward movement or recoil **b:** the clearance, slack, or play between adjacent moveable parts (as in a train of cars or series of gears) or the jar or reaction often caused by such clearance when the parts are suddenly put in action or are in irregular action **c:** an action or reaction in a reverse direction suggesting such a backward movement or recoil **2:** a snarl in that part of a fishing line which is wound on the spool of the reel caused by overrunning of the spool **3:** a rearward movement of the trigger of a firearm past the position where hammer or firing pin is released **4:** the small reverse phase of an imperfectly rectified

¹⁹ backlash. Jean L. McKechnie, ed., *Webster's New Twentieth Century Dictionary of the English Language Unabridged, 2nd Ed.* (New York: Simon and Schuster, 1983), 137.

alternating current resulting from positive ions produced in the gas of the rectifier tube by the impact of thermoelectrons.²⁰

In the contexts implied in these definition, with the exception of the last definition dealing with electricity, there had to be some sort of mechanical gear coupling for backlash to exist,²¹ and in none of these contexts was it a term to be applied to any sort of social process. It should be noted that mechanical backlash is generally undesirable in the context of mechanics, and always is undesirable in precision positioning applications; there have been many inventions designed to minimize it in such contexts.²²

Basically, the mechanical definitions of the term backlash could be gathered together in a composite description that incorporates three critical elements of the phenomenon. To wit, backlash in a mechanical engineering context is a) a sharp response to b) a jarring effect that results from c) play in gears or mechanisms. In the field of engineering, backlash is a response of a specific type. That is to say, the term backlash has been defined in a specific way by mechanical engineers to distinguish the phenomenon from other mechanical reactions and processes.

More recently, and shortly before Faludi's book was published, the term backlash has been given an additional, very different meaning, when used in a social science context, as shown in the following dictionary definition:

1. a jarring reaction or striking back caused in badly fitting machinery by a change in velocity or reverse of motion

²⁰ backlash. Philip Babcock Gove, ed., *Webster's Third New International Dictionary Unabridged* (Springfield, Mass.: Merriam-Webster, 2002), 159.

²¹ Neugart USA LP, *Gear Backlash* (Bethel Park, Penn.: Author, 2001).

²² See for examples Patent and Trademark Office, Pat. Nos. 4210033, 3405566, 4331040, 4747321, 2079239 (Washington: Government Printing Office, various dates).

2. (sociology) *an angry group response to what is seen as a threat or provocation* [emphasis added]
3. play, looseness, esp. in a steering mechanism
4. a snarl or tangle in the part of a fishing line that is wound on the reel.²³

An even more recent dictionary definition includes a similarly different meaning:

1. a sudden, forceful backward movement; recoil
2. *a strong or violent reaction, as to some social or political change* [emphasis added]
3. Machinery
 - a. the space between the thickness of a gear tooth and the width of the space between teeth in the mating gear, designed to allow for a film of lubricant, binding from heat expansion and eccentricity, or manufacturing inaccuracies
 - b. play or lost motion between loosely fitting machine parts
4. Angling. a snarled line on a reel, usually caused by a faulty cast
5. to make or undergo a backlash.²⁴

Unfortunately, in the case of the socio-political meanings of the word backlash, these dictionary definitions themselves contain vague concepts like “violence,” “reaction,” “response,” “threat,” “provocation,” “social change,” and “political change” and therefore do little to reduce the ambiguity or increase the usefulness of the term in a social science research context.

Certainly there are social science parallels to the three mechanical backlash elements. In the social science context, backlash a) is a response that has a suddenness or sharpness to it that is often emotional; b) is the result of an impact on the people making

²³ backlash. Bernard S. Cayne, ed., *The New Lexicon Webster's Dictionary of the English Language, 1989 Ed.* (New York: Lexicon, 1989), 71.

²⁴ backlash. Lexico Publishing Group, LLC. *Dictionary.com Unabridged (v 1.1)*, <http://dictionary.reference.com/browse/backlash>, (Long Beach, Calif.: Random House, Inc., 2008), accessed 8 January 2008.

the response; and c) stems from what could be called “play” in the sense that there is a misalignment or conflict of goals in the social system and there is perceived room for either capitulation by the source of the impact or for realignment of goals. Yet scholarly and popular literatures provide a wide range of definitions of backlash and apply them in an array of contexts. There has been considerable variation in how the term has been defined—some authors and researchers have not defined the term at all, some have been vague or general, and others simply reference other authors and researchers. Those who do define the term for social science contexts often focus on one or two of the critical elements that parallel the engineering definition but ignore the other one or two.

Definitions Found in Literature and Evaluations of Them

The following are some of the more or less explicit definitions of backlash encountered in a general social science literature search:

[Male] backlash can be defined as any form of resistance men exhibit towards policies, programs, and initiatives undertaken by organizations to promote the hiring and advancement of marginalized employees (e.g., women, people of color, the handicapped, aboriginal people). This resistance can take many forms, both overt and covert... We believe that backlash is not a male conspiracy at a conscious level.²⁵

...a powerful counter-assault...²⁶

...negative reactions...²⁷

...a negative reaction...²⁸

²⁵ Burke and Black: 934.

²⁶ Faludi, xviii.

²⁷ Michael Mobley and Tamara Payne, “Backlash! The Challenge to Diversity Training,” *Training & Development*, 46, no. 12 (1992): 45.

Social and economic sanctions for counterstereotypical behavior have been termed the *backlash effect*.²⁹

“I use the term backlash to refer to the postfeminist reassertion of those oppressive versions of masculinity associated with dominance, violence, the subordination of women and girls, and the subordination of all versions of masculinity that reject dominance and respected differences.”³⁰

...a broad gamut of negative feelings... which could include skepticism, anger, guilt, worry, fear, and helplessness.³¹

...strategically tempering otherwise efficient [economic] rules and institutions...³²

The first of these definitions comes closest to embodying the three essential elements of the mechanical definition—the original definition. It lacks the element of suddenness contained in the mechanical definition, and the impact element is implied but not guaranteed to be part of the social backlash given in this definition; a misalignment of values in the social system is only implied, as well. The next five definitions more or less include the essential reaction element of the mechanical definition but not the suddenness

²⁸ Robert J. Blendon, Mollyann Brodie, John M. Benson, Drew E. Altman, Larry Levitt, Tina Hoff, and Larry Hugick, “Understanding the Managed Care Backlash,” *Health Affairs*, 17, no. 4 (1998): 80.

²⁹ Laurie A. Rudman and Kimberly Fairchild, “Reactions to Counterstereotypic Behavior: The Role of Backlash in Cultural Stereotype Maintenance,” *Journal of Personality and Social Psychology*, 87, no. 2 (2004): 157.

³⁰ Leslie G. Roman and Linda Eyre, *Dangerous Territories: Struggles for Difference and Equality in Education* (New York: Routledge, 1997), 258.

³¹ Ruth E. Patterson, Jessie A. Satia, Alan R. Kristal, Marian L. Neuhouser, and Adam Drewnowski, “Is There a Consumer Backlash against the Diet and Health Message?” *Journal of the American Dietetic Association*, 101, no. 1 (January 2001): 38.

³² Mark J. Roe, “Backlash,” *Columbia Law Review*, 98, no. 217 (1998): 217.

or misalignment elements. The final two contain really none of the essential elements of the mechanical definition.

Taken together, these definitions are vague and varied, and they contain ambiguous terms like the dictionary definitions do, but at least they exist. Some authors simply put the word backlash in quotation marks, as if at once to imply that the term has a special meaning and to excuse themselves from providing an explicit or complete definition.³³ Then, applying the term, they rely on one or two of the critical elements of the mechanical definition of backlash but ignore the other one or two. For example, in the context of women's equality, which is most relevant to this dissertation, Susan Greendorfer used the term backlash clearly to describe a misalignment of goals, in the form of general opposition to moves toward gender equality to maintain a hegemonic status quo.³⁴ Yet her description did not include the mechanical definition's essential elements of a specific impact or of a sharp reaction. Also in the context of women's equality, Ann Cudd used the term even more broadly and ambiguously, to characterize any negative response on either a macro or micro level to the ideas of women's equality or even to the people espousing feminist views. For example, she wrote,

While the students we taught ten or so years ago were either on the Left politically, or at least curious and interested in feminism and generally respectful of me, when I teach feminist perspectives on classical issues in my large intro class now, a small but noticeable number of them walk out. In a recent semester in which I taught an introductory class, I made a point of including works by women and non-Whites. While I had generally good evaluations, one student carved "Cudd is a bitch," "I hate Cudd," and

³³ See, for example, Marta Russell, "Backlash, the Political Economy, and Structural Exclusion," *Berkeley Journal of Employment & Labor Law*, 21, no. 335 (2000): 335.

³⁴ Greendorfer: 69.

“Fuck Cudd” so deeply into one of the desks of the classroom that it had to be replaced... It is hard to read these events precisely, but taken together they suggest to us an ominous erosion of the progress that many think women and feminism are making in the profession and academy generally. I would argue that these events are not merely anomalous fluctuations from a norm of civility and progress for women and feminism in the academy.³⁵

It is unclear whether Cudd’s conception of backlash requires any of the three elements critical to the mechanical definition of the term.

Unfortunately, Faludi’s book provides a volume-long description that characterized backlash in vague ways, as an all-encompassing negative response to women’s rights at any level, and, as mentioned earlier, her book has become the standard for a large body of scholarly and popular culture writing on the topic of women’s rights. With such ambiguity and generalness, the term backlash has been on a slippery slope toward meaninglessness for a long time. This has allowed writers to morph the meaning of the term backlash to describe any number of social phenomena.

Several authors of reviewed literature left readers to infer a meaning for the concept of backlash, offering only a general description or a description based on its manifestations, or, at worst, assumed that the concept was understood. It should be noted that some of the literature covered public policy and some covered other sociological phenomena such as simple social pressure, but all covered issues of public opinion. The following are examples of such descriptions and definitions used in a variety of both public policy contexts, where laws are in play, and social contexts, where social pressure

³⁵ Ann E. Cudd, “Analyzing Backlash to Progressive Social Movements,” in Anita Superson and Ann E. Cudd, eds., *Theorizing Backlash: Philosophical Reflections on the Resistance to Feminism* (New York: Rowman & Littlefield, 2002), 4-5.

is the driving force. This dissertation has analyzed them by the essential elements of the mechanical definition of backlash on which they most rely for their justification in using the term backlash—by impact, by existence of a sharp response, or by misalignment of goals—and has noted where they have left out an essential definitional component of the term as used in a mechanical context.

Definition of backlash relying mainly on sharp response

In a context involving a sharp response, some authors have used the term backlash to describe a sort of rebellious don't-tell-me-what-to-do attitude toward social pressure to do something. Patterson, et al.'s definition of backlash in the context of "nutrition backlash,"³⁶ given earlier, would fit this category. Similarly, Suzanne Sataline used the term to describe the response that many churches have gotten after suggesting that their members tithe.³⁷ Michele Crossley also used this meaning of the word backlash in describing the rebellious reaction of gay men to the suggestion that they should not engage in dangerous sex practices: "Given the symbolic importance of the freedom of sexual acts and sexual expression to the gay liberation movement, it may be predicted that reactance effects such as the 'boomerang effect,' as manifest in the 'barebacking backlash,' may be especially likely."³⁸ In each of these instances, there is a sharp, emotional response to some kind of social pressure but not to actual impact, because any

³⁶ Patterson, et al.: 37.

³⁷ Suzanne Sataline, "The Backlash against Tithing," *Wall Street Journal* (23 November 2007), p. W1.

³⁸ Michele L. Crossley, "The Perils of Health Promotion and the 'Barebacking' Backlash," *Health*, 6, no. 1 (2002): 59.

actual impact would have to be self-imposed, not other-imposed. Therefore, the term backlash used in these contexts lacks that critical element of impact from the mechanical definition. It is also unclear in each of these instances whether there really is a misalignment of goals, because it is not stated whether the groups displaying so-called backlash responses are really against the goals of having fit bodies, financially sound churches, or disease-free sex.

Definition of backlash relying mainly on impact

Ashby Plant and Patricia Devine described backlash in a context similar to the contexts described by Patterson, by Sataline, and by Crossly—that of complying with social pressure to respond favorably to Black people with pro-Black affects, attitudes, and behaviors.³⁹ In a similar, but more pointed context involving other-imposed impact, Michael Mobley and Tamara Payne, whose brief definition of backlash was given earlier, wrote about backlash in the context of workplace diversity training.⁴⁰ Based on their description in this context, the backlash appears to have not only a don't-tell-me-what-to-do theme but also a don't-imply-that-I'm-flawed theme, as well. Mobley and Payne implied that these themes are manifest in anti-diversity training attitudes and responses.⁴¹ While backlash in this context involves the critical elements of sharp response and of impact, it lacks the essential element of a misalignment of goals.

³⁹ E. Ashby Plant and Patricia G. Devine, "Responses to Other-Imposed Pro-Black Pressure: Acceptance or Backlash?" *Journal of Experimental Social Psychology*, 37 (2001): 486-501.

⁴⁰ Mobley and Payne: 45-52.

⁴¹ Ibid.

John Micklethwaite and Adrian Wooldridge used the term backlash to describe a process of scapegoating: “Lost your job? Your cultural identity? Your democratic rights? Your clean air and water? Blame it on globalization—everyone else does.”⁴² In this context, the term backlash was used to describe the process of blaming a single, large social phenomenon, globalization, for basically any other, negative social phenomenon that affects a person. In this context, the definition does rely on impact as an essential component of its usage, but the response is not sudden, and it is unclear whether there is a misalignment of goals or an entity or phenomenon to target for capitulation.

Similarly, Alain Enthoven and Sara Singer and Thomas Bodenheimer wrote about backlash against HMOs and managed care, but they did not define the term like Robert Blendon, et al., did in the definition presented earlier. Rather, they described backlash as a reaction to the deficiencies—that is, the impacts—of HMOs and managed care and movement toward reforming health care delivery systems.⁴³ This context is similar to that described by Roe, who, as mentioned earlier, considered backlash to be any tampering with otherwise efficient economic processes.⁴⁴ In this context, the term backlash involved the essential element of impact but not of suddenness or of misalignment of goals.

⁴² John Micklethwait and Adrian Wooldridge, “The Globalization Backlash,” *Foreign Policy*, 126 (2001): 16.

⁴³ See Blendon, et al.; Alain C. Enthoven and Sara J. Singer, “The Managed Care Backlash and the Task Force in California,” *Health Affairs*, 17, no. 4 (1998): 95-110; and Thomas Bodenheimer, “The HMO Backlash—Righteous or Reactionary?” *The New England Journal of Medicine*, 335, no. 21 (1996): 1601-1604.

⁴⁴ Roe, p. 217.

Definitions of backlash relying mainly on misalignment or conflict of goals

Relying almost solely on the “play” element of the mechanical definition of backlash, Thomas Carothers used the term to refer to opposition to democracy promotion, with the reason for the opposition being that the international democracy movement has recently come to be viewed as a U.S.-driven phenomenon.⁴⁵ He suggested that in this context the opposition exists as opposition to becoming like the U.S. as much as opposition to the idea of democracy itself. In this context, the author used the term backlash to refer to a misalignment of goals. Yet the backlash is not the result of an impact, as people do not seem to oppose the impact (the institution of democracy itself), and there is not a suddenness in response, though it might be emotional. In any case, this opposition does not contain the essential elements of backlash adapted from the term’s mechanical definition.

Similarly, Joyce Gelb used the term backlash to describe a preference for traditional values and traditional roles, not necessarily in the context of a public policy initiative or law, but also in the context of general social change.⁴⁶ This represented a misalignment of goals with people advocating nontraditional values and roles. It is unclear whether Gelb considered backlash to be a response to the effects of policies or trends, or simply a response to the policies or trends themselves, even before they

⁴⁵ Thomas Carothers, “The Backlash against Democracy Promotion,” *Foreign Affairs*, 85, no. 2 (2006): 55-68.

⁴⁶ Joyce Gelb, “Backlash in the U.S. and Japan,” Paper presented to IPSA RC19 Roundtable on Women’s Movements Worldwide: Flourishing or in Abeyance?, Fukuoka, Japan, 9 July 2006.

materialized into tangible effects. It appears that she believed the term backlash could be applied to either kind of response. In any case, Gelb's definition of backlash in this social context relies on the misalignment, or play, element from the mechanical definition, but it does not involve suddenness or sharpness of response, and, again, it is unclear whether it involves an actual impact.

Similarly, Bonnie Morris used the term backlash to characterize simple opposition to legislation—specifically, to the Equal Rights Amendment associated with the women's liberation movement,⁴⁷ and Marta Russell used the term backlash to describe the opposition by the business sector to the Americans with Disabilities Act. Russell suggested that opposition to the Americans with Disabilities Act might not technically be backlash because “the business sector largely opposed the Act from the start.”⁴⁸ Yet the key element of the mechanical definition of backlash that is missing is sharpness or suddenness. Also, in the case of the Americans with Disabilities Act, there was an impact against which to have backlash, but not with the Equal Rights Amendment. Consequently, the element on which Morris and Russell's definitions are based is on the misalignment of goals.

In a variation on the definition of backlash involving a misalignment of goals, editors of *The Daily Aztec* at San Diego State University used the term backlash to describe the recent movement against bottled water—or more specifically against its plastic packaging—providing a competing image to bottled water as the mark of a

⁴⁷ Bonnie J. Morris, “When I Was a Teenage E.R.A. Activist,” *NWSA Journal*, 14, no. 2 (2002): 161-170.

⁴⁸ Russell: 335.

healthy lifestyle.⁴⁹ Similarly, Kurt Kleiner wrote about the “backlash” against biofuels, which for environmental reasons were once thought to be superior to other energy sources but which now are being condemned for the competition they create with food production, which is resulting in forests being cut down to make way for more agricultural land.⁵⁰ In these cases, the term backlash was used to describe a new goal competing with an existing one in a socio-political context, but it did not contain the impact or the sudden/sharp response elements of the mechanical definition from which the term was adapted.

Narrowing the Definition of Backlash

Some social scientists have recognized a need to limit the definition of backlash and have sought ways and rationale to do so. John Myers used the term to describe a societal reaction against overzealous child protection bureaucrats. He defined the backlash in this context as “the escalating chorus of criticism directed against professionals working to protect children.”⁵¹ In the same context, Jon Conte wrote,

Not every criticism, warning, or expression of concern about current child abuse knowledge, practice, or objectives is part of the backlash... In this author’s view, there are some obvious examples of backlash allegations. The backlash is manifest in categorical statements that young children

⁴⁹ “Bottled Water’s Backlash,” *The Daily Aztec* (*San Diego State University*), 15 November 2007, <http://media.www.thedailyaztec.com/media/storage/paper741/news/2007/11/15/HealthFitness/Bottled.Waters.Backlash-3102900.shtml> (Accessed 10 January 2008).

⁵⁰ Kurt Kleiner, “The Backlash against Biofuels,” *Nature Reports Climate Change*, New York: Nature Publishing Group (12 December 2007), <http://www.nature.com/climate/2008/0801/full/climate.2007.71.html> (Accessed 10 January 2008).

⁵¹ John E. B. Myers, “Definitions and Origins of the Backlash against Child Protection,” in John E. B. Myers, ed., *The Backlash: Child Protection Under Fire* (Newbury Park, Calif.: Sage, 1994), 17.

cannot accurately report experience... [I]t is part of the backlash to make a blanket claim that thousands of families are falsely accused of child abuse and as a result permanently damaged by the process of investigation... In general, the backlash consists of:

- extreme positions or points of view that challenge concerns about sexually abused children, and that nearly always have the purpose of defending adults accused of sexual abuse, or that otherwise minimize, rationalize, or deny the realities of childhood sexual abuse;
- lack of supporting research data for extreme positions or points of view; and
- near total rejection of the knowledge, experience, or realities of childhood sexual abuse.⁵²

Also narrowing the scope of the term, William Goode suggested, in the context of advancing women's equality,

The frequent expressions of male objection, sometimes loosely called "backlash" in the popular press, can be attributed to two main sources: (1) the discovery, by some men (and women) who once paid lip service to the principle of equality, that they do not approve of its concrete application; and (2) active resistance by men and women who simply never approved of equality anyway and who have now begun to oppose it openly because it can no longer be seen as a trivial threat.⁵³

Goode reserved the term backlash to refer to the first group, saying about the second,

If the term is used to refer simply to any adverse reaction to the forward movement of women toward equality, then surely that is nothing new, and it would not be easy to claim the present adverse reaction is *more* intense than in the day when feminists were derided publicly as mere "bra-burners..." I am merely asserting that little of it should be dignified by the term "backlash."⁵⁴

⁵² Jon R. Conte, "Child Sexual Abuse: Awareness and Backlash," *The Future of Children*, 4, no. 2 (1994): 228.

⁵³ William J. Goode, "Why Men Resist," in Barrie Thorne and Marilyn Yalom, Eds., *Rethinking the Family: Some Feminist Questions*, (Boston: Northeastern University Press, 1992), 300.

⁵⁴ *Ibid.*

Consequently, Goode's limiting of what constitutes backlash resembles that proposed by Russell in that it, too, suggested the term backlash could not refer to opposition by people who always opposed a policy on principle but rather to those who opposed its application.⁵⁵

Michael Klarman and Linda Krieger both wrote about backlash being a response to legal rights advancement. Both characterized backlash as a negative response that took place because of the law outstripping social norms and provoking and crystallizing resistance to social change.⁵⁶

In the context of race relations after the Supreme Court decision in *Brown v. Board of Education*, Klarman suggested that the decision represented a move toward equality that was too sudden and extreme for Southern Whites who had been and might have continued to be accepting of less formal, more incremental, and slower-paced reforms.⁵⁷ That is to say, it was Klarman's contention that the court decision outpaced social norms and therefore prompted backlash. Klarman described an even more complex backlash scenario the style of which ultimately could be relevant to the analysis of the timing and implementation of other anti-discrimination policies:

...[I]t is possible to agree with President Eisenhower's privately stated judgment that *Brown* set back the cause of racial progress in the South (at least in the short term) and with Justice Hugo L. Black's prediction that *Brown* would destroy racial liberalism in the South (also in the short term), while continuing to believe that *Brown* was indirectly responsible

⁵⁵ Russell: 335.

⁵⁶ Michael J. Klarman, "How Brown Changed Race Relations: The Backlash Thesis," *The Journal of American History*, 81, no. 1 (1994): 81-118; and Linda Hamilton Krieger, "Afterword: Socio-Legal Backlash," *Berkeley Journal of Employment & Labor Law*, 21, no. 476 (2000): 476-520.

⁵⁷ Klarman.

for the transformative racial change effected by the civil rights legislation of the mid-1960s. *Brown* temporarily destroyed racial moderation in the South, and it halted the incipient amelioration of Jim Crow practices that had been occurring in much of the South in the late 1940s and early 1950s. But in doing so, *Brown* produced a southern political environment that encouraged public officials to use violent tactics to put down civil rights demonstrations, to the horror of northern television audiences, who in turn mobilized in support of national legislation to eradicate Jim Crow.⁵⁸

A couple of social scientists have attempted to apply mechanical definitions of backlash to socio-legal contexts. Yet the resulting discussions are more descriptive than definitional. For example, Krieger used an analogy of a fishing line, based on one of the original definitions of the term backlash—that of fishing line backlash—to contain the definition of backlash when applied to socio-legal contexts:

The image here is one of a fishing reel that has been overcast—that has gotten ahead of itself—and has for that reason become entangled. Backlash, this image suggests, has something to do with one part of a process or mechanism getting too far ahead of another... I offer an account of backlash premised on this image, and situate that account within a larger theoretical model of socio-legal change and retrenchment. My central premise is simple: backlash is about the relationship between a legal regime enacted to effect social change and the system of existing norms and institutionalized practices into which it is introduced. Specifically, backlash tends to emerge when the application of a transformative legal regime generates outcomes that diverge too sharply from entrenched norms and institutions to which influential segments of the relevant population retain strong, conscious allegiance.⁵⁹

Krieger's analogy can be adapted to social science contexts such as the process described by Klarman. In the context of *Brown*, the court decision could be likened to the casting

⁵⁸ Klarman, referencing Robert Burk, *The Eisenhower Administration and Black Civil Rights* (Knoxville, Tenn.: University of Tennessee Press, 1984), 192; Stephen Whitfield, *A Death in the Delta: The Story of Emmett Till* (Baltimore: Johns Hopkins University Press, 1991), 72; Mark Stern, "Presidential Strategies and Civil Rights: Eisenhower, the Early Years, 1952-54," *Presidential Studies Quarterly*, 19 (1989): 787; and Mark Tushnet and Katya Lezin, "What Really Happened in *Brown v. Board of Education*," *Columbia Law Review*, 91 (1991): 1928.

⁵⁹ Krieger: 476-477.

of a fishing line, and the law got ahead of social norms, thereby causing a messy stoppage of progress. Still, Krieger did not offer a clear definition or an explication to bring adequate clarity to the meaning of the term backlash.

In similarly attempting to apply a mechanical description of the term backlash to a sociological context, Keith Burgess-Jackson admitted that he had a misconception about the meaning of backlash. Consequently, rather than understanding the original mechanical meanings of the term and applying it analogously to socio-legal processes, he had an impression in his mind of another mechanical meaning—that of a whip lashing back at someone.⁶⁰ Even after understanding the real mechanical basis for the term, he nevertheless proceeded to extend the analogy of his own image (the whip) to apply it to women's rights, saying that women should consider that opposition to their advancement could be either a conscious act (fitting his analogy) or a "mindless" smooth-running social machine analogous to the gears of the original backlash definition.⁶¹ Like some of the definitions discussed earlier, this definition misses the elements of suddenness and impact and suggests backlash is simply a difference in goals.

As asserted throughout this chapter, definitions of backlash have been varied and general. Indeed, there seems often to have been little care or thought put into the meaning of the term, and where there has been thought put into a definition, there seems to be little agreement on exactly what conceptually constitutes backlash or even where backlash practically could be a factor. Consequently, the problem is that a great deal of

⁶⁰ Keith Burgess-Jackson, "The Backlash against Feminist Philosophy," in Superson and Cudd, 19-47.

⁶¹ Burgess-Jackson, 19-21.

research has been done on phenomena characterized as backlash, but it is difficult to consider it a cohesive body of research because the phenomena under investigation have in fact been diverse. To have a cogent body of research on any topic, including backlash, a concrete and contained definition must exist. That is what this dissertation will attempt to accomplish next, by returning to the elements of backlash extending from its mechanical context.

Conceptual Definition

Backlash can be defined as a sudden, often emotional, antagonistic oppositional response to the *impact* of a movement, event, trend, or *policy*, and this response stems from “play,” or misalignment or conflict of goals, in the social system. It is important to have this restrictive definition of the term backlash to distinguish it from other forms of opposition like those provided in the review of the literature that appeared earlier in this chapter. This definition incorporates elements that are analogous to the three critical elements of the mechanical definition of backlash. In this definition, the phrase “a sudden, often emotional, antagonistic oppositional response” corresponds to the “sharp response” part of the mechanical definition of backlash; the phrase “impact of a movement, event, trend, or policy” corresponds to the “jarring effect” part of the engineering definition; and the phrase “misalignment or conflict of goals” corresponds to the “play in the gears/mechanisms” part of the mechanical definition.

With this definition, it should be understood that backlash against the implementation of a public policy is different from other kinds of opposition. Moreover,

it should be understood that communication is central to both the promotion of the movement, event, trend, or policy in question as well as to the backlash response that it sparks. Consequently, it should be clear that in a public opinion context, backlash is as much a mass communication and rhetoric issue as it is a policy issue.

Clarification

Because there have been so many different definitions of backlash, it is necessary to clarify the definition of backlash given here, to explain more clearly how it differs from the others and what components of it are similar to others. Moreover, the line between backlash and other kinds of opposition is somewhat blurry; that is why this concept explication is in order in the first place. Also, clarification will allow this dissertation to address the topic of backlash in a public policy perspective more specifically.

The key to understanding the concept of backlash as posited here is to accept the premise that backlash exists not against a policy itself (that, by the definition used here, constitutes a different kind of opposition) but rather against a policy's effects. That is to say, for example, in regard to public policies promoting nondiscrimination, like Title IX, it is not simply a matter of public opinion opposing anti-discrimination policies; it is a matter of public opinion opposing the effects (or perceived effects) of the policies. Consequently, as Goode suggested, it is perfectly possible for someone at once to pay lip service to nondiscrimination and to express backlash in disapproval of the way in which

anti-discrimination policies are being concretely applied.⁶² This situation is exemplified in the following newspaper article excerpts:

“The bureaucrats at HEW are all wet on this. We want to be fair to women, but this is not the way to go about it,” [said U.S. Representative Ronald Mottle (D-Ohio)].⁶³

NCAA President James Frank denied that the association had ever opposed Title IX or equality of opportunity for women in sports. “The NCAA has opposed bureaucratic overreach, but not the principles of equal opportunity,” he told a symposium on the implications of Title IX in Washington.⁶⁴

As defined here, inasmuch as backlash is a response to the perceived, believed, or feared effects of a policy, it could also be characterized as explicitly a self-interested response and not a principled one. A principled response to a public policy would oppose the policy on its face and not accept any effect at all because of its disagreement with the underlying premise of or reason for the policy. For example, someone opposed on principle to Title IX in sports might say that women should not be participating in sports but rather in other, more feminine activities, because cultural traditions should be observed. Such is the case exemplified in the following newspaper article excerpt:

As far as the question of competitive sports for girls is concerned, [school board member and psychologist Clifford] Knape observes, “It’s not part of our culture in Waco [Texas].”⁶⁵

⁶² Goode, 300.

⁶³ Nancy Scannell, “Coaches Ask Restudy of Title 9 Rules,” *The Washington Post*, 18 June 1975, p. E1.

⁶⁴ Bart Barnes, “Lack of Money Halts Boom in Women’s Sports,” *The Washington Post*, 5 July 1981, p. D4.

⁶⁵ Bart Barnes, “\$250,000 for Boys, \$970 for Girls,” *The Washington Post*, 12 May 1974, p. A14.

In this sense, the definition of backlash in this dissertation, therefore, agrees with Goode's stipulation, given earlier, that backlash does not include "active resistance by men and women who simply never approved of equality anyway."⁶⁶

In the context of anti-discrimination policy effects, backlash works by identifying practical ways in which the policy harms or could possibly harm traditional institutions and people who would have to share resources if the policy were put into effect. These ways are highlighted and held up as evidence that the anti-discrimination policy as it is being applied is bad for society and are sometimes offered as evidence that the policy's application is bad even for the population it is meant to help.⁶⁷

It should be noted that it could be difficult to discern a principled opponent from someone expressing backlash, but at the core, the person expressing backlash would actually support anti-discrimination policy, just not the way it was being implemented. To be sure, people expressing backlash against the effects of a policy become natural allies of people simply opposing a policy on its face. Consequently, backlash can serve to undermine a policy, just the same—for example, by impeding or delaying the policy's implementation. This is because backlash against a policy can come with calls for remedial actions to offset the offending effects of the policy, which, even if it did not involve a complete repeal of the policy nevertheless would probably serve to chip away at the policy. In the case of Title IX, these actions could appear as, for example, proposed or enacted legislation to address a specific negative effect attributed to Title IX,

⁶⁶ Goode, 300.

⁶⁷ Burke and Black.

changes to official Title IX enforcement policies by government agencies, or other lax Title IX implementation benchmarks and enforcement standards.

The definition of backlash posited here is close to the definitions or descriptions offered by Goode, Klarman, and Krieger, and it fits into the paradigms that Krieger and Klarman posited. It has been noted that backlash in a socio-legal context can exist at varying levels of intensity, based on the perceived significance of the threat to the status quo.⁶⁸ Moreover, political observers have suggested that as a threat to the status quo becomes felt, or at least becomes salient, the potential for sparking backlash increases.⁶⁹

While the conceptual definition of backlash offered in this dissertation is much narrower than the definitions or descriptions offered by many of the authors whose works were reviewed here, it is a definition that would fit within those other definitions, just the same. That is to say, all of the authors whose works were reviewed here would probably consider the conception of backlash offered here indeed to be backlash, though some might believe this conception to be only a partial representation of it. On the other hand, some of the authors, if they were to accept this definition, would have to agree that their research had covered some phenomenon other than backlash.

Operationalization

At this point, this dissertation's conceptual definition of backlash is pretty close to an operational definition in that it prescribes fairly tight conditions that must exist for

⁶⁸ D. T. Carter.

⁶⁹ Ibid.

backlash to occur. This section will present an example of how this dissertation's definition of backlash might be applied and observed. This example is simplistic by design, for ease of illustration, and is therefore admittedly unrealistic. That said, this example will help to make the concept of backlash more understandable. It will also shed light on what sort of analyses might be applied to a backlash scenario and under what conditions backlash could be expected to arise. This last note is probably the most important from a practical point of view, in formulating and implementing public policies.

Typically backlash would be an observed, rather than an empirically created and tested, phenomenon. Consequently, it would be necessary for a researcher to get in at the ground level to observe, or even to have input into, a new policy that could elicit backlash. First, it would be necessary to identify a public policy that would extend a general socio-political trend with which many people agree. It then would be necessary to impose that public policy in such a way as to have a disagreeable impact for a critical mass of people, and an impact great enough to cause a sharp or sudden oppositional response to the policy's effects. That is, the policy would have to have unacceptably negative resource consequences, whether real or perceived, for some or all of the people who otherwise generally agree with the socio-political trend. The resources could be money, time, power, personal property, or any other thing of value. Probably the only way to create this scenario would be by using mass media, which speaks to the importance of mass media in studying backlash.

Moreover, one could also create backlash of different intensities by injecting public policies of different levels. According to several researchers, the farther reaching

the policy, the relatively more intense the backlash response should be.⁷⁰ Empirically, one would expect to find more supporters of the general trend to be expressing backlash responses in the more intense scenario. While this would be a subjective difference, it would lend support for the backlash operationalization described here inasmuch as backlash, by the definition given earlier, is a dependent variable, so it should vary with variations in the independent variables. To determine whether backlash materialized, a researcher could examine responses to the trend and then to the policy appearing in the mass media before and after implementation of the policy.

As an example, the debate over Social Security privatization has characteristics that lend the issue to backlash possibilities. People generally agree that there is a financial problem with Social Security, as a system, as it is currently configured and that it needs reform. Yet there is debate over what to do. A researcher conceivably could collaborate with a privatization proponent in Congress to put forth a proposal to privatize Social Security in some fashion or another and then observe the debate and media messages that emerge. Such a proposal could be offered at different levels, from partial to full privatization, and affecting all ages of Americans or only certain age cohorts.

People with socialistic value systems would probably oppose any such proposal on its face, believing that it is a moral imperative that the government provides retirement income to the elderly. Opposition from these people would not constitute backlash as it has been defined here, though these people would be natural allies to those who did express true backlash to a proposal. Backlash would be expressed by people who in

⁷⁰ For example, see Krieger, Klarman, Roe.

theory support Social Security reform—perhaps even some form of privatization—but who perceive that they could experience some harm from the effects of the specific policy, if implemented (whether there would actually be harm is irrelevant—even the perception that there could be harm could elicit backlash messages). Moreover, these people theoretically would continue to support some kind of Social Security reform, just not the specific proposal.

This example offers a number of possibilities for observing backlash. Just to mention two: 1) it would be possible to target specific parts of the population with the proposal, thereby provoking backlash in parts of the population and not others, and 2) it would be possible to offer the proposal at different levels of intensity, thereby potentially eliciting different levels of backlash intensity. As with most policy proposals, this debate would almost certainly take place publicly, in the mass media. The proponents of the policy proposal would announce and promote the proposal in the mass media, and people who would perceive possible negative effects would promulgate backlash frames in the mass media in order to combat the proposal and steer Social Security reform in a different direction.

Conclusion

Operationally, backlash is established by the following factors:

- People support a general social change;
- Public policies supporting that change are proposed or even put in place;
- The effects or perceived effects of those policies are more unsettling or disruptive to the public than was expected or than will be tolerated;

- There is an oppositional response to the policy's effects, even as those who are expressing opposition continue to support the underlying social change.

Hence, definitions have been outlined here to blend the most important elements of existing conceptions of backlash into a concise framework. More importantly, in the case of the concept of backlash, previous conceptions have been narrowed to create a concrete, useable term. Having a precise definition of the term “backlash” matters for social scientists because it allows them to distinguish the phenomenon from other social reactions and processes, just as the term in a mechanical context allows engineers to distinguish the phenomenon from other mechanical reactions and processes.

Inevitably, backlash will remain a controversial concept in the literature because the ambiguous, far-reaching, and general definitions and conceptions of it are so ubiquitous and because, again, one of the most widely referenced works on the topic—namely, Faludi's *Backlash: The Undeclared War against American Women*—is a popular culture book that few researchers have considered critically. As more work is done on the topic of backlash, the need for a more precise, concrete, contained, and refined conception of it will probably become evident. It is hoped that this dissertation has begun the process of constructing it.

Chapter 3: Review of the Literature

The last chapter outlined three critical elements in an explication of backlash: 1) a sudden, often emotional antagonistic oppositional response to 2) the *impact* of a movement, event, trend, or *policy* that stems from 3) “play” in the social system. That explication makes obvious the need to examine three distinct bodies of literature in assessing the role of backlash in the implementation of any public policy, including and especially Title IX. One is the literature on conflict, as it speaks to the interplay between the first two critical elements of this dissertation’s definition of backlash. The second is the rhetoric literature, especially as it relates to the response element of this dissertation’s definition of backlash. The third is the mass communication literature as it relates to the impact of messages on large audiences, i.e. on public opinion, because the mass media are largely the venue in which the “play” element of this dissertation’s definition of backlash is allowed to exist and where any misalignment or conflict of goals is articulated. Consequently, this chapter will review these three bodies of literature inasmuch as they relate to conflict rhetoric and conflict transformation and the relation of these to the mass media and public opinion. After all, backlash is largely based in rhetoric and is a manifestation of a conflict process and is largely reliant on mass media for its existence.

First, though, because the topic of this dissertation is backlash, and because backlash against the effects of Title IX is specifically being analyzed here, it would be worthwhile to review some of the most relevant literature about Title IX. This will help to highlight important characteristics of the law and to explain why the conflict over the implementation of Title IX makes a good case study for this dissertation. The review of

the literature about Title IX and about the conflict over its implementation will segue into a review of the literature about the more general topics of conflict and rhetoric. The chapter will conclude by examining relevant mass communication literature and by posing research questions to guide the rest of this dissertation.

Title IX: A History of Conflict

While Title IX was not crafted as a response to widespread public demand,⁷¹ many scholars have in retrospect suggested that the law nevertheless marked a significant moment in women's quest for equality, especially in athletics.⁷² As evidence of this, proponents of Title IX point to the fact that since the passage of the law, for example, opportunities for women to participate in athletics have changed dramatically. Just before Title IX's passage, there were about 16,000 individual college women participating in varsity athletics, while in 2004 there were over 8,000 teams.⁷³ In 1970, there were on average 2.5 women's varsity teams per college, compared with 8.32 in 2005.⁷⁴ At the high school level, there were about 294,000 girls who participated in

⁷¹ Joyce Gelb and Marian Lief Palley, *Women and Public Policies: Reassessing Gender Politics* (Charlottesville: University of Virginia Press, 1996).

⁷² E.g., Mary Jo Kane, "The Post-Title IX Female Athlete in the Media: Things Are Changing, but How Much?" *Journal of Physical Education Recreation and Dance*, 60, no. 3 (1989): 58-64; Mary Jo Kane and JoAnn Buysse, "Intercollegiate Media Guides as Contested Terrain: A Longitudinal Analysis," *Sociology of Sport Journal*, 22 (2005): 214-238; Lee McGinnis, Julia McQuillan, and Constance L. Chapple, "I Just Want to Play," *Journal of Sport & Social Issues*, 29, no. 3 (2005): 313-337; Michael Messner, "Sports and Male Domination: The Female Athlete as Contested Ideological Terrain," *Sociology of Sport Journal*, 5 (1988): 197-211; Michael Messner, *Taking the Field: Women, Men, and Sports* (Minneapolis: University of Minnesota Press, 2002).

⁷³ National Association of Girls and Women in Sports, *Women's Sports & Fitness Facts & Statistics* (East Meadow, N.Y.: Women's Sports Foundation, 2005).

⁷⁴ *Ibid.*

interscholastic athletics in 1971-72 and about 2.9 million in 2004-05, compared with nearly 3.7 million boys in 1971-72 and about 4.1 million in 2004-05.⁷⁵ (Also see the Title IX timeline in Table 3-1 at the end of this chapter for more detailed, year-by-year participation statistics.)

When the Education Amendments of 1972 were debated in Congress, the focus of the debates was on other parts of the legislation—there were 20 parts in all—most notably on busing of elementary and secondary students to effect racial integration, and not on the Title IX part.⁷⁶ The following quotation illustrates this.

“When it was proposed in 1972, we had no idea that its most visible impact would be in athletics,” said Representative Patsy Mink (D-Hawaii). “I had been paying attention to the academic issue. I had been excluded from medical school because I was a female.”⁷⁷

Because there was little scrutiny of its implications for athletics before the law’s passage, neither of the “sides” of the conflict that eventually materialized was mobilized; consequently, both were starting from basically the same point in developing and promulgating their messages. Shortly after the legislation passed, though, Title IX’s possible implications for athletics came into question. It became clear that, if Title IX were to be applied to athletic departments at educational institutions, then there would

⁷⁵ National Federation of State High School Associations, *2004-2005 NFHS High School Athletics Participation Survey* (Indianapolis: Author, 2005).

⁷⁶ E.g., Congress, Senate, S. 659 (enacted), 92nd Cong., 2nd sess., *Congressional Record* (1972): 20278-20341.

⁷⁷ Josh Barr, “Title IX Still Has a Tough Deed at 30; Small sports Face Financial Inequity,” *The Washington Post*, 9 May 2002, p. D01.

have to be adjustments in the allocation of resources to accommodate gender equality. This was the catalyst for the conflict and backlash.

Conflict erupted across the nation over the implementation of Title IX and its effects on the education-athletics establishment,⁷⁸ and there were several attempts in Congress to exempt college athletics from Title IX.⁷⁹ Indeed, throughout its history, Title IX has been a subject of court battles, legislative actions, and administrative reviews. (See the Title IX timeline in Table 3-1 at the end of this chapter for some of the most significant milestones in the policy's legislative and court history.) The conflict came to involve two distinct sides: the one side favoring the swift and complete implementation of the law, as written, at any cost, in the context of athletics; the other side opposing the implementation, as required, especially inasmuch as it would require any reallocation of resources (including money, time, power, or any other thing of value) in the context of athletics.⁸⁰ Once these sides of the conflict materialized, their agents developed opposition and advocacy messages and attempted to have those messages deployed in the mass media.

Deborah Brake wrote about several facets of the conflict between Title IX proponents and opponents.⁸¹ For example, she wrote about the essentialization of

⁷⁸ "Title IX at 30: Still under Fire," *USA Today*, 19 June 2002, p. 3C.

⁷⁹ Gelb and Palley, 95.

⁸⁰ Greendorfer.

⁸¹ Deborah Brake, "Revisiting Title IX's Feminist Legacy: Moving Beyond the Three-Part Test," *Working Paper Series*, 7 (Pittsburgh, Penn.: University of Pittsburgh School of Law, 2004a); Deborah Brake, "When Equality Leaves Everyone Worse Off: The Problem of Leveling Down in Equality Law," *Working Paper Series*, 8 (Pittsburgh, Penn.: University of Pittsburgh School of Law, 2004b); Deborah Brake, "Retaliation," *Working Paper Series*, 23 (Pittsburgh, Penn.: University of Pittsburgh School of Law, 2005).

physical inequality between genders and the role of the market in justifying sex discrimination: This is the idea that because gender is an essential irreducible complexity and, because masculine sports are the most valued in society, men's sports ultimately are rendered more popular and more lucrative than women's, and inequality is therefore justified.⁸² Brake also wrote about the phenomenon of "leveling down" to achieve gender equality: This is the idea that equality can be achieved by bringing everyone down to the lowest common denominator, rather than uplifting anyone.⁸³ She suggested further that this tactic has been used in the conflict over anti-discrimination law in order to engender resentment and bitterness toward disadvantaged classes of people, such as women in athletics.⁸⁴ Extending this idea, Brake also wrote about retaliation as a response to anti-discrimination law: This is the idea that people who complain about discrimination might experience negative consequences at the hands of advantaged individuals.⁸⁵

Because of Title IX's impact on the distribution of scarce resources within educational institutions' athletics departments, proponents have argued that the law represented a challenge to the customary social order dominated by men and therefore gave rise to agents of the traditional social order.⁸⁶ With the injection of a formal social change construct like Title IX, analysts have suggested that social agents such as these

⁸² Brake (2004a).

⁸³ Brake (2004b).

⁸⁴ Ibid.

⁸⁵ Brake (2005).

⁸⁶ E.g., Kane (1989); Messner (1988).

have choices: a) they can actively and defiantly choose to continue traditional ways of behaving,⁸⁷ b) they can passively try to continue behaving in traditional ways, or c) they can adjust in accordance with the new social framework.⁸⁸ In other words, researchers have posited, the social agents affected by Title IX have had options in how to deal with the law, ranging from compliance, to ambivalence, to defiance.⁸⁹ Many Title IX proponents have argued that agents of the traditional world of athletics dominated by men have chosen a defiant stance in response to Title IX.⁹⁰ In short, Title IX implementation and enforcement has become what Michael Messner called “contested terrain.”⁹¹

It has been argued that to some extent the conflict over Title IX has been a product of bureaucratic administration and weak enforcement of the law and resultant ambiguity in the law’s requirements and implications.⁹² The U.S. Department of Education (DoE, formerly U.S. Department of Health, Education, and Welfare, HEW), Office for Civil Rights (OCR), is in charge of administering and enforcing the law. As such, the OCR has issued guidelines for affected institutions to follow in regard to Title IX. Most notably, to clarify the responsibilities of affected institutions, the OCR issued a

⁸⁷ Douglas M. McLeod and James K. Hertog, “Social Control, Social Change and the Mass Media’s Role in the Regulation of Protest Groups,” in David Demers and Kasisomayajula Viswanath, eds., *Mass Media, Social Control, and Social Change: A Macrosocial Perspective* (Ames, Iowa: Iowa State University Press, 1999), 305-330.

⁸⁸ Messner (2002).

⁸⁹ E.g., McLeod, and Hertog.

⁹⁰ E.g., Sue Curry Jansen and Don Sabo, “The Sport/War Metaphor: Hegemonic Masculinity, the Persian Gulf War, and the New World Order,” *Sociology of Sport Journal*, 11 (1994): 1-17; Vikki Krane, “We Can Be Athletic and Feminine, but Do We Want To? Challenging Hegemonic Femininity in Women’s Sport,” *Quest*, 53 (2001): 115-133; Messner (1988); Marta Sage and David Furst, “Coverage of Women’s Sports in Selected Newspapers,” *Perceptual and Motor Skills*, 78 (1994): 295-296.

⁹¹ Messner (1988).

⁹² “Title IX at 30: Still under Fire,” *USA Today*.

“Policy Interpretation” in 1979,⁹³ clarified the policy in 1996,⁹⁴ provided further clarification in 2003,⁹⁵ and provide yet further clarification in 2005.⁹⁶

The guidelines included what has become known as the “three-part test” for compliance with Title IX.⁹⁷ The test provides that an institution is in compliance with Title IX if 1) the intercollegiate-level athletics participation opportunities are “substantially proportionate” for men and women students respective to their proportions of the institution’s undergraduate enrollments, 2) the institution has demonstrated a “history and continuing practice of program expansion” for the underrepresented sex, or 3) the institution is “fully and effectively” accommodating the athletic interests of the underrepresented sex.⁹⁸ Yet even as the three-part test has been administered since 1979, the OCR, depending on the administration at the time, has not been consistent in its interpretations or emphases within that test. Indeed, some members of the U.S. House of Representatives recently proposed a resolution saying that the 2005 clarification “violates the spirit and intent of the mandate of Title IX.”⁹⁹

⁹³ Department of Health, Education, and Welfare, Office for Civil Rights, “Policy Interpretation,” *Federal Register* 44, no. 239 (11 December 1979): 71,413-71,423, microfiche.

⁹⁴ Department of Education, Office for Civil Rights, *Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test* (Washington: Government Printing Office, 1996).

⁹⁵ Department of Education, Office for Civil Rights, *Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance* (Washington: Government Printing Office, 2003).

⁹⁶ Department of Education, Office for Civil Rights, *Additional Clarification of Intercollegiate Athletics Policy: Three-Part Test—Part Three* (Washington: Government Printing Office, 2005).

⁹⁷ *Ibid.*

⁹⁸ Department of Health, Education, and Welfare (1979).

⁹⁹ GovTrack.us, H. Res. 735—109th Congress (2006): Expressing the sense of the House of Representatives that the “Additional Clarification of Intercollegiate Athletics Policy: Three-Part Test-part Three,” issued by the Department of Education without notice or opportunity for public comment on

Review of Relevant Conflict and Rhetoric Literature

Communication scholars and conflict scholars generally agree that conflict can be defined as a struggle between parties who perceive goal incompatibility, scarce resources, and interference by their adversaries in their goal achievement.¹⁰⁰ Such perceived misalignment of goals is a key element to the creation of backlash as defined here. Scholars also agree that perceptions—that is to say, the disputants’ views of one another’s motives, goals, and strategies—are the most central variable in the creation and management of interactions that involve conflict.¹⁰¹ Conflict often involves differences in both perception and opinion,¹⁰² and such a characterization fits the struggle over Title IX.

It should be noted that there is a characteristic that makes the Title IX conflict different from many conflicts that have been studied: Combatants on both sides of the Title IX conflict appear to view any movement toward a compromise as a loss (a negative impact). The status quo positions of the combatants are inefficient, located neither on the “Pareto-optimal frontier”¹⁰³ nor at the Nash equilibrium point, as would be the case of

March 17, 2005, is inconsistent with longstanding Department policies and fundamental principles of equality, is a disservice to our Nation’s young women, and should be withdrawn by the Department of Education, <http://www.govtrack.us/congress/bill.xpd?bill=hr109-735>, accessed 21 December 2008.

¹⁰⁰ William R. Cupach and Daniel J. Canary, *Competence in Interpersonal Conflict* (Prospect Heights, Ill.: Waveland, 1997); Joseph P. Folger, Marshall S. Poole, and Randall K. Stutman, *Working through Conflict: A Communication Perspective*, 4th ed. (New York: Longman, 2001).

¹⁰¹ Alan L. Sillars, Linda J. Roberts, Tim Dun, and Kenneth E. Leonard, “Stepping into the Stream of Thought: Cognition during Marital Conflict,” in Valerie Manusov and John H. Harvey, eds., *Attribution, Communication, and Close Relationships* (Cambridge, U.K.: Cambridge University Press, 2000), 193-210.

¹⁰² Derek J. Koehler, “Persistence of Conflicting Views,” *Working Paper Series, 10* (Stanford, Calif.: Stanford University, 1990): 12.

¹⁰³ Koehler: 11.

combatants who are mutually rational.¹⁰⁴ In other words, the status quo positions of the combatants are not based on rational thought but rather on emotion—another element contained in the definition of backlash. Viewing any compromise as a loss affects the bargaining strategies employed by the opposing sides in the Title IX conflict;¹⁰⁵ studies have shown that in conflicts like this, because they are faced with a potential loss, both parties are more likely to hold out and risk failing to settle at all in an attempt to gain concessions from the other side.¹⁰⁶ Consequently, the conflict over the implementation of Title IX presents sharp reactions and rhetoric between the combatants and a perception of “play” or misalignment of goals that could be adjusted in their favor. Taken together, the conflict over Title IX, then, includes all three of the elements critical to a backlash scenario as the term has been defined in this dissertation.

Because a dispute essentially involves a claim and a rejection, disputes are reactive by definition; this characteristic is obvious when disputing parties engage in bargaining or litigation.¹⁰⁷ The reactions involved in disputing are subject to ambiguous behavior, faulty recall, uncertain norms, conflicting objectives, and inconsistent

¹⁰⁴ John F. Nash, “The Bargaining Problem,” *Econometrica*, 18, no. 2 (1950): 155-162.

¹⁰⁵ Koehler: 11.

¹⁰⁶ Max H. Bazerman, “Negotiator Judgment,” *American Behavioral Scientist*, 27 (1983): 211-228.

¹⁰⁷ William L. F. Felstiner, Richard L. Abel, and Austin Sarat, “The Emergence and Transformation of Disputes: Naming, Blaming, Claiming...,” *Law & Society Review*, 15, no. 3-4 (1980-81): 638.

values.¹⁰⁸ These differences are often accompanied by differing perceptions of a conflict.¹⁰⁹ Koehler explained:

Conflict arises from an apparent clash of interests held by the parties involved. Often these opposing interests are accompanied by differing views of the situation in question. That is, it is rare to find a conflict in which all parties agree in their definitions of the problem. Indeed, in such a case there usually is no conflict *per se*, but rather a sort of competition in which each party tries to gain, usually at the expense of the other parties, but at the same time shares a common view with the other parties. One could say that these parties agree in their perceptions of the “game” in which they are involved, and are simply playing by the agreed-upon rules. This is not at all the case among conflicting groups. Instead, conflict is usually characterized by a fundamental disagreement about the very nature or meaning of the problem in which they are embroiled.¹¹⁰

From the perspective of Conflict Frame Theory and research, and what is most relevant to this dissertation, is that there is a focus on discourse to glean insight into how disputing parties and other agents to a dispute use frames to define a conflict.¹¹¹ In recent years, researchers have become increasingly focused on mass media frames and how they define people’s beliefs and attitudes.¹¹² When forming an idea, individuals do not draw upon all information they have ever encountered on a topic; instead, they rely on the information made most salient to them by the media coverage dominating their minds and memories.¹¹³ This framing effect can be explained by the cognitive accessibility

¹⁰⁸ Ibid.

¹⁰⁹ Koehler: 3.

¹¹⁰ Ibid.

¹¹¹ Randall G. Rogan, “Conflict Framing Categories Revisited,” *Communication Quarterly*, 54, no. 2 (2006): 160.

¹¹² Jörg Matthes, “Beyond Accessibility? Toward an On-Line and Memory-Based Model of Framing Effects,” *Communications: The European Journal of Communication Research*, 32 (2007): 51.

¹¹³ Ibid.: 53.

theory, which assumes that people use cognitive shortcuts or heuristics in processing information and making judgments.¹¹⁴ In a conflict scenario, researchers focus on how frames are developed, negotiated, and transformed during the course of the conflict.¹¹⁵

To date, only a few studies have investigated the types of frame categories that people use to define their conflicts,¹¹⁶ and even though there is agreement that the introduction, manipulation, and transformation of frames are important processes in a dispute scenario, there is an absence of consensus about the exact number and specific categories of frames that people use to define their conflicts.¹¹⁷ Consequently, this is one place where a gap exists in the research such that investigation into disputes over Title IX and into backlash against Title IX's effects could be enlightening. The following is a review of two of the most relevant and important studies.

Randall Rogan noted that Barbara Gray and Anne Donnellon were perhaps the first scholars to investigate frame categories in conflict discourse, and, based on a review of the conflict literature, they developed a set of seven frame categories to code conflict interaction: substantive, loss-gain, characterization, outcome, aspiration, process, and evidentiary frames.¹¹⁸ Gray and Donnellon categorized conflict frames as follows:

A substantive frame denotes focus on what the conflict is about in terms of the person's particular disposition. A loss-gain frame denotes how an

¹¹⁴ Susan T. Fiske and Shelley E. Taylor, *Social Cognition* (New York: McGraw-Hill, 1991).

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid., 162.

¹¹⁸ Rogan: 160.

individual views the potential risks associated with specific outcome options. A characterization frame denotes how the parties generally view each other. An outcome frame reflects a party's predisposition toward realizing a particular outcome. An aspiration frame denotes a party's general concern for broad-based interests or needs as opposed to a specific outcome. A process frame reflects a party's concern for how the conflict is managed and negotiated as opposed to a focus on the ultimate outcome. Finally, an evidentiary frame reflects a party's use of facts and evidence to support an argument either for or against a particular outcome.¹¹⁹

In this paradigm, while the conflict over Title IX could fit more than one category, it probably would most neatly fit the "outcome" category, with both sides of the conflict seeking a particular outcome that is incompatible with that of the other side.

Rogan noted also that Robin Pinkley asserted three frame dimensions: a relationship-task frame, an emotional-intellectual frame, and a compromise-win frame. The relationship-task frame focuses on the degree to which individuals express concern about their relationships with other people as opposed to the more substantive issue under conflict. The emotional-intellectual frame refers to the degree to which people describe their conflict in affective terms, that is, feelings, as opposed to facts. The compromise-win frame focuses on the degree to which a person views a conflict in terms of compromise versus blame and maximizing one's own profits.¹²⁰ While the conflict over Title IX could fit into more than one frame dimension in Pinkley's paradigm, it probably fits most neatly in the third.

As noted earlier, the conflict within these frames, from whichever paradigm, is dynamic. Lynn Mather and Barbara Yngvesson stated an assumption that is fundamental

¹¹⁹ Ibid.

¹²⁰ Robin L. Pinkley, "Dimensions of Conflict Frame: Disputant Interpretations of Conflict. *Journal of Applied Psychology*, 75, no. 2 (1990): 117-126.

to the conflict rhetoric literature: “A dispute is not a static event which simply ‘happens’... the structure of disputes, quarrels, and offenses includes changes or transformations over time.”¹²¹ Therefore, transformations in conflicts occur because participants in the disputing process have different interests in and perspectives on the dispute; participants assert these interests and perspectives in the very process of engaging in the dispute.¹²² By transformation of a dispute, Mather and Yngvesson meant a change in its form or content as a result of the interaction among the participants in the dispute; they suggested that transformation is continuous, beginning when one party initially perceives a grievance against another.¹²³ This is important to understand because backlash, by definition, is an interactive communications phenomenon and its injection into a conflict produces a transformation.

Indeed, in any conflict communication, whether backlash is a component of the communication or not, at a fundamental level, the transformation of a dispute involves a process of rephrasing—that is, some kind of reformulation of discourse.¹²⁴ Felstiner, Abel, and Sarat asserted that scrutiny of transformation also reveals reactivity at the earlier stages, before an outright dispute has begun, “as individuals define and redefine their perception of experience and the nature of their grievance in response to the

¹²¹ Mather and Yngvesson: 776.

¹²² Ibid.

¹²³ Ibid.: 777

¹²⁴ Ibid.

communications, behavior, and expectations of a wide range of people, including opponents, agents, authority figures, companions, and intimates.”¹²⁵

Mather and Yngvesson suggested that focusing on three variables—language, participants, and audience—in disputes can help to explain transformations and the degree to which those transformations lead to particular outcomes.¹²⁶ They noted that these variables are by no means exhaustive; furthermore, their precise interaction cannot be specified at the present time, since transformation processes are extremely complex, and far more research is needed in this area.¹²⁷ This dissertation will attempt to provide some insight into these processes.

In terms of the first of Mather and Yngvesson’s variables, language, the rhetorical strategies behind the conflict transformation are political. Individuals and groups have vested interests in particular definitions of persons and events; because changes in definition tend to meet with resistance, they require some basis of support if they are to succeed.¹²⁸ This is a linguistic process because changes in perspective and definition involve applying new labels to familiar characters and events.¹²⁹ These new labels act as “a catalyst in the shaping of perception... [P]eople potentially see an issue in several alternative lights, and the language form itself evokes some of the potentialities.”¹³⁰

¹²⁵ Felstiner, et al.: 638.

¹²⁶ Mather and Yngvesson: 798.

¹²⁷ Ibid.

¹²⁸ Ibid.: 799.

¹²⁹ Ibid.

¹³⁰ Murray Edelman, *Politics as Symbolic Action: Mass Arousal and Quiescence* (Chicago: Markham, 1971), 68.

Conflict as a Mass Communication Issue

In terms of the second variable, the parties to a conflict obviously are the central agents, as well as the objects, in the process.¹³¹ They and other participants vary in terms of their power to shape the dispute and influence its outcome.¹³² The participants can gain advantage by enlisting agents, including journalists, to assist in effecting a conflict transformation.¹³³ Lawyers, psychotherapists, union officials, social workers, government functionaries, and others can help people understand their grievances and what they can do about them.¹³⁴ Moreover, in rendering their services, agents almost always produce a transformation.¹³⁵ Disputants, supporters, third parties, and relevant publics seek to rephrase and thus transform disputes by classifying or reclassifying events and relationships.¹³⁶ Thus, how disputes are defined and the roles played by various participants, including reporters and news commentators, are critical features of disputes.¹³⁷

The last of Mather and Yngvesson's variables to consider was audience. An audience, they suggested, whether composed of a group of supporters or detractors, acts implicitly as the third party to a dispute. Mather and Yngvesson suggested that as the

¹³¹ Felstiner, et al.:640.

¹³² Mather and Yngvesson: 781.

¹³³ Ibid.: 775.

¹³⁴ Felstiner, et al.: 645.

¹³⁵ Ibid.

¹³⁶ Mather and Yngvesson: 775.

¹³⁷ Ibid.

role of the third party becomes more explicit, the rephrasing is likely to reflect a greater, or more substantive, shift in the definition of the dispute.¹³⁸ The implication here is that the more public a dispute becomes, as it would for example by appearing in the mass media, the greater the role of the audience in defining the dispute.

According to the United States Institute of Peace,

“[The] media can play a central role in the promotion of peace; they can emphasize the benefits that peace can bring, they can raise the legitimacy of groups or leaders working for peace, and they can help transform images of the enemy, but the media also can serve as destructive agents in a peace process. They can emphasize the risks and dangers associated with compromise, raise the legitimacy of those opposed to concessions, and reinforce negative stereotypes of the enemy.¹³⁹

Indeed, journalists most generally rely on conflict as a conventional method of framing news reporting.¹⁴⁰ They publicly pit one side against another and, to the extent that the media influence disputants and their agents, it has been asserted that they often exacerbate conflicts by the very nature of their reporting.¹⁴¹

Still, there has been little systematic study of how conflicts are transformed by the media, and there is apparently no research on the topic of backlash and the media’s role in relation to it. Studying and understanding this role from an academic perspective could be helpful on a practical level because in the context of conflicts appearing in the mass media, there is evidence to suggest that public opinion is greatly influenced by

¹³⁸ Ibid.: 777.

¹³⁹ Gadi Wolfsfeld, *Peaceworks 37: The News Media and Peace Processes: The Middle East and Northern Ireland* (Washington: United States Institute of Peace, 2001), 5.

¹⁴⁰ Trudie Richards and Brent King, “An Alternative to the Fighting Frame in News Reporting,” *Canadian Journal of Communication* 25, no. 4 (2000): 479; Wolfsfeld.

¹⁴¹ Richards and King.

media frames and can be moved when the media present a changing frame. For example, in the case of an Amish sect in Iowa defying the law about having certified teachers in their schools, public sentiment changed immediately from being pro-state to being pro-Amish when a photograph of Amish children fleeing police and state officials acted as a vehicle for transforming the case by reframing the issue as one of helpless children being chased by police.¹⁴² It shifted the framework in which the case was perceived from one of willful disobedience of the state code by the Amish, to one of persecution of the Amish by the state.¹⁴³ For another example, when racial affirmative action was framed in terms of reverse discrimination harming Whites or in terms of unfair advantage for Blacks, public support for affirmative action shifted.¹⁴⁴ Framing research looking at these examples and others has shown public opinion to be highly volatile.¹⁴⁵ This makes more poignant the ongoing battle to set the agenda in the implementation of Title IX and to assert the frames in the arena of public opinion. (For historical public opinion data regarding Title IX, see Table 3-2 at the end of this chapter.)

Again, to the extent that public opinion is affected by the media agenda and considering that policymakers are part of and usually beholden to that public, the media agenda and the public policy agenda are intertwined.¹⁴⁶ As basically a third party to the

¹⁴² Harrell R. Rodgers, Jr., *Community Conflict, Public Opinion, and the Law: The Amish Dispute in Iowa* (Columbus, Ohio: Charles E. Merrill, 1969).

¹⁴³ Ibid.

¹⁴⁴ Donald R. Kinder and Lynn M. Sanders, "Mimicking Political Debate with Survey Questions: The Case of White Opinion on Affirmative Action for Blacks," *Social Cognition*, 8 (1990): 73-103.

¹⁴⁵ See Baumgartner and Jones; MacKuen and Coombs.

¹⁴⁶ Kingdon, 64.

Title IX dispute, with a choice about what side to support, a policymaker may very well aim at satisfying what is perceived to be the majority of the public.¹⁴⁷ The bottom line is that the mobilization of constituents of a particular view can help to influence a decision in a conflict situation.¹⁴⁸ To the extent that backlash can become more intense and more broad-based if a threat to the status quo is more broadly perceived,¹⁴⁹ this is where mass media exposure becomes especially important in a public policy context, because there is much evidence to support the idea that media attention to public policy issues influences the form and magnitude of official policy responses to those issues.¹⁵⁰ This is also where the role of journalists comes into play, as either filters of messages (or, more important to this dissertation, frames) or as simple conduits of the messages or frames promulgated by the sides of a conflict. They are the ones who decide what frames—whose frames—achieve standing in the mass media and consequently in the public policy arena.¹⁵¹

Research Questions and Expectations

A social process like the one being investigated here may involve phases, with one view or another rising and falling with the influence of various agendas and their agents' efforts to frame and re-frame the issue to gain the upper hand in public

¹⁴⁷ de Sousa Santos: 19.

¹⁴⁸ Mather and Yngvesson: 782.

¹⁴⁹ D. T. Carter.

¹⁵⁰ See Baumgartner and Jones; Gonzenbach; MacKuen and Coombs; Trumbo.

¹⁵¹ Myra Max Ferree, William A. Gamson, Jurgen Gerhards, and Dieter Rucht, *Shaping Abortion Discourse* (Cambridge, U.K.: Cambridge University Press, 2002).

opinion.¹⁵² To build descriptively and theoretically on the base established by existing scholarly work reviewed above, it will be necessary to analyze messages of opposition to Title IX over time (the language), to look at the agents promulgating the messages (the people), and to consider the effects of the mass media treatment of the agents and their messages (the audience). This will allow an understanding of the conflict transformation process in which backlash against a public policy might be a factor.

Issue 1: Before there can be any mass communication of a message, of course, a message must exist. In the case of the conflict over Title IX, there have been two distinct sides vying for public attention and social dominance. It makes sense, then, to look at mass media messages to see how they have evolved and to understand the mechanisms involved in creating opposition frames and advocacy frames in the debate over the policy. Therefore, this dissertation will examine the media frames promulgated by the sides of the conflict over Title IX and will discuss how the sides have used the mass media to advance their ideas. Central to the theoretical basis of this part of the study is the assumption that there are interesting rhetorical strategies used in public policy conflicts in which backlash might be a factor; also central is the idea that there are special conditions and processes that allow frames not only to emerge but also to dominate and win in the arena of public opinion. This question is informed by a pilot study conducted by the author in which frames in the conflict over Title IX were identified; a summary of this pilot study constitutes the next chapter of this dissertation.

¹⁵² Gonzenbach, 10.

Research Question 1: What is the nature of opposition and advocacy frames in the public policy debate over Title IX, do they evolve over time, and do they transform the conflict?

Rationale: This research question grows out of both the rhetoric and conflict literatures. At a theoretical level, investigating this research question could extend basic frame theory by showing connections between framing and conflict, specifically as it potentially relates to backlash. It will allow this dissertation to proffer an analysis of how the Title IX conflict fits into the models put forth by Gray and Donnellon and by Pinkley.¹⁵³ On a more concrete level, investigating this research question will provide evidence to illustrate the dynamic conflict transformation processes outlined by Mather and Yngvesson.¹⁵⁴ Indeed, some of the strengths of this research question are that the findings associated with it will show in a real-life example the transformation of a conflict, and they will show this over a 35-year-or-so time period.

An assumption made here is that there will have been special rhetorical strategies employed that are characteristic of conflicts in which backlash is a desired outcome for an opposition side and uncompromising implementation and advocacy for the other side. Another assumption here is that the timing of the frame deployment will be a function of interaction between the sides in the mass media and that the conflict will be transformed by these interactions. Yet another assumption is that there is a process by which opposition and advocacy frames move into the mass media, and this will be investigated in conjunction with investigating the second research question, given below.

¹⁵³ Rogan: 160.

¹⁵⁴ Mather and Yngvesson: 777.

Expectation: Expected to be found is that, over time, critics of the implementation of Title IX have put forth opposition frames in the mass media and, in response, Title IX advocates have asserted advocacy frames in an attempt to co-opt and counteract the frames of the opposition side. Moreover, expected to be found is a dynamic, transformational conflict in which the “sides” of the conflict adjust and react to one another’s frames and strategies.

Issue 2: Researchers have suggested that mass media agents can play an important role in bringing about policy change.¹⁵⁵ Consequently, it makes sense to try to understand the role of the media in the conflict over Title IX—that is, the role they have opted to take and how they have chosen to process the frames promulgated by the sides in the conflict over Title IX and specifically how they have chosen to process opposition and advocacy frames. Therefore, this dissertation will examine the role(s) the media have taken in the conflict over Title IX and the relationships that have appeared between the media and the sides of the debate.

Central to the theoretical basis of this part of the study is the assumption that the media have choices in terms of what roles to take in public policy debates; also central is the idea that media have a role, whether they choose one or not and whether they recognize it or not, and the competing sides in public policy debates are therefore

¹⁵⁵ Robert E. Drechsel, *Newsmaking in the Trial Courts* (New York: Longman, 1983).

affected no matter what.¹⁵⁶ Also central to this part of the study is the idea that public opinion can be influenced by mass media messages.¹⁵⁷

Research Question 2: What, if any, has been the correlation between the appearance of opposition and advocacy frames in the policy debates about Title IX and variations in reporting and commentary on Title IX? In other words, what do the frames that appear in the conflict over the implementation of Title IX and the placement and timing of their appearances tell us about the role of the mass media, and what can consumers expect from the mass media in conflicts that involve opposition to an anti-discrimination policy?

Rationale: This research question grows mainly out of the mass communication literature. Specifically, it will help this dissertation to extend basic agenda-setting and cultivation theories. An assumption is that mass media agents have choices in how they report or comment on public policies.¹⁵⁸ Another assumption is the audiences' opinions are swayed by what they read in the parts of the newspaper that they read,¹⁵⁹ and therefore the appearance of the different frames in the mass media, and their specific location, matter.

Investigation of this research question should allow evaluation of the degree to which Richards and King's thesis—that media pit sides against one another—is

¹⁵⁶ See Drechsel; Delmer D. Dunn, *Public Officials and the Press* (Reading, Mass.: Addison-Wesley, 1969); and Dan D. Nimmo, *Newsgathering in Washington: A Study in Political Communication* (New York: Atherton, 1964).

¹⁵⁷ See Baumgartner and Jones; MacKuen and Coombs.

¹⁵⁸ Drechsel.

¹⁵⁹ MacKuen and Coombs.

supported in the context of Title IX.¹⁶⁰ It should also allow discussion of the degree to which the media have taken sides—and what sides—in the conflict over implementation of Title IX, thereby giving concrete evidence relevant to the work of Felstiner, et al., regarding the role of agents in conflicts.¹⁶¹ Moreover, investigating this research question should also allow discussion of the role of the media over time in transforming a conflict that involves opposition and advocacy frames.

Expectation: Based on prior research, which will be explained in the next chapter, it was expected that a variety of frames about Title IX would be found in the mass media and that their appearance would follow certain patterns:

- a) opposition and advocacy frames will appear in the mass media after they have been promulgated by agents of the sides of the conflict and after they have appeared in legislative debates and court proceedings;
- b) Opposition frames will appear more often on newspapers' sports pages;
- c) Pro-Title IX advocacy frames will appear more often on newspapers' editorial pages;
- d) "Debate" frames, which focus on points and counterpoints, pros and cons, and "he-said-she-said" quotations,¹⁶² will appear more often in the regular news sections of newspapers.

¹⁶⁰ Richards and King: 479.

¹⁶¹ Felstiner, et al.: 645.

¹⁶² Cindy Simon Rosenthal, "Sports Talk: How Gender Shapes Discursive Framing of Title IX," *Politics & Gender*, 4 no. 1 (2008): 73.

Research Question 3: What is the relationship between public opinion and the appearance of opposition and advocacy frames in the mass media?

Rationale: This research question will help to articulate framing as a theory of mass media effects, as explained by Dietram Scheufele, inasmuch as it deals specifically with mass media frames, not individual frames.¹⁶³ Investigating this research question will allow discussion of the role of journalists as either filters of frames conveyed to the public or as simple conduits of the frames promulgated by the sides of a public policy conflict. It will also help to extend cultivation theory by suggesting a connection between public opinion and the appearance of opposition and advocacy frames in the mass media. Finding such a connection would reaffirm the general findings of Baumgartner and Jones and of MacKuen, that public opinion is volatile and subject to media influence.¹⁶⁴

Expectation: It was expected that opposition and advocacy mass media frames would appear such that, after the frames' appearance in the mass media, public opinion would reflect the most prominent and most dominant mass media frames presented in the conflict.

Additional Support for Research Questions

The next chapter will provide more support for investigating the first research question by highlighting opposition and advocacy frames that appeared in public policy

¹⁶³ Dietram A. Scheufele, "Framing as a Theory of Media Effects," *Journal of Communication*, 49, no. 1, (1999): 103-122.

¹⁶⁴ See Baumgartner and Jones; MacKuen and Coombs.

debates over Title IX in Congress, in the courts, and in the media, as uncovered in earlier exploratory research. Weaknesses of the earlier research also will be discussed and their remedies will serve in part as the basis for investigating the second research question given above. Subsequent chapters will discuss methods employed in this dissertation to answer these research questions and will analyze the evidence gathered and speculate on the role of the mass media in conflicts that potentially involved backlash.

Timelines

The remaining pages of this chapter contain timeline constructs that will be useful in this study's subsequent analysis. First, five time periods ("eras") for analysis have been delineated and named, based on naturally occurring trends in newspaper coverage and in legal and legislative activity. Next, a table is presented to show significant legal and legislative milestones, as well as sports participation statistics by gender. Finally, a table of historical public opinion polling data relevant to the Title IX issue is presented.

Eras in the Conflict over Title IX

Pre-1977: Tower Era

Analysis of the newspaper dataset suggested that there might have been a significant turning point in the history of Title IX shortly after HEW issued regulations on the law in 1975 and during the subsequent Congressional hearings that took place in 1976. Because this part of Title IX's legal and legislative history was dominated by the proposal of amendments by Senator John Tower, this timeframe will be called the "Tower Era."

1977 to 1984: Grove City Era

Analysis of the newspaper dataset suggests that the next major turning point in the history of Title IX might have come around 1984, as there were many articles in 1983 and 1984 but few in 1985. The first major court case about Title IX, *Grove City College v. Bell*, was decided by the U.S. Supreme Court in 1984. Therefore, this will be called the "Grove City Era."

1985 to 1989: Restoration Era

Analysis of the newspaper dataset suggests that the next major turning point in the history of Title IX might have come around 1990; several articles appeared in 1985 to 1989, although this entire era was comparatively light on Title IX coverage, but there were extraordinarily few ($n = 1$) in 1990. This timeframe encompasses the immediate aftermath of the *Grove City College v. Bell* decision and the subsequent legislative effort effectively to undo the decision. The legal and legislative dataset for this timeframe includes transcripts and documents from basically one legislative effort—what ultimately was enacted as the Civil Rights

Restoration Act of 1988. This legislation was first debated right after the *Grove City College v. Bell* decision, it was passed in 1988 and then vetoed by the president, and Congress overrode the veto. This legislation was meant “to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.”¹⁶⁵ Therefore, this timeframe will be called the “Restoration Era.”

1990 to 2001: Cohen Era

Analysis of the newspaper dataset and the legal and legislative dataset suggests that the period 1990-2001 would be worth considering as a distinct part of the history of Title IX. This part of Title IX’s history included several Congressional hearings devoted specifically to Title IX and women’s participation and experiences in intercollegiate and amateur sports. Senator Cardiss Collins, on April 9, 1992, declared the impetus for these hearings as follows:

Colleges continue to refuse to come to terms with the requirements of Title IX. The National Collegiate Athletic Association refuses to adopt enforceable rules to ensure gender equity. The Office for Civil Rights under the past two administrations failed to enforce the law. As a result, young women, angered by this blatant sex discrimination have been pursuing their rights in court. They have been largely successful. Thank goodness.¹⁶⁶

¹⁶⁵ Congress, House, Committee on Education and Labor, *Civil Rights Restoration Act of 1985: Joint Hearings before the Committee on Education and Labor and the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary of the House of Representatives*, 99th Cong., 1st sess., held in Philadelphia, PA, 4 March; Washington, D.C., 7, 27-28 March, and 2 April; Atlanta, Ga., 11 March; Chicago, Ill., 15 March; Los Angeles, Calif., 22 March; and Santa Fe, N.Mex., 25 March 1985, Washington: Government Printing Office (1986), 3.

¹⁶⁶ Congress, House, Committee on Energy and Commerce, Subcommittee on Commerce, Consumer Protection, and Competitiveness, *Intercollegiate Sports (part 2): Hearings before the Subcommittee on*

Some witnesses in the Congressional hearings were plaintiffs in significant Title IX court cases initiated by the advocacy side of the Title IX conflict during this time period. Most important, this time period saw a series of court cases known popularly as *Brown v. Cohen*, one set of briefs of which are analyzed here. Therefore, this time period will be called the “Cohen Era.”

2002 to 2007: Paige Era

Analysis of the newspaper dataset suggests that the time period from 2002 to 2007 might constitute a distinct part of the history of Title IX. There was a great deal of newspaper coverage of Title IX in 2002 and 2003 and much less in subsequent years. This part of Title IX’s history included court cases initiated by the opposition side of the conflict, known as *National Wrestling Coaches Association v. U.S. Department of Education*. It also included Congressional hearings marking the 30th anniversary of the passage of Title IX, and, in anticipation of promulgating a rules clarification on how to comply with Title IX, hearings sponsored by the OCR, overseen at this time by Secretary of Education Roderick Paige. Because the hearings were a prominent feature in this time period, this will be called the “Paige Era.”

Commerce, Consumer Protection, and Competitiveness of the Committee on Energy and Commerce of the House of Representatives, 103rd Cong., 1st sess., held in Washington, D.C., 17 February 1993, Washington: Government Printing Office (1993), 1.

Table 3-1: Title IX Timeline¹⁶⁷

Year	Milestones	Female Sports Participation	Male Sports Participation
1970 Tower Era	Congress holds first hearings on sex discrimination in higher education.	2.5 women’s intercollegiate athletics teams per school, on average.	
1971 Tower Era			
1972 Tower Era	June 23, Title IX enacted by Congress and signed into law by Pres. Nixon.	294,015 high school girls participating in interscholastic sports. 29,977 women participating in intercollegiate sports.	3,665,367 high school boys participating. 170,384 men participating in intercollegiate sports.
1973 Tower Era			
1974 Tower Era	May 20, Sen. Tower proposes the “Tower Amendment,” which would exempt revenue-producing sports from Title IX, and the amendment is rejected. July 1, Sen. Javits proposes, in lieu of Tower Amendment, a proposal stating that HEW must issue Title IX regulations including “with respect to intercollegiate athletic activities, reasonable provisions considering the nature of the particular sports.”	1,295,210 high school girls participating in interscholastic sports.	4,061,560 high school boys participating in interscholastic sports.

¹⁶⁷Sources: R. Vivian Acosta and Linda Jean Carpenter, *Women in Intercollegiate Sport: A Longitudinal, National Study Thirty-One Year Update* (West Brookfield, Mass.: National Association for Girls and Women in Sport, 2008), Participation section, 1; Erik Brady, “Title IX, 30 Years Later,” *USA Today*, 13 June 2002, section 1A, p. 1; Foundation IX, “Title IX Timeline” (Plymouth, Minn.: Author, 2007, accessed 13 April 2008), available at <http://www.foundationix.org/resources.php?show=timeline>; National Association of High School Federations, “NFHS Participation Figures Search” (Indianapolis: Author, 2006, accessed 13 April 2008), available at http://www.nfhs.org/custom/participation_figures/default.aspx; National Coalition for Women & Girls in Education, “Title IX Timeline” (Washington: American Association of University Women, 2007, accessed 13 April 2008), available at <http://www.ncwge.org/PDF/Title%20IX%20Timeline.pdf>; National Collegiate Athletic Association, “NCAA 1981-82—2005-2006 Sports Sponsorship and Participation Report” (Indianapolis: Author, 2007), 81 and 148, note that provisional members of teams are included in the numbers provided from 1995-2006 of women and men participating in intercollegiate sports; Women’s Sports Foundation, “Title IX Legislative Chronology” (East Meadow, N.Y.: Author, 2008, accessed 13 April 2008), available at <http://www.womenssportsfoundation.org/-Content/Articles/Issues/History/T/Title-IX-Legislative-Chronology.aspx>.

<p>1975 Tower Era</p>	<p>May 27, Pres. Ford signs the Title IX athletics regulations and submits them for congressional review.</p> <p>July 8, Rep. O’Hara introduces a bill proposing that sports revenues first be used to offset the cost of that sport, and only then to support other sports, and the bill dies in committee.</p> <p>June 4, Title IX presented to Congress in its present form.</p> <p>June 5 & June 17, Sen. Helms and Rep. Martin condemn Title IX in its entirety.</p> <p>June 17, Rep. Martin disapproves of Title IX only as it pertains to intercollegiate athletics.</p> <p>July 15, Sen. Tower reintroduces his “Tower Amendment” from 1974. (“Tower II”). The bill, which would exempt revenue-producing sports from Title IX, dies in committee.</p> <p>July 16, Sens. Laxalt, Curtis, and Fannin disapprove of the application of Title IX to intercollegiate athletics.</p> <p>July 21, The regulations that Pres. Ford signed become effective. HEW issues regulations prohibiting sex discrimination in athletics and gives colleges three years to comply.</p>		
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	<p>July 21, Sen. Helms introduces legislation in an attempt to prohibit the application of Title IX to athletics in situations in which participation in those athletic activities are not a required part of the institution's curriculum.</p> <p>September, 1975: HEW issues "Elimination of Sex Discrimination in Athletics Programs" to state school officers, superintendents, college and university presidents, and others.</p>		
1976 Tower Era	<p>February 17, NCAA challenges legality of Title IX.</p> <p>Sen. McClure sponsors an amendment to the Education Amendments of 1976 that would limit the meaning of "education program or activity" to "the curriculum or graduation requirements of the institutions." Opposition from Sen. Bayh leads to rejection of the amendment.</p>	1,690,865 high school girls participating in interscholastic sports.	3,205,410 high school boys participating in interscholastic sports.
1977 Grove City Era	<p>July 15, Sens. Tower, Bartlett, and Hruska introduce legislation to exclude revenue-producing sports from Title IX coverage, and the bill dies in committee.</p>	1,692,600 high school girls participating in interscholastic sports.	4,338,042 high school boys participating in interscholastic sports.
1978 Grove City Era	<p>The U.S. Dept. of Health, Education, & Welfare (HEW) issues proposed policy "Title IX and Intercollegiate Athletics" for notice and comment.</p> <p>July 21, deadline for high schools and colleges to comply with Title IX athletic requirements.</p>	<p>2,081,803 high school girls participating in interscholastic sports.</p> <p>5.6 women's intercollegiate athletics teams per school, on average.</p>	4,359,730 high school boys participating in interscholastic sports.

1979 Grove City Era	December 11, HEW issues final policy interpretation on “Title IX and Intercollegiate Athletics,” which includes the “3-Prong Test” to determine compliance.	1,851,400 high school girls participating in interscholastic sports. 6.3 women’s intercollegiate athletics teams per school, on average.	3,709,512 high school boys participating in interscholastic sports.
1980 Grove City Era	DoE is established and given oversight of Title IX through the OCR.	1,750,076 high school girls participating in interscholastic sports. 6.5 women’s intercollegiate athletics teams per school, on average.	3,517,292 high school boys participating in interscholastic sports.
1981 Grove City Era		1,853,856 high school girls participating in interscholastic sports. 6.5 women’s intercollegiate athletics teams per school, on average.	3,503,036 high school boys participating in interscholastic sports.
1982 Grove City Era	AIAW, which had been the governing body of women’s collegiate sports, folds after the NCAA begins offering women’s championships.	1,816,649 high school girls participating in interscholastic sports. 64,390 women participating in intercollegiate sports. 6.4 women’s intercollegiate athletics teams per school, on average.	3,409,057 high school boys participating in interscholastic sports. 167,055 men participating in intercollegiate sports. 9.1 men’s intercollegiate athletics teams per school, on average.
1983 Grove City Era		1,779,856 high school girls participating in interscholastic sports. 78,027 women participating in intercollegiate sports. 6.3 women’s intercollegiate athletics teams per school, on average.	3,355,979 high school boys participating in interscholastic sports. 176,833 men participating in intercollegiate sports. 8.8 men’s intercollegiate athletics teams per school, on average.
1984 Grove City Era	February 28, SCOTUS ruling in Grove City v. Bell limits the scope of Title IX, effectively taking away coverage of athletics except for athletic scholarships.	1,747,031 high school girls participating in interscholastic sports. 82,452 women participating in intercollegiate sports. 6.5 women’s intercollegiate athletics teams per school, on average.	3,303,599 high school boys participating in interscholastic sports. 186,008 men participating in intercollegiate sports. 8.7 men’s intercollegiate athletics teams per school, on average.

<p>1985 Restoration Era</p>		<p>1,757,884 high school girls participating in interscholastic sports.</p> <p>89,072 women participating in intercollegiate sports.</p> <p>6.7 women's intercollegiate athletics teams per school, on average.</p>	<p>3,354,284 high school boys participating in interscholastic sports.</p> <p>197,446 men participating in intercollegiate sports.</p> <p>8.7 men's intercollegiate athletics teams per school, on average.</p>
<p>1986 Rest Era</p>		<p>1,807,121 high school girls participating in interscholastic sports.</p> <p>92,192 women participating in intercollegiate sports.</p> <p>7.0 women's intercollegiate athletics teams per school, on average.</p>	<p>3,344,575 high school boys participating in interscholastic sports.</p> <p>196,437 men participating in intercollegiate sports.</p> <p>8.7 men's intercollegiate athletics teams per school, on average.</p>
<p>1987 Rest Era</p>		<p>1,836,356 high school girls participating in interscholastic sports.</p> <p>89,640 women participating in intercollegiate sports.</p> <p>7.1 women's intercollegiate athletics teams per school, on average.</p>	<p>3,364,082 high school boys participating in interscholastic sports.</p> <p>187,561 men participating in intercollegiate sports.</p> <p>8.6 men's intercollegiate athletics teams per school, on average.</p>
<p>1988 Rest Era</p>	<p>March 22, the Civil Rights Restoration Act of 1987, which reverses the Grove City decision and restores Title IX's institution-wide coverage, is enacted into law over the veto of Pres. Reagan. If any program or activity in an educational institution receives federal funds, all of the institution's programs and activities must comply with Title IX.</p>	<p>1,843,037 high school girls participating in interscholastic sports.</p> <p>88,266 women participating in intercollegiate sports.</p> <p>7.2 women's intercollegiate athletics teams per school, on average.</p>	<p>3,425,627 high school boys participating in interscholastic sports.</p> <p>176,396 men participating in intercollegiate sports.</p> <p>8.6 men's intercollegiate athletics teams per school, on average.</p>
<p>1989 Rest Era</p>		<p>1,840,161 high school girls participating in interscholastic sports.</p> <p>90,180 women participating in intercollegiate sports.</p> <p>7.1 women's intercollegiate athletics teams per school, on average.</p>	<p>3,417,491 high school boys participating in interscholastic sports.</p> <p>178,521 men participating in intercollegiate sports.</p> <p>8.4 men's intercollegiate athletics teams per school, on average.</p>

<p>1990 Cohen Era</p>		<p>1,858,273 high school girls participating in interscholastic sports.</p> <p>88,206 women participating in intercollegiate sports.</p> <p>7.2 women’s intercollegiate athletics teams per school, on average.</p>	<p>3,398,134 high school boys participating in interscholastic sports.</p> <p>175,539 men participating in intercollegiate sports.</p> <p>8.3 men’s intercollegiate athletics teams per school, on average.</p>
<p>1991 Cohen Era</p>	<p>May, Brown University stops funding two women’s and two men’s intercollegiate athletics teams, saying the teams could continue only if they could raise all of their operating funds from private sources.</p>	<p>1,892,316 high school girls participating in interscholastic sports.</p> <p>92,473 women participating in intercollegiate sports.</p> <p>7.1 women’s intercollegiate athletics teams per school, on average.</p>	<p>3,408,441 high school boys participating in interscholastic sports.</p> <p>182,836 men participating in intercollegiate sports.</p> <p>8.3 men’s intercollegiate athletics teams per school, on average.</p>
<p>1992 Cohen Era</p>	<p>Under Franklin v. Gwinnett County Public Schools, SCOTUS rules that monetary damages are available under Title IX; previously, only injunctive relief was available.</p> <p>December 22, the district court of Rhode Island grants a preliminary injunction to plaintiffs in Cohen v. Brown University (“Cohen I”), reinstating the women’s intercollegiate athletics teams that had been cut in 1991.</p>	<p>1,940,801 high school girls participating in interscholastic sports.</p> <p>94,922 women participating in intercollegiate sports.</p> <p>7.2 women’s intercollegiate athletics teams per school, on average.</p>	<p>3,431,797 high school boys participating in interscholastic sports.</p> <p>183,675 men participating in intercollegiate sports.</p> <p>8.3 men’s intercollegiate athletics teams per school, on average.</p>
<p>1993 Cohen Era</p>	<p>April 15, Brown University appeals the decision in Cohen v. Brown University to the First Circuit Court of Appeals in “Cohen II” to no avail.</p>	<p>1,997,479 high school girls participating in interscholastic sports.</p> <p>97,978 women participating in intercollegiate sports.</p> <p>7.2 women’s intercollegiate athletics teams per school, on average.</p>	<p>3,416,389 high school boys participating in interscholastic sports.</p> <p>184,732 men participating in intercollegiate sports.</p> <p>8.2 men’s intercollegiate athletics teams per school, on average.</p>

<p>1994 Cohen Era</p>		<p>2,156,815 high school girls participating in interscholastic sports.</p> <p>102,994 women participating in intercollegiate sports.</p> <p>7.3 women’s intercollegiate athletics teams per school, on average.</p>	<p>3,473,358 high school boys participating in interscholastic sports.</p> <p>186,939 men participating in intercollegiate sports.</p> <p>8.1 men’s intercollegiate athletics teams per school, on average.</p>
<p>1995 Cohen Era</p>	<p>March 29, Brown University appeals the decision in Cohen v. Brown University again in “Cohen III,” again to no avail.</p>	<p>2,249,266 high school girls participating in interscholastic sports.</p> <p>107,605 women participating in intercollegiate sports.</p> <p>7.1 women’s intercollegiate athletics teams per school, on average.</p>	<p>3,545,163 high school boys participating in interscholastic sports.</p> <p>186,607 men participating in intercollegiate sports.</p> <p>7.7 men’s intercollegiate athletics teams per school, on average.</p>
<p>1996 Cohen Era</p>	<p>January 16, OCR issues a clarification of the three-part “Effective Accommodation Test” that reiterates the requirements of the policy interpretation that institutions may choose any one of three independent tests to demonstrate that they are effectively accommodating the participation needs of the underrepresented gender.</p> <p>November 21, a federal appeals court upholds a lower court’s ruling in Cohen v. Brown University (“Cohen IV”), holding that Brown illegally discriminated against female athletes. Brown argues that it did not violate Title IX because women are less interested in sports than men. Both the district court and the court of appeals reject Brown’s argument. Many of the arguments offered by Brown are similar to those relied upon by colleges and universities across the country.</p>	<p>2,380,673 high school girls participating in interscholastic sports.</p> <p>125,250 women participating in intercollegiate sports.</p> <p>7.6 women’s intercollegiate athletics teams per school, on average.</p>	<p>3,642,906 high school boys participating in interscholastic sports.</p> <p>206,385 men participating in intercollegiate sports.</p> <p>8.0 men’s intercollegiate athletics teams per school, on average.</p>

<p>1997 Cohen Era</p>		<p>2,444,094 high school girls participating in interscholastic sports.</p> <p>129,289 women participating in intercollegiate sports.</p> <p>7.7 women's intercollegiate athletics teams per school, on average.</p>	<p>3,714,652 high school boys participating in interscholastic sports.</p> <p>199,391 men participating in intercollegiate sports.</p> <p>7.8 men's intercollegiate athletics teams per school, on average.</p>
<p>1998 Cohen Era</p>		<p>2,579,994 high school girls participating in interscholastic sports.</p> <p>133,445 women participating in intercollegiate sports.</p> <p>8.0 women's intercollegiate athletics teams per school, on average.</p>	<p>3,772,781 high school boys participating in interscholastic sports.</p> <p>200,030 men participating in intercollegiate sports.</p> <p>7.8 men's intercollegiate athletics teams per school, on average.</p>
<p>1999 Cohen Era</p>		<p>2,662,336 high school girls participating in interscholastic sports.</p> <p>145,873 women participating in intercollegiate sports.</p> <p>8.1 women's intercollegiate athletics teams per school, on average.</p>	<p>3,841,962 high school boys participating in interscholastic sports.</p> <p>207,685 men participating in intercollegiate sports.</p> <p>7.8 men's intercollegiate athletics teams per school, on average.</p>
<p>2000 Cohen Era</p>		<p>2,669,842 high school girls participating in interscholastic sports.</p> <p>146,617 women participating in intercollegiate sports.</p> <p>8.1 women's intercollegiate athletics teams per school, on average.</p>	<p>3,881,880 high school boys participating in interscholastic sports.</p> <p>208,481 men participating in intercollegiate sports.</p> <p>7.8 men's intercollegiate athletics teams per school, on average.</p>
<p>2001 Cohen Era</p>		<p>2,774,093 high school girls participating in interscholastic sports.</p> <p>155,698 women participating in intercollegiate sports.</p> <p>8.5 women's intercollegiate athletics teams per school, on average.</p>	<p>3,920,855 high school boys participating in interscholastic sports.</p> <p>214,154 men participating in intercollegiate sports.</p> <p>7.9 men's intercollegiate athletics teams per school, on average.</p>

<p>2002 Paige Era</p>	<p>February, National Wrestling Coaches Association, College Gymnastics Association, and the U.S. Track Coaches Association, along with several other groups representing male athletes and alumni of wrestling programs at Bucknell, Marquette, and Yale, file suit alleging that Title IX regulations and policies are unconstitutional.</p> <p>May 29, the U.S. Department of Justice (DOJ) files a motion to dismiss on narrow procedural grounds a complaint filed in federal court against the DoE, attacking the three-prong test developed for schools to determine their compliance with Title IX in women’s athletics programs.</p> <p>June 27, U.S. Secretary of Education Rod Paige announces the establishment of a Commission on Opportunities in Athletics. The stated purpose of the commission is “to collect information, analyze issues, and obtain broad public input directed at improving the application of current federal standards for measuring equal opportunity for men and women and boys and girls to participate in athletics under Title IX. The commission will recommend to the Secretary, in a written report, whether those standards should be revised, and if so, how the standards should be revised.”</p>	<p>2,802,540 high school girls participating in interscholastic sports.</p> <p>153,601 women participating in intercollegiate sports.</p> <p>8.6 women’s intercollegiate athletics teams per school, on average.</p>	<p>3,790,000 high school boys participating in interscholastic sports.</p> <p>209,890 men participating in intercollegiate sports.</p> <p>7.9 men’s intercollegiate athletics teams per school, on average.</p>
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	<p>July 25, in National Wrestling Coaches Association et al. v. DoE, members of various organizations that represent the interests of collegiate men’s wrestling coaches, sue DoE for rulings which they claim have led to the elimination of men’s varsity wrestling programs at several universities. The complaint would go through a series of dismissals and appeals on its way to SCOTUS.</p>		
<p>2003 Paige Era</p>	<p>July 11, The OCR issues a “Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance.” The clarification reaffirms the validity and effectiveness of long-standing administrative regulations and policies governing this application.</p>	<p>2,855,787 high school girls participating in interscholastic sports.</p> <p>158,469 women participating in intercollegiate sports.</p> <p>8.7 women’s intercollegiate athletics teams per school, on average.</p>	<p>3,988,785 high school boys participating in interscholastic sports.</p> <p>214,464 men participating in intercollegiate sports.</p> <p>7.9 men’s intercollegiate athletics teams per school, on average.</p>
<p>2004 Paige Era</p>		<p>2,865,299 high school girls participating in interscholastic sports.</p> <p>160,997 women participating in intercollegiate sports.</p> <p>8.7 women’s intercollegiate athletics teams per school, on average.</p>	<p>4,038,253 high school boys participating in interscholastic sports.</p> <p>214,854 men participating in intercollegiate sports.</p> <p>7.8 men’s intercollegiate athletics teams per school, on average.</p>
<p>2005 Paige Era</p>	<p>March 17, the DoE issues policy guidance (“the Additional Clarification”) that significantly weakens Title IX. Schools can now send out e-mail survey to their female students, asking them what additional sports they might have the interest and ability in playing, and if the survey responses do not show enough interest or ability, the schools do not have to add any sports and are presumed in compliance with Title IX.</p>	<p>2,913,643 high school girls participating in interscholastic sports.</p> <p>164,998 women participating in intercollegiate sports.</p> <p>8.7 women’s intercollegiate athletics teams per school, on average.</p>	<p>4,110,531 high school boys participating in interscholastic sports.</p> <p>219,744 men participating in intercollegiate sports.</p> <p>7.8 men’s intercollegiate athletics teams per school, on average.</p>

	June 6, in regard to National Wrestling Coaches Association v. DoE and subsequent district and appellate court actions, SCOTUS ruled that the appellants lacked standing as they failed to demonstrate how a favorable decision on the merits of their claims would redress the complained-about injury.		
2006 Paige Era		2,952,745 high school girls participating in interscholastic sports. 168,583 women participating in intercollegiate sports. 8.7 women's intercollegiate athletics teams per school, on average.	4,208,534 high school boys participating in interscholastic sports. 224,926 men participating in intercollegiate sports. 7.8 men's intercollegiate athletics teams per school, on average.
2007 Paige Era		3,021,807 high school girls participating in interscholastic sports.	4,321,103 high school boys participating in interscholastic sports.

Table 3-2: Public Opinion and Title IX¹⁶⁸

Year	Survey Question	Answer	%
1974	Should girls have equal financial support for their athletic activities as boys? ¹⁶⁹	Yes	88
		No	7
		Don't know	5
1979	The federal government may require all high schools to spend the same amount of money on women's sports as on men's sports. Do you approve or disapprove of this plan? ¹⁷⁰	Approve	62
		Disapprove	29
		Don't know	10
1985	Do you think that schools and colleges should give equal funds to men's sports and women's sports? ¹⁷¹	Yes	72
		No	19
		No opinion	9
1990	Do you agree or disagree with the following statements about women's athletics?... Women should be given the same number of opportunities to compete on intercollegiate athletic teams as men. ¹⁷²	Agree	85
		Disagree	14
		Not sure	1
1995	Now let me ask you some questions about some changes in federal government policy which have been under consideration in Washington these days, as a result of the Republicans taking over control of Congress... Do you tend to agree or disagree with weakening laws protecting girls' and women's equal education and athletic opportunities? ¹⁷³	Agree	24
		Disagree	70
		Note Sure	6
1997	Do you think college funding for men's and women's sports should be equal or not? ¹⁷⁴	Equal	88
		Not Equal	10
		Don't know	4

¹⁶⁸ Note that the surveys summarized here use different questions and methods and cover different topics.

¹⁶⁹ Lee Sigelman and Clyde Wilcox, "Public Support for Gender Equality in Athletics Programs," *Women in Politics*, 22, no. 1 (2001), 89, from the Roper Center's online POLL database, quoting the Gallup Organization, "Public Attitudes Toward Education," for the Charles F. Kettering Foundation, personal survey of 1,543 adults nationwide; note that the question is worded in such a way that a respondent may not have inferred that public funding would be involved and might instead have inferred that the question referred to equal private funding of sons and daughters, for example.

¹⁷⁰ Ibid., from the Roper Center, quoting the Gallup Organization, "Public Attitudes Toward Education," for the Charles F. Kettering Foundation, personal survey of 1,511 adults nationwide.

¹⁷¹ Ibid., from the Roper Center's online POLL database, quoting Lieberman Research, "Sports Poll 1988," for Sports Illustrated, mail survey of 2,043 adults nationwide.

¹⁷² Ibid., from the Roper Center, quoting Louis Harris and Associates, "Reforming Intercollegiate Athletics," for the Knight Commission, telephone survey of 1,255 adults nationwide.

¹⁷³ Ibid., from the Roper Centers' online POLL database, quoting Peter Y. Harris Research Group, Women's Equality Poll 1995, for the Feminist Majority Foundation, telephone survey of 1,364 adults nationwide.

¹⁷⁴ Ibid., from the Roper Center's online POLL database, quoting CBS News, CBS News Poll, August 1997, telephone survey of 1,307 adults nationwide.

2003	Based on what you have heard or read about Title IX, do you think its overall impact has been—mostly positive (or) mostly negative?	Mostly positive	61
		Mostly negative	25
		Mix	4
		No opinion	10
	How responsible do you think Title IX has been for the growth in women’s sports in the last few decades? Do you think it has been—the main factor, a major factor but not the main factor, a minor factor, or not a factor at all?	Main factor	18
		Major, not main	47
		Minor factor	24
		Not a factor	6
		No opinion	5
	Do you think Title IX’s regulations should be—made stronger, stay about the same as they are now, or be made weaker? ¹⁷⁵	Stronger	20
		About the same	50
		Weaker	21
		No opinion	9
2007	Title IX is a federal law that prohibits high schools and colleges from discriminating on the basis of gender in athletics. Do you favor or oppose Title IX?	Strongly favor	65
		Favor	17
		Oppose	6
		Strongly oppose	9
		Don’t know	3
	If a girls’ sports team in high school were being treated worse than the boys teams, and the girls or their parents wanted to take action to get equal treatment, would you support or oppose them taking action? ¹⁷⁶	Strongly support	74
		Support	14
		Oppose	3
		Strongly oppose	5
		Don’t know	4

¹⁷⁵ Heather Mason Kiefer, “What Do Americans See in Title IX’s Future?” (Washington: The Gallup Organization, 28 January 2003), <http://www.gallup.com/poll/7663/What-Americans-See-Title-IXs-Future.aspx>, accessed 28 May 2008.

¹⁷⁶ The Mellman Group, Inc., Washington, *Memorandum to Interested Parties Regarding Title IX*, 14 June 2007, 1 and 2.

Chapter 4: Prior Research Informing Methodology and Analysis

In 2006, exploratory research identified the frames used by competing sides of the debate over the implementation of Title IX. At the time of that research, the conflict over the implementation of Title IX had continued for over three decades. Individuals and institutions on both sides of the conflict had framed the issue in different ways. To date, no studies had been done to look systematically at the different frames used in discussing the issue. Recently, Cindy Simon Rosenthal published an article in which she identified discursive frames that appeared in the 2002-2003 debate over Title IX, specifically as the debate occurred in conjunction with the proceedings of the Commission on Opportunities in Athletics, which was appointed by U.S. Secretary of Education Rod Paige to gather data aimed at “improving the application of current federal standards for measuring equal opportunity for men and women and boys and girls to participate in athletics under Title IX.”¹⁷⁷ Her study provides six frames, four of which closely mirror some of the subsidiary frames, or “themes,” found in the earlier research; therefore, her study provides some validation for the classification scheme devised for this dissertation. While the prior research considered the full time span since the passage of Title IX, Rosenthal’s study was limited in its scope and timeframe, focusing solely on the relatively brief history of the Commission on Opportunities in Athletics and on its impact on the debate over Title IX. She did to some extent examine the interplay among frames,

¹⁷⁷ Rosenthal: 68, quoting Department of Education, Secretary of Education’s Commission on Opportunity in Athletics, “Open to All: Title IX at Thirty” (Washington: Author, 2003).

but she did not discuss backlash or any concept similar to it.¹⁷⁸ Rosenthal's frame categories are referenced below, where relevant.

Understanding the different frames and analyzing them in greater detail, as will be done in this dissertation, offer the potential for providing insight into why the conflict over the implementation of Title IX has persisted when it really has been pretty well settled in other educational contexts. Among the objectives of the earlier research was to understand what different frames existed. The prior research is important inasmuch as it provides justification and support for seeking in this dissertation to identify and classify certain specific frames in the conflict over the implementation of Title IX.

This chapter will provide a summary of the prior research. It will show similarities between the prior study's frame categorizations and Rosenthal's categorizations. It will also provide discussion of the prior study's weaknesses and about the need to do more and different analysis in this dissertation. Subsequent chapters of this dissertation will seek to replicate the findings of this prior research and apply the findings in a much more extensive and pointed analysis.

Research Questions and Hypotheses

The prior research investigated the following questions: 1) What are the primary frames that have been advanced by various social agents affected by Title IX, including agents of academic institutions, of lawmaking entities, of athletics participants, and of the media, and 2) What frames have come to dominate, and how do they relate to one another?

¹⁷⁸ Rosenthal: 65-92.

Method

Many documents were selected and reviewed for analysis: Congressional records dating to before the passage of the Education Amendments of 1972, court briefs and oral arguments from ten key court cases, dozens of newspaper articles about Title IX, and about 50 editorials from four newspapers. (Note: A review of news articles showed a fairly consistent tendency toward providing a balanced perspective—that is, providing both sides of the debate; therefore, news articles were not selected for analysis and excerption, as they did not provide frames as clearly as the selected sources did. This approach was reconsidered for the purposes of this dissertation, based in part of Rosenthal’s study, as will be discussed later in this chapter.) Ultimately, the following sources were analyzed:

- Oral arguments before the U.S. Supreme Court in the case of *Grove City College v. Bell*.¹⁷⁹ The oral arguments from this case were chosen because *Grove City College v. Bell* was the first landmark case in the legal battle over Title IX (1983).
- Petition for a Writ of Certiorari to the United States Court of Appeals for the First Circuit in the case of *Brown v. Cohen*.¹⁸⁰ The petition and briefs in favor of and in opposition to the petition were chosen because this case, also known as *Cohen IV*, was the final in a series of arguably the most significant legal battle over Title IX (1996).

¹⁷⁹ *Grove City College v. Bell*, no. 82-792 (S. Ct. 1983).

¹⁸⁰ *Brown v. Cohen*, no. 96-1321 (S. Ct. April 21, 1997a), Petition for writ of certiorari to the U.S. Court of Appeals for the First Circuit; *Brown v. Cohen*, no. 96-1321 (S. Ct. April 21, 1997b), On a petition for writ of certiorari to the U.S. Court of Appeals for the First Circuit: Respondents’ brief in opposition; *Brown v. Cohen*, no. 96-1321 (S. Ct. April 21, 1997c), On a petition for writ of certiorari to the U.S. Court of Appeals for the First Circuit: Brief of Amici Curiae.

- Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia in the case of *National Wrestling Coaches Association v. Department of Education*.¹⁸¹ The petition and briefs in favor of and in opposition to the petition were chosen because this case is the most recent significant case regarding Title IX and was thought potentially to shed light on the state of the debate over Title IX at present (2004).
- *Hearing on House Concurrent Resolution 330 (Title IX regulation): Hearing before the Subcommittee on Equal Opportunities of the Committee on Education and Labor of the House of Representatives*.¹⁸² This and the next document were chosen because they were among the first significant congressional hearings specifically regarding Title IX and its relation to athletics.
- *Sex discrimination regulations: Hearings before the Subcommittee on Postsecondary Education of the Committee on Education and Labor of the House of Representatives*.¹⁸³

¹⁸¹ *National Wrestling Coaches Association v. Department of Education*, no. 04-922 (S. Ct. June 6, 2005a), Brief of amicus curiae Eagle Forum Education & Legal Defense Fund in support of petitioners, Reported at 125 S. Ct. 2537; 162 L. Ed. 2d 274; 73 U.S.L.W. 3709; *National Wrestling Coaches Association v. Department of Education*, no. 04-922 (S. Ct. June 6, 2005b), Brief for the respondent in opposition, Reported at 125 S. Ct. 2537; 162 L. Ed. 2d 274.

¹⁸² Congress, House, Committee on Education and Labor, Subcommittee on Equal Opportunities, *Hearing on House Concurrent Resolution 330 (Title IX regulation): Hearing before the Subcommittee on Equal Opportunities of the Committee on Education and Labor, House of Representatives*, 94th Cong., 1st sess., on H. Con. Res. 330, held in Washington, D.C., 14 July 1975. Washington: Government Printing Office (1975).

¹⁸³ Congress, House, Committee on Education and Labor, Subcommittee on Postsecondary Education, *Sex Discrimination Regulations: Hearings before the Subcommittee on Postsecondary Education of the Committee on Education and Labor, House of Representatives*, 94th Cong., 1st sess.: Review of Regulations to Implement Title IX of Public Law 92-318 Conducted Pursuant to Sec. 431 of the General Education Provisions Act, held in Washington, D.C., 17-26 June 1975, Washington: Government Printing Office (1975).

- *Civil Rights Restoration Act of 1985: Joint Hearings before the Committee on Education and Labor and the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary of the House of Representatives.*¹⁸⁴ This document was chosen because it was among the first congressional hearings meant to address the Supreme Court ruling in *Grove City College v. Bell*.
- *Intercollegiate Sports (part 2): Hearings before the Subcommittee on Commerce, Consumer Protection, and Competitiveness of the Committee on Energy and Commerce of the House of Representatives (1993).*¹⁸⁵ This and the next two documents were selected because they were significant hearings specifically regarding Title IX and its relation to athletics after the passage of the Civil Rights Act of 1991, which strengthened Title IX and other anti-discrimination laws.
- *Title IX of the Education Amendments of 1972: Hearing before the Subcommittee on Postsecondary Education, Training, and Lifelong Learning of the Committee on Economic and Educational Opportunities of the House of Representatives (1995).*¹⁸⁶

¹⁸⁴ Congress, House, *Civil Rights Restoration Act of 1985*.

¹⁸⁵ Congress, House, *Intercollegiate Sports (part 2) (1993)*.

¹⁸⁶ Congress, House, Committee on Economic and Educational Opportunities, Subcommittee on Postsecondary Education, Training, and Life-long Learning, *Hearing on Title IX of the Education Amendments of 1972: Hearing before the Subcommittee on Postsecondary Education, Training, and Life-long Learning of the Committee on Economic and Educational Opportunities, House of Representatives, 104th Cong., 1st sess., held in Washington, D.C., 9 May 1995*, Washington: Government Printing Office (1995).

- *Amateur Sports Act: Hearing before the Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism of the Committee on the Judiciary of the Senate.*¹⁸⁷
- *Title IX: Building on 30 Years of Progress: Hearing before the Committee on Health, Education, Labor, and Pensions of the Senate.*¹⁸⁸ This document was selected because it pertained to a significant and controversial review of Title IX in the current administration.
- Opinion pages from *Los Angeles Times*, *The New York Times*, *Star Tribune*, and *The Washington Post*. It was thought that these sources, which presented clear frames, would provide insight into the agendas set by media establishment opinion-makers and by outside opinion writers.

The selected documents were found, read, and assessed for frames and themes. As Robert Entman noted, the key to this activity was to “gauge the relationships of the most salient clusters of messages—the frames.”¹⁸⁹ Upon first reading, it became evident that a clear set of frames and themes existed among the documents that were examined. All materials were then re-examined and their texts categorized by frames and themes.

¹⁸⁷ Congress, Senate, Committee on Commerce, Science, and Transportation, Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism, *Amateur Sports Act: Hearing before the Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism of the Committee on Commerce, Science, and Transportation, United States Senate*, 104th Cong., 1st sess., 18 October 1995, Washington: Government Printing Office (1996).

¹⁸⁸ Congress, Senate, Committee on Health, Education, Labor, and Pensions, *Title IX: Building on 30 Years of Progress: Hearing before the Committee on Health, Education, Labor, and Pensions, United States Senate*, 107th Cong., 2nd sess., on examining the implementation and progress of Title IX of the Education Amendments Act of 1972, which prohibits sex discrimination in all aspects of education, June 27, 2002, Washington: Government Printing Office (2002).

¹⁸⁹ Robert Entman, “Framing: Toward Clarification of a Fractured Paradigm,” *Journal of Communication*, 43, no. 4 (1996): 56.

Evidence to Illustrate Primary Frames

Evidence was found to illustrate two primary frames, fairness and management.¹⁹⁰ Within each frame, moreover, the subsidiary frames, or themes, were identified. In the following pages, excerpts illustrative of the frames are clustered into sets that can be subcategorized by theme. The themes are described with each cluster of excerpts.

Frame: Fairness/Unfairness

Advocacy Theme: Equality

This first cluster of excerpts could be characterized as projecting the following theme under the general rubric of “fairness:” It is only fair that women be afforded equality of opportunity to participate in athletics like men are, even if that means employing quotas—equality is a moral imperative. This theme focuses on “opening doors” and banning discrimination for aggregate numbers of women involved in sports. It also focuses on increasing overall opportunity for women, as a class of people, rather than on providing individual opportunity. It mirrors the discursive “feminist” frame identified by Rosenthal, “which focuses on the continuing necessity to promote equality of rights, to overcome historic sex discrimination, and to eliminate society inequality. This frame sometimes attacks ‘radical’ conservative groups for undermining the law.”¹⁹¹ Recently, this theme has come to incorporate the idea that no roll-back in gains, either tangible or

¹⁹⁰ Note: A third “neutral” frame was identified, which consisted of articles with no discernible frame. These articles were deemed irrelevant to the pilot study.

¹⁹¹ Rosenthal: 72.

philosophical, would be acceptable. This will be labeled the “equality” theme under the fairness frame for the purposes of this dissertation.

[S]ubstantial proportionality is a “safe harbor” under part one [of the three-prong test]...¹⁹²

In an intercollegiate athletics program that operates separate teams for men and women, the percentage of women participating in athletics is never the result of chance; rather, it is the deliberate result of the number and size of women’s and men’s teams that the university chooses to sponsor. Accordingly, the purpose of statistical proof in a Title IX athletics case charging discrimination against women is not to rule out the possibility that the disparity between the percentage of women athletes and women students is random; we already know it is not. Rather, the purpose is to show that an institution’s female students have disproportionately fewer opportunities to participate in athletics than male students at the same institution.¹⁹³

...Part one [of the three-prong test] would only establish an impermissible “preference” in favor of female athletes if, as Brown [University] claims, men are indeed inherently more interested than women in participating in intercollegiate sports. But there is no evidence that this is true. During the six-week trial of this case, Brown struggled mightily to prove that men are innately more interested in sports than women. The district court ultimately rejected Brown’s various attempts to prove this point as factually groundless, holding that “no one measure and no identifiable population adequately establish[es] relative interest...”¹⁹⁴

Even assuming... that the three-part test creates a gender classification that favors women, the decision... still would not run afoul of this Court’s equal protection decisions. This Court has repeatedly held that a classification based on sex is permissible where it is based on a compensatory purpose and members of the benefited sex have been historically disadvantaged.¹⁹⁵

¹⁹² Brown v. Cohen, 1997b.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

Instead of trying to make things equitable, why don't we just make them equal?¹⁹⁶

Title IX has helped girls and women realize more of the benefits and educational opportunities afforded by athletic participation. Let us not lose sight of the fact that a year before Title IX became law, only 32,000 women participated in intercollegiate athletics. Today, that number is around 105,000.¹⁹⁷

During the early 1970s, an estimated 300,000 girls were playing high school sports. Today there are 3 million. Clearly, Title IX has had an impact.¹⁹⁸

Thirty years ago, when just one out of every 27 high school girls played a sport, girls heard... they weren't as interested in sports. Today one out of every 2.5 high school girls plays a sport and more girls are playing all the time.... Development of women's interest in sports since the enactment of Title IX shows irrefutably that interest reflects opportunity. While fewer than 30,000 women participated in college sports before Title IX, today that number exceeds 150,000...¹⁹⁹

Since the gender equity law was adopted, participation by girls in high school sports has increased by 800 percent; at the college level, it's up by 400 percent. This is no time to dilute or weaken Title IX.²⁰⁰

It should be noted that, in a sense, one might argue that this theme has a sort of advantage over others in the quest to frame the issue in that the first part of the actual Title IX law contains the phrase "prohibition against discrimination,"

¹⁹⁶ Sally Jenkins, "Not for Lack of Interest," *The Washington Post*, 2 April 2005, p. D1.

¹⁹⁷ Congress, House, *Title IX of the Education Amendments of 1972* (1995), testimony of Norma Cantu, assistant secretary of education for human rights.

¹⁹⁸ "Title IX 30 Years on, Challenges Remain," *Star Tribune (Minneapolis)*, 10 June 2002, p. 14A.

¹⁹⁹ Congress, Senate, *Title IX: Building on 30 Years of Progress* (2002), testimony of Nancy Hogshead-Makar, Olympian and Women's Sports Foundation board member.

²⁰⁰ "Save Title IX; Rescind Subversive Rule Change," *Star Tribune (Minneapolis)*, 3 May 2005, p. 14A.

which is similar to many phrases that might be used to frame the issue as one of “equality” as is categorized here.

Opposition Theme: Zero-Sum

The following excerpts fall similarly under the fairness frame, and they could be characterized as conveying the following general sentiment: Title IX is unfair because it results in men’s athletic teams being cut. This theme roughly mirrors Rosenthal’s “zero-sum” frame, which “suggests that the gains of some have come only at the expense of the lost opportunities for others.”²⁰¹ The phrase “leveling the field” is sometimes used within this theme. This dissertation will appropriate Rosenthal’s label for the “zero-sum” theme under the fairness frame.

I do not believe the draftees [of Title IX] intended to destroy college athletics as we now know them. This will most assuredly happen if the Title IX implementation regulations become law on July 21, 1975. These regulations, simply and tragically, are not responsive to the financial and social realities of intercollegiate athletics.²⁰²

If the... Title IX regulations mean what they appear to say... then the gross revenues from revenue sports must be as available for women’s sports as they are for men’s. This of course means a diversion at most schools of revenues from a football or basketball program—otherwise used to maintain that program—to the coverage of expenses for women’s sports which, at least as far as current indications of spectator interest are concerned, cannot be expected to generate any revenue. The inevitable result is a downgrading of football and basketball in quality and, ultimately, loss of spectator interest.... Without a doubt, as surely as we sit here today, [the] Title IX program is calculated—and I think by

²⁰¹ Rosenthal: 72.

²⁰² Congress, House, *Hearing on House Concurrent Resolution 330* (1975), 50, testimony of Maxie T. Lambright, Louisiana Tech football coach.

some even intentionally so—to destroy those popular and successful college sports.²⁰³

Most of the varsity athletic programs in the country must be dramatically altered to increase the percentage of women in order to comply with the standard at issue here. Universities with budgetary constraints must cut academic offerings to fund additional teams for women, cut teams for men, or risk liability for damages and loss of federal funds.²⁰⁴

Petitioners have standing to challenge the “proportionality test” that encourages colleges to reduce the proportion of men on their sports teams to the overall proportion of men enrolled as students.²⁰⁵

College wrestling, an extremely inexpensive sport, has suffered a calamitous drop of 171 teams over two decades as schools eliminate large-squad men’s teams to reduce their numbers relative to the women athletes.²⁰⁶

On the men’s side, the combination of the proportionality test and private cause of action has caused declines in most of the large squad sports. Wrestling teams... have declined by 40%, reflecting a drop of the sport by an astounding 171 schools; 37 schools dropped football; 27 dropped outdoor track; 25 dropped swimming; and 10 ended ice hockey.²⁰⁷

Advocacy Theme: Personal Opportunity

The following cluster of excerpts could be characterized as containing the following theme under the fairness frame: Title IX has been so successful at providing equality of opportunity for women that it would be unfair and un-

²⁰³ Congress, House, *Sex Discrimination Regulations* (1975), 101 and 103, testimony of John Fuzak, athlete.

²⁰⁴ *Brown v. Cohen*, 1997a.

²⁰⁵ *National Wrestling Coaches Association v. DoE*, 2005a.

²⁰⁶ *Ibid.*

²⁰⁷ *Ibid.*

American to alter it. This theme corresponds to the discursive “personal opportunity” frame identified by Rosenthal, “which focuses on the opportunities and rewards that Title IX affords *individuals* [emphasis added] and to individual teams. The frame is characterized by references to lost chances, dashed dreams, opened doors, and personal successes of individual athletes or coaches.”²⁰⁸ Consequently, this dissertation will use Rosenthal’s label and call this the “personal opportunity” theme under the fairness frame.

I just really feel very strongly about this, going through the experiences that I have gone through, seeing what Title IX has done and seeing what things have been done for [Olympian] Cheryl Miller and other young people in this country.²⁰⁹

...[I]t may be these women who predate the changes brought about by Title IX of the Education Amendments of 1972 who best illustrate its impact. Certainly, these athletes in their 40s, 50s, and 60s who missed out on the opportunities created by Title IX’s passage... provide some of the most poignant testimony to the role sports can play in a woman’s life.²¹⁰

All he wants, Carl Croyder said, is for his daughter Page to have a “fair chance” to develop and use her athletic skills... So he filed a complaint against the university under Title IX law....²¹¹

Opposition Theme: Quota

The following clusters of excerpts also fall under the fairness frame, though from the opposite perspective as those from the personal opportunity theme. This cluster of excerpts could be characterized as conveying the following

²⁰⁸ Rosenthal: 72.

²⁰⁹ Congress, House, *Civil Rights Restoration Act of 1985*, testimony of Linda Sharp, attorney.

²¹⁰ Anna Seaton Huntington, “Women over 40 Discovering Competitive Athlete within,” *The New York Times*, 23 June 1997, p. A1.

²¹¹ Nancy Scannell, “Suit Tests Sex Bias at Maryland U,” *The Washington Post*, 22 May 1974, p. E1.

sentiment: Title IX is about quotas, and quotas are un-American. This theme mirrors Rosenthal's "conservative right" frame, "which depicts title IX as a quota law, fostering reverse discrimination... The frame is often recognized by its blame of out-of-control bureaucrats or 'radical' feminist groups for distorting the law."²¹² This theme often focuses on opportunities taken away from individuals and on complying with Title IX by applying proportionality or ratios of men to women in providing athletic opportunities. This will be called the "quota" theme under the fairness frame in this dissertation.

[The first] prong surely requires statistical balancing.... It can hardly be denied that [the second] prong requires statistical balancing as it is essentially a test that requires the school to show that it is moving in the direction of satisfying the first prong.²¹³

[T]he Court of Appeals permit[ted] the use of a quota as a "safe harbor" that would prevent imposition of liability.... The Court emphasized that this rule afforded universities an easy way to "stay on the sunny side of Title IX" because they could simply implement a quota that achieves "gender parity" with its student body.... This Court, however, has already read the same language [elsewhere] to prohibit the adoption of evidentiary standards that encourage defendants to institute quotas...²¹⁴

Under the First Circuit's interpretation of Title IX, Brown [University] had no choice but to set aside up to 51% of its varsity opportunities for qualified women because 51% of its students were women. That stark numerical quota was required without regard to the fact that women do not represent 51% of all interested athletes, because any differences in the athletic interests of men and women were deemed attributable to "socialization and disparate opportunities."²¹⁵

²¹² Rosenthal: 72.

²¹³ Brown v. Cohen, 1997a, quoting First Circuit Court of Appeals Chief Judge Torruella.

²¹⁴ Brown v. Cohen, 1997a.

²¹⁵ Ibid.

[H]ere, government has promulgated a policy that expressly embraces gender quotas.... Gender quotas are unconstitutional and contrary to applicable statutes. The federal government cannot lawfully mandate or encourage a gender quota through creation of a safe harbor for schools.²¹⁶

The discriminatory effects of gender quotas are increasing as the percentage of enrollment of women in colleges increases.²¹⁷

...the kind of preference program that we would tolerate nowhere else in American life.²¹⁸

Frame: Management

Advocacy Theme: Mandate

The following excerpts could be characterized as conveying a management theme, as follows: Market arguments are not valid or do not apply; the law trumps finances in running an athletics program. This theme is characterized by calls by Title IX advocates for immediate, enforced equality, regardless of short-term discomfort or upheaval. This theme often appears in college administration discourse, in discussions of compliance and in discussions of scholarships, equipment and facilities, salaries, budgeting, and of adding women's teams and subtracting men's teams. Equality in funding is a key emphasis in this theme. This dissertation will refer to this the "mandate" theme under the management frame.

²¹⁶ National Wrestling Coaches Association v. DoE, 2005a.

²¹⁷ Ibid.

²¹⁸ Sam Bell, "Federal Sports Quotas Kill Young Men's Dreams," *Los Angeles Times*, 19 August 2002, B11.

[E]ven if all of the fears voiced by the football coaches were well founded, they would amount to no more than a plea that discrimination against women be permitted to continue because it is profitable to men or institutions. The Association of Intercollegiate Athletics for Women finds this concept repugnant to the American commitment to equal opportunity and basic fair play.²¹⁹

In the past 20 years it has become painfully clear that equal educational opportunity will become a reality only if it is supported by strong and vigorously enforced Federal legislation.²²⁰

It is impossible to know how women's sports would have fared without Title IX. One argument made by its opponents is that we were headed in toward greater sports equality without it. But there is no doubt on the law's 30th anniversary that it has provided an exceptionally effective federal mandate that deserves increased protection and promotion.²²¹

Opposition Theme: Autonomy

Within the “management” frame, this set of excerpts could be characterized as conveying the following theme: Educational institutions should be allowed to manage their affairs as they see fit, without government interference. This theme often includes pleas to allow educational institutions to get to equality in their own way, as they see fit.²²² In the early days of Title IX, this theme was often expressed in terms of there being ambiguity in how to comply with the law, and there was a general leave-us-alone-to-figure-it-out sentiment surrounding compliance management. References to the law “over-

²¹⁹ Congress, House, *Sex Discrimination Regulations*, 125, testimony of Laurie Marry, athlete.

²²⁰ *Ibid.*, 127.

²²¹ “A Sporting Chance for Girls,” *The New York Times*, 2 June 2002, p. 18.

²²² Note: This includes being allowed to determine the timeline and pace for moving toward equality.

reaching” and encouraging too much government intervention are common. For the purposes of this dissertation, this will be labeled the “autonomy” theme under the management frame.

At issue in this case is whether a private college called Grove City College which seeks to avoid government entanglement, which seeks to remain independent, and which seeks to operate efficiently, must either expel students who receive federal scholarships, or must agree that it is subject to government regulation.²²³

Grove City College will continue to stand as a beacon for the freedom Americans cherish. It resists both government money and the entangling, intrusive regulations that others wish to impose upon private institutions. Has the nation lost all sense of individual integrity? Will we allow our elected officials to second-guess the soundness of private decision-making? If we have reached the point in our history where we have lost the moral fiber necessary for self-governance, then it is truly a sad day for us, for we have lost it all.²²⁴

Brown University has been a national leader in providing collegiate opportunities for women. At the time of the trial in this case, 51.1% of the student body was female, one of the highest percentages of women in the Ivy League. And Brown was in the forefront of women’s athletics with an “impressive history of expansion” that began shortly after Brown became coeducational in 1971.²²⁵

Title IX does not require that the university leap to complete gender parity in a single bound.²²⁶

²²³ Grove City College v. Bell.

²²⁴ William T. James, “Grove City College ‘Affirms Its Stand,’” *Washington Post*, 11 February 1988, p. A27. This is an editorial by James.

²²⁵ Brown v. Cohen, 1997a.

²²⁶ Ibid.

[M]any institutions of higher education object that the government has imposed unrealistic standards in assessing their compliance [with Title IX].²²⁷

Advocacy Theme: Scapegoat

The following excerpts could be characterized as conveying a mismanagement theme within the management frame, as follows: Cuts to men's athletics programs are a matter of mismanagement, particularly in regard to football budgets, and Title IX is simply a scapegoat.²²⁸ Consequently, this will be called the "scapegoat" theme under the management frame for the purposes of this dissertation.

[A] college or university may choose to eliminate or reduce the roster size of particular athletic squads for any number of reasons wholly unrelated to Title IX. Such factors could include budgetary constraints, inadequate facilities, insufficient spectator interest, or the lack of suitable competition. In this respect, the failure of the colleges and institutions themselves to mount a similar challenge suggests that Title IX and the policy statements are not the sole factors contributing to changes in athletic programs.²²⁹

[T]he sins of yesterday are coming due today and the real losers are athletes of both genders. This is a bitter part of a law that has had otherwise beneficial effects on high school and college campuses nationwide. But it's not the law that is to blame. It is the folks who winked and looked away when they had a chance to make a real difference.²³⁰

²²⁷ "Title IX Works," *Washington Post*, 23 April 1997, p. A20.

²²⁸ Note: This mismanagement can include failure to identify ways to make a quicker transition to equality, as well.

²²⁹ *National Wrestling Coaches Association v. DoE*, 2005b.

²³⁰ "Title IX Not to Blame for CSUN Cutting Men's Sports; a History of Unacknowledged Inequity Is the Real Culprit," *Los Angeles Times*, 8 June 1997, p. 19.

Athletic Department financial responsibilities are the issues, not weakening effective civil-rights laws. Schools can afford to maintain all of our existing sports programs and add new women's sports if schools exercise fiscal responsibility and support each sport with a smaller piece of the budgetary pie.²³¹

Brown [University] argues that... the decision... will ultimately force universities everywhere to slash men's sports programs.... This argument again distorts reality; in fact, none of the courts of appeals to apply Title IX in the context of intercollegiate athletics has required a school to cut men's sports teams. To the contrary, where a violation of title IX is found, a school always has the option of simply increasing its women's program—and leaving the men's athletic program intact. Schools that ignore this route and cut their men's programs instead are really scapegoating Title IX for their own failure to allocate sufficient resources to women's athletics and/or reallocate resources within their men's programs, which take up the lion's share of most universities' athletic budgets.²³²

Olympic sports programs have and will continue to experience a decline in school and college sponsored sports programs as long as schools/colleges are committed to overspending on football and refusing to take action to activate spending cuts and/or redistributing resources to ensure that both gender equity and broad sports participation opportunities are served.²³³

[T]he real issue is not wrestling vs. women's soccer, but football vs. everything else.²³⁴

Title IX supporters properly argue that men's minor teams are... being cut because schools overspend on men's football and basketball programs.²³⁵

²³¹ Congress, Senate, *Title IX: Building on 30 Years of Progress*, Hogshead-Makar.

²³² Brown v. Cohen, 1997b.

²³³ Congress, Senate, *Amateur Sports Act*, testimony of Donna Lopiano, Women's Sports Foundation CEO.

²³⁴ *Star Tribune (Minneapolis)*, 10 June 2002.

²³⁵ *Ibid.*, 3 May 2005.

Athletic directors have far heavier pressures than a rarely enforced federal law, such as the pressure to cut budgets and make money. If there's any threat to wrestling and swim teams, it's bloated football budgets.²³⁶

There has been a mechanistic, by-the-numbers quality to the way some colleges and universities have chosen to abide by the law to make themselves lawsuit-proof. That has helped lead to the dismantling of several hundred men's teams in sports like wrestling and gymnastics. But the demise of those teams need not be attributed to Title IX. Bloated football budgets could easily take cuts so the money for men's sports could be distributed more equitably.²³⁷

Opposition Theme: Market

The following excerpts illustrate a management frame that could be characterized as having the following theme: Title IX is anti-market and therefore un-American; the market should be allowed to work. This theme often focuses on the lack of demand on the part of women and girls for athletic opportunities and on the meeting of apparent needs on the part of educational institutions. It often suggests that the addition of women's teams is not justified—and that it is a burden or a headache to fund women's teams or even to think about how to fund women's teams—especially if the women's sports will not produce revenue (like the men's sports ostensibly would, according to this view's adherents). This theme also focuses on the idea that revenue-generating sports should be treated specially, or separately, and not “counted” in determining Title IX compliance—

²³⁶ “Tip-Off,” *The Washington Post*, 29 January 2003, p. A20.

²³⁷ “A Sporting Chance for Girls,” *The New York Times*, 2 June 2002, p. 18.

ostensibly because they “pay the bills.” This will be called the “market” theme under the management frame for the purposes of this dissertation.

Given the recent origin of significant and reasonably sustained interest by women in intercollegiate athletics, and given the fact that the member colleges of the NCAA have responded to that interest on their own... I don’t think it is fair to say that NCAA member schools have not already made a major commitment to women’s intercollegiate sports.²³⁸

Title IX, as it is currently being implemented, is too often used as a mathematical cudgel, a blind and blunt instrument that ignores common sense and beats out a one-note tune: proportionality.²³⁹

At trial, Brown [University] presented overwhelming evidence that among prospective and current students interested in varsity athletic participation, men substantially outnumbered women, and the district court made no findings to the contrary. Defendants’ expert, Dr. Finis Welch, “a prominent labor economist,” *Cohen III*, App. at 125a, concluded that “men express greater interest in, and actually participate in, competitive sports to a much larger degree than do women.” App. at 317a. Dr. Welch’s conclusion was based on “an extensive search and review of large nationally representative data sources” which included, inter alia, a review of seven different surveys conducted by independent institutions concerning young men’s and women’s interest and participation in sports at the national level, see *id.*, App. at 320-27a, in addition to an extensive review and tabulation of data from the 65,829 applications received by Brown for the classes of 1994-1998 concerning applicants’ interest in sports participation at Brown. See App. at 318.²⁴⁰

Just as men and women for various complex reasons often have shown different interest levels in particular academic subjects and other educational activities, so have they in intercollegiate sports. No observer’s crystal ball has yet predicted reliably the percentage of women who will want to participate in intercollegiate sports ten, twenty, or one hundred years from now. By all measures,

²³⁸ Congress, House, *Sex Discrimination Regulations*, 102, Fuzak.

²³⁹ Diane Pucin, “Law Did Job, Now Change It,” *Los Angeles Times*, 23 June 2002, p. D12.

²⁴⁰ *Brown v. Cohen*, 1997a.

however, men and women do not now participate in competitive sports to the same extent, nor have they historically. Nationwide, men and women now participate in intercollegiate varsity programs at a ratio of approximately two to one. That ratio reflects the percentages of girls and boys who participate in competitive high school sports, from which many, if not most, college varsity players are attracted.... The record in this case also shows that women and men consistently demonstrate different interest levels in playing intercollegiate sports. For example, over a four-year period, male applicants to Brown [University] expressed much more interest in playing competitive sports than did female applicants. Annual surveys of Brown's entering freshmen classes likewise show that more men than women plan to participate in varsity programs. These results are consistent with a recent independently conducted nationwide survey showing that only 35 to 40 percent of college freshmen who proposed to play varsity sports were women. See *id.* at 8-14.²⁴¹

Women's participation in athletics has increased dramatically without the First Circuit's rule, and the fact that women are not equally interested in devoting their time and energies to collegiate athletics may be the product of legitimate choice instead of discriminatory barriers.²⁴²

An often-cited example by proponents of the private cause of action is women's soccer, which grew by 1,058% in college.... However, that growth is not attributable to the private cause of action. Rather, this is an example of how supply met demand without private litigation, as girls' soccer grew by 912% in high school over the comparable period.... Soccer serves as proof that intercollegiate teams increase in proportion to demand, without the need for quotas.²⁴³

²⁴¹ *Brown v. Cohen*, 1997c.

²⁴² *Brown v. Cohen*, 1997a.

²⁴³ *National Wrestling Coaches Association v. DoE*, 2005a.

Frame: Debate

This dissertation will also consider what will be called a “debate” frame, not studied in the earlier research, which mirrors a frame of the same name posited by Rosenthal and “which focuses on points and counterpoints raised by the advocates, recounts pros and cons, and counters [quotations] as ‘he said’ versus ‘she said.’”²⁴⁴ Other researchers have referred to this tendency of the media to “seek balance and include conflicting views” as “dualism,” as it tends to impose a bi-polar structure on even complex, multi-dimensional issue debates.²⁴⁵ For the purposes of this dissertation, the debate frame will have to be supported by identifying and tallying the appearance of the competing themes supporting the debates taking place under the fairness and management frames; in other words, this frame will be characterized by the appearance of both advocacy and opposition frames in a single article. This frame is important to investigate because the overall appearance of the themes, even in what might appear to be a “balanced” debate-framed story, will be relevant to discussion of each theme’s dominance and its subsequent impact on public opinion.

Discussion

The evidence presented in the prior research showed that there were competing, identifiable frames, which were promulgated by social agents interested in Title IX. It was evident that the frames were selected by various interested social agents, as Entman

²⁴⁴ Rosenthal: 73.

²⁴⁵ Nayda Terkildsen, Franke I. Schnell, and Cristina Ling, “Interest Groups, the Media, and Policy Debate Formation: An Analysis of Message Structure, Rhetoric, and Source Cues,” *Political Communication*, 15, no. 1 (1998): 59.

suggested, to highlight some aspects of the Title IX debate and to make them more salient in public relations and other mass communications.²⁴⁶ Thus, the earlier research found that the frames promoted one side of the debate or the other and encouraged a moral evaluation in favor of a position. Interestingly, the two sides used the very same frames, fairness and management, but in completely opposite directions; for example, “inequality of opportunity is unfair” versus “quotas are unfair,” “inequality is un-American” versus “a command economy is un-American,” and “allocation of resources vis-à-vis football is a mismanagement issue” versus “allocation of resources is a management issue.”

In the case of both the fairness and management frames, the overall conflict over Title IX could be characterized as a struggle over power and prestige. The conflict as manifested in the fairness frame comprises an hegemonic, political struggle for power and prestige based on status—the status being gender. The conflict as manifested in the management frame comprises a more practical, economic struggle for power and prestige based on the allocation of scarce resources.

In the earlier research, texts from the court cases analyzed, as well as from the congressional hearings, contained competing frames from two sides of the conflict. More interesting was that, without variation, the editorial pages from all of the newspapers analyzed presented advocacy frames, though the specifically identifiable op-ed pages under analysis presented a mix of advocacy and opposition frames. Also, the evidence provided support for Entman’s idea that the interested social agents would encourage the

²⁴⁶ Entman: 56.

shaping of public opinion with a moral evaluation and a recommendation for policy change or policy status quo.²⁴⁷

In line with Entman's idea that social agents would call attention to some aspects of an issue,²⁴⁸ the evidence showed in many instances in the debate dialogue, one of the sides of the conflict directly countered the ideas put forward by the other by completely negating the veracity of a claim. For example, in the debate over men's teams being cut in order to fund women's teams, Title IX advocates dismissed out of hand the notion that Title IX was to blame and turned the argument back on the opponents, saying it was a mismanagement issue or an issue of football set-asides. Similarly, in the debate over whether Title IX required the application of quotas, the opposition side asserted aggressively that, indeed, quotas were required to satisfy policy enforcement officials.

On the other hand, the evidence also showed instances in which Entman's notion of obscuring some aspects of the Title IX issue were used in the framing process.²⁴⁹ For example, from the advocacy perspective, when discussing quotas, complicated explanations of how the policy interpretation did not require quotas were used; also, the euphemism "substantial proportionality"²⁵⁰ was used instead of the word "quotas." Similarly, in the debate over athletic funds management, the opposition side did not address the issue of football budgets and ignored calls for increasing overall athletics budgets.

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

²⁵⁰ Brown v. Cohen, 1997b.

Also notable was how the evidence showed frames advanced based on faulty logic, thereby supporting Entman's idea that an emotional or value objective, rather than a rational objective, could be part of the framing process.²⁵¹ For example, in what seemed to be a contradiction, Title IX advocates at once argued that the law was rarely enforced and that it was responsible for great increases in women's sports participation. Further, it should be noted that this claim that Title IX was responsible for great increases in women's athletics participation—even though presented definitively, as if a causal relationship exists—was based on circumstantial evidence. Also, Chief Judge Torruella of the First Circuit noted that there had been “no findings by Congress with respect to discrimination against women in athletics when Title IX was passed, and no ‘exceedingly persuasive justification’ for preferences had been advanced,”²⁵² thereby lending support to the idea that market forces, not anti-discrimination laws, were driving the expansion of women's athletics participation. This underscored the irreconcilability of the frames: It would be difficult to reach consensus on a contentious topic in which the frames were based on irrational emotions or values and, at best, circumstantial evidence.

The earlier investigation found support for the idea that, as Brake implied, some of the frames promulgated by the opposition appeared to have the objective of engendering resentment for the law and bitterness toward the disadvantaged class of people, women.²⁵³ These included the frames that promote the ideas that quotas are un-American, Title IX is responsible for cuts to men's athletics programs and to *individual*

²⁵¹ Entman: 56.

²⁵² Brown v. Cohen, 1997c.

²⁵³ Brake (2004b).

men's participation, and Title IX is anti-market. Conversely, the advocates appeared to have a similar objective but somewhat different tactic; they appeared to have the objective of promoting support for the law and bitterness for the law's opponents. To achieve this objective, they put forth frames that promoted the ideas that inequality for a *group* is un-American, that football is responsible for resource allocation problems in athletics, and that market forces are not enough to overcome institutional discrimination. Because these frames are contentious—i.e., result in court battles—and because the social agents advancing them move in and out of positions of official influence, inconsistencies exist in the application and enforcement of the law. Rosenthal posited that the nature of the frames, individual-experience focused versus group-experience focused, can have an impact on the success of social agents to advance them, with an advantage going to those who promulgate individual-focused frames.²⁵⁴

The prior research also suggested that to some extent resentment of the law created opposition that would not exist in absence of the law. That is to say, without the law, it might be the case that traditional market forces would have resulted in greater, more equal, opportunities for women in athletics in the same amount of time as Title IX has been in place. Brake's idea that anti-discrimination law could bring about retaliation and negative, not simply neutral, consequences would support this idea.²⁵⁵

²⁵⁴ Rosenthal: 87-89.

²⁵⁵ Brake (2005).

Applicability of Earlier Research to Subsequent Chapters

The findings of the earlier research will be used as the basis and partial justification for conducting the research and analysis in the rest of this dissertation. This dissertation will seek to replicate the findings relevant to the first research question in the earlier study. The fairness and management frames identified in conjunction with investigating that research question seem to fit in the context of backlash, with each frame being used in 1) a sudden, often emotionally charged, antagonistic oppositional response to 2) the impact of either Title IX or the weakening of Title IX, stemming from what is perceived as 3) play in the social system, as evidenced by the use of the frames in legislative and court contexts where adjustments might occur. This will be investigated more rigorously in this dissertation.

Additionally, this dissertation will extend the prior research to include greater detail, especially in regard to the timing of the appearance of the various conflict frames in official proceedings and in the mass media, as timing is central to the concept of backlash as a dynamic, transformative communication process. This will justify the investigation of this dissertation's first research question, given at the end of the previous chapter: that is, what is the nature of opposition and advocacy frames in public policy debates, do they evolve over time, and do they transform a public policy conflict?

More detailed analysis of mass media data will also allow investigation of this dissertation's second research question: What is the nature of opposition and advocacy frames in the public policy debate over Title IX, do they evolve over time, and do they transform the conflict? Moreover, it should be noted that the earlier research will be extended in this dissertation by examining sources that, as noted earlier, were not

considered in the earlier research—namely, regular newspaper articles, which generally did not include singular, clear frames. The overall appearance of the themes, even in a debate-framed story, will be relevant to discussion of their dominance and subsequent impact on public opinion. All of this, in conjunction with the “hard” evidence of participation and public opinion data provided at the end of the previous chapter, will allow discussion of the dissertation’s third research question: What is the relationship between public opinion and the appearance of opposition and advocacy frames in the mass media.

Finally, it would be worth summarizing here the frames and themes discovered in the prior research, informed by Rosenthal’s recent research, in an outline format.

- I. Frame: Fairness
 - A. Advocacy Theme: Equality
 - B. Opposition Theme: Zero-Sum
 - C. Advocacy Theme: Personal Opportunity
 - D. Opposition Theme: Quota
- II. Frame: Management
 - A. Advocacy Theme: Mandate
 - B. Opposition Theme: Autonomy
 - C. Advocacy Theme: Scapegoat
 - D. Opposition Theme: Market
- III. Frame: Debate
- IV. Frame: Neutral

The outline format allows an easy way to see how the themes under each frame are paired in terms of competing values: IA is roughly the antithesis of IB; IC is roughly the antithesis of ID; IIA is roughly the antithesis of IIB; and IIC is roughly the antithesis of IID. The debate frame pits IA, IC, IIA, and IIC against IB, ID, IIB, and IID, in any combination of antithetical themes. Again, the neutral frame was deemed not to be relevant to this study. The next chapter will feature this scheme, along with a detailed

description of the methodology used to gather evidence to investigate this dissertation's research questions.

Chapter 5: Method

Chapter 3 established the importance of the mass media in a public policy debate that involves backlash. To review, the “play” element of backlash is conveyed to the public through mass media, and it is in the media that the misalignment or conflict of goals among disputants is publicly articulated. Because public debate takes place most significantly in the mass media²⁵⁶ and backlash is manifest in mass media messages, the mass media are the best place to look for evidence to investigate the first research question posed earlier: What is the nature of backlash frames in the public policy debate over Title IX, do they evolve over time, and do they transform the conflict? Moreover, this dissertation’s other research questions are explicitly mass media related. Therefore, the research method for this dissertation relies heavily on mass media sources.

Also, because this dissertation asks questions about the relationship between mass media messages and a public policy debate, it is necessary to consider sources of opposition and advocacy frames from government, where public policy is largely determined. These sources come in a variety of forms, including documents pertaining to court cases, records of legislative hearings, transcripts of public hearings, and written statements from members of the public, interest group representatives, and elected and appointed officials. This dissertation’s analysis does not involve an exhaustive set of documents but rather documents which correspond to the most significant milestones in the history of the conflict over the implementation of Title IX and which will help to demonstrate clearly the relationship between frames appearing in government

²⁵⁶ Rosenthal: 70.

proceedings and those appearing in the mass media. In other words, these documents are sufficient to address the research questions of this dissertation.

This chapter will outline the various data used and tell in general terms what was done with them. The data are categorized into two sets: a “newspaper dataset,” which, as explained below, is a mass media dataset that includes newspaper articles exclusively, and a “legal and legislative dataset,” which includes all of the various governmental sources used. The next chapter will detail this dissertation’s specific findings and the relationships within and between the datasets. It will also specifically address the research questions.

Mass Media Data Sources

Any study of mass media messages could involve sources from an array of mass media venues, including radio, television, the Internet, and so on. For this study, newspapers were chosen because, compared with other media, they provide the most developed frames, because they are often used as the basis for stories in other media, and because, of all media, their textual format most closely resembles the textual format of the legal and legislative dataset that will be described later. More specifically, the newspapers included in this study are *The Washington Post*, because there is evidence to suggest it is influential with federal policymakers;²⁵⁷ *The New York Times*, because of its agenda-setting role within the news media;²⁵⁸ and the *Chicago Tribune*, because of its

²⁵⁷ Steven Hess, *The Government/Press Connection: Press Officers and Their Offices* (Washington: Brookings Institution, 1984).

²⁵⁸ Dearing and Rogers.

non-East Coast perspective. It should be noted that one advantage of using major newspapers like these, with large circulations, in a study of the conflict over Title IX, is that they are less likely to reproduce gender stereotypes than smaller circulation newspapers.²⁵⁹

The Lexis-Nexis major newspaper database was used to identify articles containing the term “Title IX” from these three newspapers. Lexis-Nexis made it possible to access and print articles from *The New York Times* dating back to 1980, from *The Washington Post* dating back to 1977, and from the *Chicago Tribune* dating back to 1984. Lexis-Nexis also provided access titles, dates, and pages for relevant articles from all three newspapers dating back to when the first article about Title IX relevant to women in sports appeared in 1974; with those, it was possible to access and print from microfilm facsimiles of newspaper pages corresponding to those titles. Articles from only these sections were kept: news, sports, and commentaries. This left a dataset of 1,975 articles. The number of articles in the dataset was further narrowed by eliminating articles containing 250 words or fewer²⁶⁰ (printouts stated the word lengths of the articles available online; word lengths of the articles available only on microfilm were estimated). The final dataset included 1,607 articles dating from May 12, 1974, through December 14, 2007 (there were no relevant 2007 articles dated after this): 560 articles came from *The Washington Post*, 474 from *The New York Times*, and 573 from the

²⁵⁹ Kim Fridkin Kahn, “The Distorted Mirror: Press Coverage of Women Candidates for Statewide Office,” *Journal of Politics*, 56, no. 1 (1994): 154-173.

²⁶⁰ Professor Dan Sullivan suggested doing this to remove less-influential articles such as news briefs and summaries and also to pare down the size of the dataset.

Chicago Tribune. The articles were coded for several categories (see Appendix for the complete coding scheme).

Each newspaper article was coded by several objective categories: by source (the newspaper in which it appeared), by date, by section (news, sports, editorial, or sports commentary), by word count, by the sex of author (male, female, or no author listed), by author affiliation (in-house, news service, or syndicated), and by prominence within the newspaper (front page of newspaper, other page of news sections, front page of sports section, or other page of sports section).

Most importantly, each article was coded by the more subjective criteria of frame related to Title IX. The identification of mass media frames was guided by Entman, Scheufele, and Rosenthal. As mentioned in the last chapter, the frames and subsidiary frames (themes) that were identified can be summarized in this outline:

- I. Frame: Fairness
 - A. Advocacy Theme: Equality
 - B. Opposition Theme: Zero-Sum
 - C. Advocacy Theme: Personal Opportunity
 - D. Opposition Theme: Quota
- II. Frame: Management
 - A. Advocacy Theme: Mandate
 - B. Opposition Theme: Autonomy
 - C. Advocacy Theme: Scapegoat
 - D. Opposition Theme: Market
- III. Frame: Debate
- V. Frame: Neutral

Frames and themes were coded separately; in other words, the coding scheme included a category for frames (fairness, management, debate, or neutral) and another category for themes (equality, zero-sum, personal opportunity, quota, mandate, autonomy, scapegoat, market, or other). A single article could have more than one frame and more than one

theme; indeed, more than one (opposing) theme is necessary to constitute the debate frame as defined. Neutral-framed articles (n = 175) were ignored in the analysis because they were not informative in a study of backlash.

The frame-and-theme classification scheme is summarized here, and exemplars are included:

Fairness Frame

Equality Theme

Things won't truly be equal until girls get the same opportunity as boys do. Title IX was a start—it's the federal law calling for equal access to school activities where federal funds are involved, and it has opened doors for girls and women in high school and college.²⁶¹

Zero-Sum Theme

"We have the only state legislature in the country that chose not to fund women's sports when Title IX was instituted, so we had to drop [men's] swimming and baseball to add women's programs in 1980."²⁶²

Personal Opportunity Theme

[Title IX]'s been a turning point for women. I was never told I could play a sport growing up. Title IX opened the door for collegiate sports—I got a soccer scholarship to the University of Portland—and it's been the foundation of our [the U.S. Olympic soccer team's] success.²⁶³

Quota Theme

Title IX was enacted to expand opportunities for young women who had long been discriminated against. However, it has become an affirmative

²⁶¹ Billie Jean King, "When Joy Knows No Gender," *Chicago Tribune*, 22 February 1998, p. 1.

²⁶² Christine Brennan, "Oregon Won't Hedge Its Bets on Upcoming Football Lottery; State Proceeds with Game on NFL Despite Criticism," *The Washington Post*, 22 August 1989, p. D1, quoting Oregon Athletic Director Bill Byrne.

²⁶³ Anne Stein, "Soccer Star Gets Her Kicks out of Being a Role Model," *Chicago Tribune*, 5 September 2001, p. 3, interview response from U.S. Olympic soccer team member Shannon MacMillan.

action program, employed not merely to open opportunities but to engineer statistical outcomes.²⁶⁴

Management Frame

Mandate Theme

Other sports experts say nearly three decades after Title IX mandated equal opportunity for girls in sports, the variety of sports available has led to girls demanding more chances to play, even in sports traditionally reserved for boys.²⁶⁵

Autonomy Theme

The [Supreme Court's *Grove City*] decision resulted from Grove City College's refusal to sign a routine Title IX nondiscrimination compliance form. It did so not in objection to the principles of nondiscrimination, but in objection to requirements that would have obliged the college to adhere to all future unwritten regulations. The college considered that to be unnecessary government intrusion into the affairs of a private institution. Grove City College considers discrimination of any kind to be repugnant and inconsistent with its conscience as a Christian institution.²⁶⁶

Scapegoat Theme

While UConn's Geno Auriemma and Tennessee's Pat Summitt—leaders of the two most successful and profit-generating programs—were quoted as saying that most universities don't have an interest in or an understanding of how to market women's basketball, the implication was that women's basketball over all is a financial drain, another albatross courtesy of Title IX. To which Jody Conradt, second to Summitt in career victories with 817, responded, "If you're asking do we produce revenue, the answer is yes because we charge for our games and everybody comes. Do we cover all our expenses? No. But have you asked those same questions of swimming, of men's track?" When it was mentioned to her

²⁶⁴ George F. Will, "Quotas on the Playing Fields; Where Did Title IX Go Astray?" *The Washington Post*, 27 April 1997, p. C07.

²⁶⁵ Karen Mellen, "Girls Hope football is Passed to Them Naperville High Schools See Parks Tournament as a 1st Down but Know they Still Have a Way to Go," *Chicago Tribune*, 8 November 2000, p. 1

²⁶⁶ William T. James [assistant vice president for external affairs at Grove City College], "Grove City College 'Affirms Its Stand,'" *The Washington Post*, 11 February 1988, p. A27.

that many almighty football programs actually spend more than they earn, Conradt shook her head approvingly. “Good point,” she said.²⁶⁷

Market Theme

If Title IX is enforced, we will have to share some of our money with the girls’ athletic program. Since football pays all the bills, our program will suffer if they take some money away from us. If our program suffers we won’t bring in as much in gate receipts and TV appearances, and as a result everyone will suffer. Therefore, football should be exempt from this act.²⁶⁸

Debate Frame

Opposition (Zero-Sum) Theme:

“What is very important is that the world knows we embrace Title IX,” National Wrestling Coaches Association executive director Mike Moyer said. “We don’t believe there should be discrimination on gender on college and university campuses. Period. But when the coach of a men’s sport is forced to cap the size of his program, that very obviously appears to violate what Title IX is about.”²⁶⁹

Paired with

Advocacy (Equality) Theme:

Nearly 30 years since the law was enacted, critics and supporters agree that Title IX has made a significant impact in fostering the tremendous growth of women’s sports, both at the collegiate level and beyond. The proliferation of women’s basketball and soccer programs has led to the recent creations of professional leagues in both sports.²⁷⁰

²⁶⁷ Harvey Araton, “Men Give Women an Unseemly Model,” *The New York Times*, 7 April 2003, p. D4.

²⁶⁸ Ralph J. Sabock, “Football: It Pays the Bills, Son,” *The New York Times*, 5 October 1975, p. 216, interview response from an unnamed college men’s athletics coach.

²⁶⁹ Josh Barr, “Title IX Still Has a Tough Deed at 30; Small Sports Face Financial Inequity,” *The Washington Post*, 9 May 2002, p. D1.

²⁷⁰ *Ibid.*

(Again, there are several possible pairings that could constitute a debate; this is just one of them.)

Each article was also coded by the more subjective criteria of centrality of Title IX: central (the article was basically about Title IX), important (the article was not specifically about Title IX, but Title IX figured significantly into the article), or just mentioned.

Some coded characteristics ultimately were not relevant to the analysis or to answering the research questions but might nevertheless be useful in further research. (Again, see Appendix for these and for the complete annotated coding scheme.)

A standard process and commonly accepted procedures were used to check the reliability of the coding scheme. Two coders were recruited for this procedure: an undergraduate dual communications and kinesiology major at Northwestern College in St. Paul, Minnesota, and a master's degree student majoring in kinesiology at the University of Minnesota Twin Cities. Use of www.random.org allowed for the generation of a set of random numbers to facilitate the extraction of a sample of a little more than ten percent of the total dataset (183 articles). After being trained on the coding scheme, the coders coded 15 articles so that any questions could be resolved and ambiguity removed before the coding of the rest of the sample. Once the coders were confident about their ability to apply the coding scheme and there was confidence about the consistency that should exist between their coding and that of the author, the coders received a copy of the rest of the sample articles (168) to code independently. Once the coders were done coding the sample, their coding was compared to the author's to determine intercoder reliability. There were no discrepancies found between their

samples and the author's in regard to the objective coding categories. Straight percentages and Scott's π were used to measure the intercoder reliability of the subjective judgment codings (e.g., centrality, frame, and theme).²⁷¹ In all cases, the agreement percentages ranged from 80 to 92 percent, and the Scott's π reliability coefficients ranged from .7505 to .7844, well within acceptable ranges.²⁷² In addition, the intercoder reliability between coders was calculated. In all cases, the agreement percentages ranged from 80 to 90 percent, and the Scott's π reliability coefficients ranged from .7523 to .8336. Consequently, the overall reliability of the coding scheme was found to be well within traditionally accepted ranges.

As will become clear in the next chapter, the coding scheme allowed for sorting of the articles in various ways to discern patterns and trends in coverage of the Title IX conflict over time. It also allowed comparison of the patterns in coverage to the timing and patterns of messages appearing in the legislative and court history of Title IX. Most important, it ultimately allowed discussion of backlash as a transformative process in the history of a public policy conflict.

The number of "Title IX just mentioned" articles comprised over half of the total newspaper dataset (52.33 percent, $n = 841$)²⁷³ and, after initial analysis, these articles were found to constitute a confounding variable because of their large number and consequent power to skew findings toward the themes they featured and because of their

²⁷¹ William A. Scott, "Reliability of Content Analysis: The Case of Nominal Scale Coding," *The Public Opinion Quarterly*, 19, no. 3 (1955): 321-325.

²⁷² Ibid.

²⁷³ 328 from the *Chicago Tribune*, 225 from *The New York Times*, and 288 from *The Washington Post*.

unlikelihood of carrying a debate frame (n = 5). Therefore, the “Title IX just mentioned” articles were analyzed separately and the greater part of the analysis concentrated on the “Title IX central” and “Title IX important” articles (n = 753).²⁷⁴ Unless specifically noted, this is the newspaper dataset that will be analyzed in this chapter. Of this “Title IX central” and “Title IX important” dataset, 267 articles came from *The Washington Post*, 247 from *The New York Times*, and 239 from the *Chicago Tribune*.

Table 5-1 shows the percentage of each newspaper’s Title IX articles appearing by centrality of Title IX, by newspaper section, and by prominence in the newspaper.

Table 5-1: Percentage of Articles Appearing by Centrality of Title IX, by Newspaper Section, and by Prominence in the Newspaper

	<i>Washington Post</i> (n = 267)	<i>New York Times</i> (n = 247)	<i>Chicago Tribune</i> (n = 239)	Total (n = 753)
Central	55.81	63.97	48.95	56.31
Important	44.19	36.03	51.05	43.69
News section	32.69	34.82	33.47	33.73
Sports section	50.56	38.46	43.51	44.36
Editorial	11.24	9.31	14.23	11.55
Sports commentary	5.24	17.41	8.79	10.36
Front page	10.11	8.10	14.23	10.76
Front sports	23.97	8.91	10.88	14.87
Other news	34.08	36.03	33.47	34.53
Other sports	31.84	46.96	41.42	39.84

The distribution of articles by centrality of Title IX to the articles shows significant variation among the three newspapers ($X^2 = 11.2$, $df = 2$, $p = 0.004$), and there is significant variation in the distribution between *The New York Times* and *Chicago Tribune* ($X^2 = 11.1$, $df = 1$, $p = 0.001$), but not between *The Washington Post* and *The*

²⁷⁴ Note: Of the 175 neutral-framed articles that were ignored from the entire dataset, only 16 were “Title IX central” or “Title IX important” articles.

New York Times ($X^2 = 3.55$, $df = 1$, $p = 0.059$) or between *The Washington Post* and *Chicago Tribune* ($X^2 = 2.37$, $df = 1$, $p = 0.123$). The main difference among the newspapers appears to be the greater tendency of *The New York Times* to have published articles in which Title IX was the central topic.

The distribution of articles by newspaper section shows significant variation among the three newspapers ($X^2 = 26.2$, $df = 6$, $p < 0.001$), and there is significant variation in the distributions between *The Washington Post* and *The New York Times* ($X^2 = 21.9$, $df = 3$, $p < 0.001$) and between *The New York Times* and *Chicago Tribune* ($X^2 = 10.2$, $df = 3$, $p = 0.017$), but not between *The Washington Post* and *Chicago Tribune* ($X^2 = 4.52$, $df = 3$, $p = 0.211$). There appears to have been the greater appearance of sports commentaries about Title IX in *The New York Times* than in the other newspapers. In addition, it appears that *The Washington Post* was more likely than other newspapers to carry Title IX stories in its sports section.

The distribution of articles by prominence in the newspaper shows significant variation among the three newspapers ($X^2 = 35.6$, $df = 6$, $p < 0.001$), and there is significant variation in the distributions between *The Washington Post* and *The New York Times* ($X^2 = 25.6$, $df = 3$, $p < 0.001$) and between *The Washington Post* and *Chicago Tribune* ($X^2 = 17.1$, $df = 3$, $p = 0.001$), but not between *The New York Times* and *Chicago Tribune* ($X^2 = 5.66$, $df = 3$, $p = 0.130$). Combining front page and front sports page appearances of Title IX articles for each newspaper highlights the fact that *The Washington Post* featured the stories more prominently. Over one-third of stories in *The Washington Post* appeared on either the front page of the newspaper or on the front page

of the sports section as compared with only about 17 percent in *The New York Times* and about 25 percent in the *Chicago Tribune*.

Table 5-2 shows the percentage of each newspaper's articles employing the identified frames and themes and the percentage of articles employing advocacy and opposition themes, in aggregate.

Table 5-2: Percentage of Articles Employing Frames and Themes, and Advocacy and Opposition Themes (in Aggregate) by Newspaper and Overall²⁷⁵

Frame/Theme	Washington Post (n = 267)	New York Times (n = 247)	Chicago Tribune (n = 239)	Total (n = 753)
Debate	26.59	33.60	23.01	27.76
Fairness	34.83	41.70	57.74	44.36
Management	51.31	36.03	32.22	40.24
Equality	28.09	39.68	54.39	40.24
Zero-sum	11.61	14.98	18.83	15.01
Personal opportunity	16.85	14.98	28.45	19.92
Quota	7.12	5.67	8.79	7.17
Mandate	64.42	57.09	36.40	53.12
Autonomy	11.99	25.51	7.53	15.01
Scapegoat	7.49	8.91	4.60	7.04
Market	17.60	7.29	12.55	12.62
Advocacy	86.89	91.90	85.77	88.18
Opposition	39.70	41.30	37.24	39.44

The distribution of frames by newspaper shows significant variation among the three newspapers ($X^2 = 33.5$, $df = 4$, $p < 0.001$), and there is significant variation in the distributions between *The Washington Post* and *The New York Times* ($X^2 = 10.5$, $df = 2$, $p = 0.005$), between *The New York Times* and *Chicago Tribune* ($X^2 = 11.6$, $df = 2$, $p = 0.003$), and between *The Washington Post* and *Chicago Tribune* ($X^2 = 26.0$, $df = 2$, $p < 0.001$). The most notable differences among the newspapers appear to be the *Chicago*

²⁷⁵ Note: Sum of percentages for frames, for themes, and for advocacy and opposition may total greater than 100 percent, as one non-debate article may contain multiple frames, and one article may contain multiple themes.

Tribune's more frequent use of the fairness frame, *The New York Times's* more frequent use of the debate frame, and *The Washington Post's* more frequent use of the management frame.

The distribution of themes by newspaper shows significant variation among the three newspapers ($X^2 = 78.7$, $df = 14$, $p < 0.001$), and there is significant variation in the distributions between *The Washington Post* and *The New York Times* ($X^2 = 31.2$, $df = 7$, $p < 0.001$), between *The New York Times* and *Chicago Tribune* ($X^2 = 59.8$, $df = 7$, $p < 0.001$), and between *The Washington Post* and *Chicago Tribune* ($X^2 = 59.2$, $df = 7$, $p < 0.001$). The most notable differences among the newspapers appear to be the *Chicago Tribune's* more frequent use of the equality and personal opportunity themes and relatively smaller use of the mandate theme, *The New York Times's* more frequent use of the autonomy and mandate themes, and *The Washington Post's* more frequent use of the market and mandate themes.

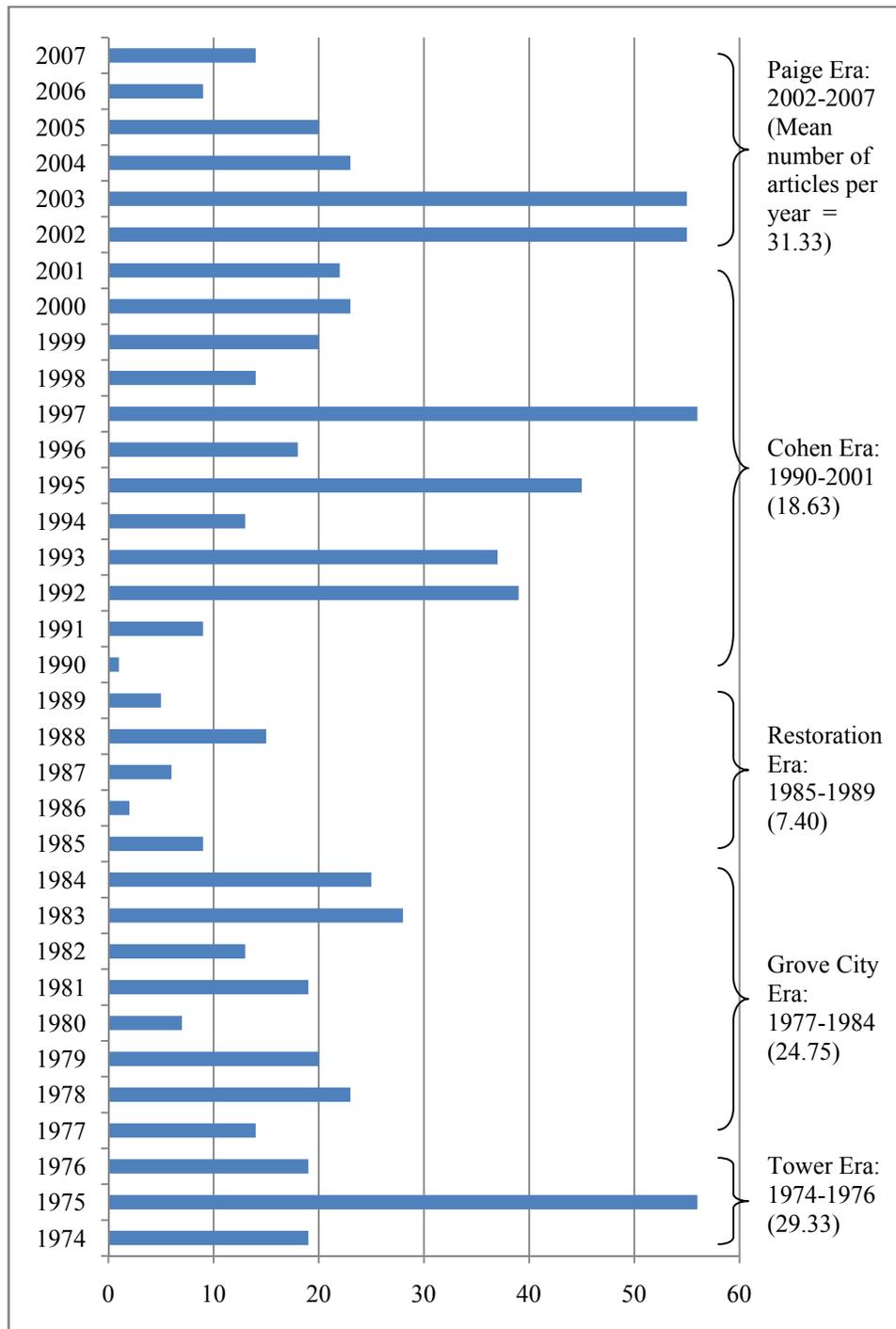
The distribution of articles using advocacy and opposition themes, in aggregate, was not significantly different among the newspapers ($X^2 = 0.090$, $df = 2$, $p = 0.956$).

The statistically significant variation among the newspapers notwithstanding, the dataset was analyzed as a whole for the purposes of this dissertation, except in the case of a couple of interesting anomalies and exemplars. The dissertation's research questions justified the analysis of the data from the newspapers as a single dataset. First, investigation of this dissertation's research questions are meant to provide insight into the overall evolution of a major public policy debate, which can be done only by looking at a breadth of mass media coverage; indeed, one of this dissertation's limitations is its reliance on only three newspaper sources, though, for reasons stated earlier, these three

were thought to be adequately representative. Second, the research questions deal not with what individual media consumers have gotten or on how public opinion has changed in a limited region of the country, but, rather, with the impact of media coverage on national public opinion. Just the same, the differences among newspapers suggest that it could be worthwhile considering them separately in future research involving different research questions.

Figure 5-1 shows the distribution of non-neutral-framed “Title IX central” and “Title IX important” articles, beginning in 1974 and going through 2007. The table also shows major time periods that will be analyzed, determined by the timing of significant milestones in the legal and legislative history of Title IX and by patterns in the newspaper coverage of the topic, as delineated in Chapter 3.

Figure 5-1: Number of Non-Neutral-Framed “Title IX Central” and “Title IX Important” Newspaper Articles, by Year and Major Timeframes



Legal and Legislative Data Sources

As shown in the timeline at the end of Chapter 3, there have been several important milestones in the history of Title IX, many of which are legislative or legal in nature. Opposition frames were promulgated in legal and legislative venues in response to the effects of the implementation of Title IX beginning shortly after the law's passage, when people first started to understand the practical implications of the law. To answer this dissertation's research questions, especially what the relationship is between the appearance of opposition and advocacy frames in the mass media and their appearance in official debates (in the legislative arena and in the courts), it was necessary to examine the transcripts and documents generated by governmental and court proceedings.

Ultimately, the following sources were chosen for analysis, based on their importance to the history of the conflict over Title IX. These documents were found in a variety of venues, online, in print, on microfilm, and on microfilm. Hardcopies of all documents were collected to allow a careful reading of each.

Tower Era

- *Hearing on the Higher Education Act of 1971: Hearing before the Committee of the Whole of the U.S. Senate.*²⁷⁶ This contains the first appearance in the U.S. Senate of what eventually would become Title IX of the Education Amendments of 1972.

²⁷⁶ Congress, Senate, Hearing on the Higher Education Act of 1971: Hearing before the Committee of the Whole of the U.S. Senate, 92nd Cong., 1st sess., *Congressional Record* 117 (6 August 1971): 30,404-30,421.

- *Hearing on the Higher Education Act of 1971: Hearing before the Committee of the Whole of the U.S. House of Representatives.*²⁷⁷ This contains the first appearance in the U.S. House of Representatives of what eventually would become Title IX of the Education Amendments of 1972.
- U.S. Senate presentation of “Title X” of the Education Amendments of 1972, which eventually became Title IX.²⁷⁸
- *Education Amendments of 1972—Conference Report: Hearing before the Committee of the Whole of the U.S. Senate.*²⁷⁹
- The “Tower Amendment” introduction in the U.S. Senate.²⁸⁰ This was the first legislative challenge to Title IX’s application in the context of interscholastic athletics.
- “Tower II,” reintroduction of the Tower Amendment.²⁸¹
- *Hearing on House Concurrent Resolution 330 (Title IX regulation): Hearing before the Subcommittee on Equal Opportunities of the Committee on Education*

²⁷⁷ Congress, House, Hearing on the Higher Education Act of 1971: Hearing before the Committee of the Whole of the U.S. House of Representatives, 92nd Cong., 1st sess., *Congressional Record* 117 (4 November 1971): 39,248-39,374.

²⁷⁸ Congress, Senate, Education Amendments of 1972, 92nd Cong., 2nd sess., *Congressional Record* 118 (28 February 1972): 5,803-5,817.

²⁷⁹ Congress, Senate, Education Amendments of 1972—Conference Report: Hearing before the Committee of the Whole of the U.S. Senate, 92nd Cong., 2nd sess., *Congressional Record* 118 (23-24 May 1972): 18,434-18,863.

²⁸⁰ Congress, Senate, Tower Amendment to the Education Amendments of 1974, 93rd Cong., 2nd sess., *Congressional Record* 120 part 12 (20 May 1974): 15,309-15,323. The actual amendment and discussion appear on pp. 15,322-15,323.

²⁸¹ Congress, Senate, Tower Amendment to the Education Amendments of 1975, 94th Cong., 1st sess., *Congressional Record* 121 (15 July 1975): 22,777-22,778.

*and Labor of the House of Representatives.*²⁸² This and the next document were chosen because they were among the first significant congressional hearings specifically regarding the application of Title IX to athletics.

- *Sex discrimination regulations: Hearings before the Subcommittee on Postsecondary Education of the Committee on Education and Labor of the House of Representatives.*²⁸³
- Rules promulgated by the Department of Health, Education, and Welfare, *Nondiscrimination on Basis of Sex*,²⁸⁴ signed by President Ford in 1975.
- *Prohibition of Sex Discrimination, 1975: Hearings before the Subcommittee on Education of the Committee on Labor and Public Welfare of the United States Senate.*²⁸⁵ Numerous advocates for men's sports testified in these hearings; consequently, they contain several opposition iterations.
- Debate over the Education Amendments of 1976 on the floor of the U.S. Senate.²⁸⁶ This includes debate over an amendment to alter Title IX, offered by Senator McClure of Idaho. The amendment was defeated, largely because of opposition by Senator Bayh of Indiana.

²⁸² Congress, House, *Hearing on House Concurrent Resolution 330* (1975).

²⁸³ Congress, House, *Sex Discrimination Regulations* (1975).

²⁸⁴ Department of Health, Education, and Welfare, Office of the Secretary, "Nondiscrimination on Basis of Sex," *Federal Register* 40, no. 108 (27 May 1975): 24,127-24,145.

²⁸⁵ Congress, Senate, Committee on Labor and Public Welfare, Subcommittee on Education, *Prohibition of Sex Discrimination, 1975: Hearings before the Subcommittee on Education of the Committee on Labor and Public Welfare, United States Senate, 94th Cong., 1st sess., on S. 2106, 16 and 18 September 1975*, Washington: Government Printing Office (1976).

²⁸⁶ Congress, Senate, Education Amendments of 1976, 94th Cong., 2nd sess., *Congressional Record* 122 (27 August 1976): 28,134-28,148.

Grove City Era

- Office for Civil Rights, Department of Health, Education, and Welfare, *Policy Interpretation* on Title IX and intercollegiate athletics.²⁸⁷
- Oral arguments before the U.S. Supreme Court in the case of *Grove City College v. Bell*.²⁸⁸ The oral arguments from this case were chosen because *Grove City College v. Bell* was the first landmark case in the legal battle over Title IX (1983-84).

Restoration Era

- *Civil Rights Restoration Act of 1985: Joint Hearings before the Committee on Education and Labor and the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary of the House of Representatives*.²⁸⁹ This document was chosen because it was among the first congressional hearings meant to address the Supreme Court ruling in *Grove City College v. Bell*.
- *Civil Rights Restoration Act of 1987: Report together with Minority Views to the U.S. Senate*.²⁹⁰
- *Veto—S. 557: Message from the President of the United States*.²⁹¹ This is President Reagan’s statement upon vetoing the Civil Rights Restoration Act of 1987, proposing in its place “The Civil Rights Protection Act of 1988.”

²⁸⁷ Department of Health, Education, and Welfare, Office for Civil Rights (1979).

²⁸⁸ *Grove City College v. Bell*.

²⁸⁹ Congress, House, *Civil Rights Restoration Act of 1985*.

²⁹⁰ Congress, Senate, Committee on Labor and Human Resources, *Civil Rights Restoration Act of 1987: Report together with Minority Views (to accompany S. 557)*, 100th Cong., 1st sess., 5 June 1987, Washington: Government Printing Office (1987).

Cohen Era

- *Cohen, et al. v. Brown University* (1992).²⁹² This document was chosen because this case, also known as *Cohen I*, was the first in a series of arguably the most significant legal battle over Title IX.
- *Cohen, et al. v. Brown University* (1993).²⁹³ This document, *Cohen II*, is the second in a series of the most significant legal battle over Title IX.
- *Intercollegiate Sports (part 2): Hearings before the Subcommittee on Commerce, Consumer Protection, and Competitiveness of the Committee on Energy and Commerce of the House of Representatives* (1992).²⁹⁴ This document was selected because it was a significant hearing specifically regarding Title IX and its relation to athletics after the passage of the Civil Rights Act of 1991, which strengthened Title IX and other anti-discrimination laws.
- *Intercollegiate Sports (part 2): Hearings before the Subcommittee on Commerce, Consumer Protection, and Competitiveness of the Committee on Energy and Commerce of the House of Representatives* (1993).²⁹⁵ This document was selected because it was a significant hearing similar to the previous one.

²⁹¹ President, *Veto—S. 557: Message from the President of the United States*, (16 March 1988). Washington: Government Printing Office (1988).

²⁹² *Cohen v. Brown*, no. 91-197-P (U.S. Dist. Ct., Rhode Island, 11 December 1992).

²⁹³ *Cohen v. Brown*, no. 92-2483 (1st Circ., 16 April 1993).

²⁹⁴ Congress, House, Committee on Energy and Commerce, Subcommittee on Commerce, Consumer Protection, and Competitiveness, *Intercollegiate Sports (part 2): Hearings before the Subcommittee on Commerce, Consumer Protection, and Competitiveness of the Committee on Energy and Commerce of the House of Representatives*, 102nd Cong., 2nd sess., held in Washington, D.C., 9 April 1992, Washington: Government Printing Office (1992).

²⁹⁵ Congress, House, *Intercollegiate Sports (part 2)* (1993).

- *Cohen, et al. v. Brown University* (1995).²⁹⁶ This document, *Cohen III*, is the third in a series of the most significant legal battle over Title IX.
- *Title IX of the Education Amendments of 1972: Hearing before the Subcommittee on Postsecondary Education, Training, and Lifelong Learning of the Committee on Economic and Educational Opportunities of the House of Representatives* (1995).²⁹⁷
- *Amateur Sports Act: Hearing before the Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism of the Committee on the Judiciary of the Senate*.²⁹⁸
- Petition for a Writ of Certiorari to the United States Court of Appeals for the First Circuit in the case of *Brown v. Cohen*.²⁹⁹ The petition and briefs in favor of and in opposition to the petition were chosen because this case, also known as *Cohen IV*, was the final in a series of arguably the most significant legal battle over Title IX (1996).

Paige Era

- *Title IX: Building on 30 Years of Progress: Hearing before the Committee on Health, Education, Labor, and Pensions of the Senate*.³⁰⁰ This document was

²⁹⁶ Cohen v. Brown, no. 95-2205 (1st Circ., 21 November 1996).

²⁹⁷ Congress, House, *Title IX of the Education Amendments of 1972* (1995).

²⁹⁸ Congress, Senate, *Amateur Sports Act* (1996).

²⁹⁹ Brown v. Cohen (1997a), Brown v. Cohen (1997b), Brown v. Cohen (1997c).

³⁰⁰ Congress, Senate, *Title IX: Building on 30 Years of Progress* (2002).

selected because it pertained to a significant and controversial review of Title IX in the current administration.

- Transcripts of town hall meetings conducted by the U.S. Secretary of Education’s Commission on Opportunity in Athletics, held in several cities across the nation in 2002 and 2003.³⁰¹ These town hall meetings were used to gather information in advance of the secretary’s issuance of the next document in this list.
- *Open to All: Title IX at Thirty*.³⁰² This is the U.S. Secretary of Education’s Commission on Opportunity in Athletics report on the proceedings of the group. Even the review of Title IX created controversy.
- Office for Civil Rights, Department of Education, “Further Clarification of Intercollegiate Athletics Policy Guidance Regarding Title IX Compliance.”³⁰³ This document created controversy in its interpretation of what was required of institutions to comply with Title IX.
- Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia in the case of *National Wrestling Coaches Association v. Department of Education*.³⁰⁴ The petition and briefs in favor of and in opposition to the petition were chosen because this case is the most recent significant case

³⁰¹ Department of Education, Office for Civil Rights, *The Secretary’s Commission on Opportunity in Athletics: Transcript of Proceedings*, 27-28 August, 17-18 September, 22-23 October, 20-21 November, 4-5 December 2002, 29-30 January 2003, Washington: Government Printing Office (2003).

³⁰² Department of Education, Office for Civil Rights, *Open to All: Title IX at Thirty*, Washington: Government Printing Office (28 February 2003).

³⁰³ Department of Education, Office for Civil Rights, *Further Clarification* (2003).

³⁰⁴ *National Wrestling Coaches Association v. DoE* (2005a), *National Wrestling Coaches Association v. DoE* (2005b).

regarding Title IX and was thought potentially to shed light on the state of the debate over Title IX at present (2004).

- Office for Civil Rights, Department of Education, “Additional Clarification of Intercollegiate Athletics Policy: Three-Part Test—Part Three.”³⁰⁵ This document created controversy in its interpretation of what was required of institutions to comply with Title IX.

While not all of these documents will be referenced explicitly in the next chapter, all were nevertheless considered in the analysis and were important in formulating the discussion.

These sources were read carefully and coded for the existence of frames and themes, according to the same scheme used to code the newspaper articles’ frames and themes. Because these documents are all specifically and almost exclusively about Title IX, there was no need to code for centrality or prominence like there was for the newspaper dataset. That said, this dissertation makes no claim that each of these documents had equivalent impact on the formulation and appearance of mass media frames or on public opinion.

Special attention was paid to the dates that these documents were produced. Unfortunately, while it is easy enough to discern a date when these documents were published, it is not possible to tell exactly when the ideas, including the opposition and advocacy messages and frames contained in these documents, were actually conceived. That is because many of these documents are of a well-edited and revised nature, polished for public consumption. Because it is impossible to know exactly when the

³⁰⁵ Department of Education, Office for Civil Rights (2005).

ideas in these documents were conceived, it is impossible to know whether the documents contained the ideas, including opposition and advocacy messages and frames, before their authors were promulgating the ideas in the mass media. This contrasts to the appearance of mass media frames in the sense that it is rare that a newspaper story is held for long before it appears in print; consequently, one can get a pretty good idea of the timing of the promulgation of a mass media frame.

What Was Done to Analyze the Data

A careful within-dataset analysis of the newspaper data was conducted. The data were sorted by eras and other criteria that were coded, and patterns in coverage and in the appearance of frames were noted, as were trends and apparent interplay between opposition and advocacy frames. Trends and interplay by newspaper placement—that is, for example, by whether opposition and advocacy frames appeared in the news, sports, editorials, and so on were also noted. The timing of the appearance of opposition and advocacy frames vis-à-vis their appearance in the legal and legislative source dataset was analyzed. Finally, the appearance of opposition and advocacy frames vis-à-vis the public opinion data that was available was analyzed (shown at the end of Chapter 3).

Research Question 1

Specifically, the following was done to investigate the research question, “What is the nature of opposition and advocacy frames in the public policy debate over Title IX, do they evolve over time, and do they transform the conflict?”

- The frames and subsidiary frames (themes) found in the articles in the newspaper dataset were categorized and subjected to a quantitative content analysis to allow

comment on what reporters were providing and what media consumers were therefore getting, overall;

- The categories applied in the newspaper dataset were used to perform quantitative content analysis to comment on what frames and themes were most dominant and most prominent in what media consumers were receiving;
- The categories applied in the newspaper dataset were used to perform quantitative content analysis to parse the data to find evidence of a general evolution of the public policy conflict over time.

Research Question 2

The following was done to investigate the research question, “What, if any, has been the correlation between opposition and advocacy frames appearing in the public policy debates and variations in reporting and commentary on Title IX?”

- The appearance of frames and themes in the public policy debates was compared with their appearance in the mass media.
- The categories applied in the mass media dataset were used to parse the data by specific placement (section and prominence) in the newspapers to find trends in coverage by frame and by theme.

Research Question 3

The following was done to investigate the research question, “What is the relationship between public opinion and the appearance of opposition and advocacy frames in the mass media?”

- The public opinion data on Title IX was used to analyze and to comment on the possible impact of the coverage of Title IX on public opinion.

The next chapter will contain the study’s findings and analysis.

Chapter 6: Findings and Analysis

This chapter will include three sections, each based on a research question.

Research Question 1: What is the nature of opposition and advocacy frames in the public policy debate over Title IX, do they evolve over time, and do they transform the conflict?

Consistent with previous research and with other research reviewed, it was found that critics and advocates of the implementation of Title IX put forth frames and subsidiary frames (themes). Also, consistent with prior research, a debate frame was identified that consisted of multiple opposing themes appearing in the context of a single presentation—that is, in a single newspaper article, hearing transcript, or court case, for example. In the context of this debate frame, it was proposed that certain “match-ups” between opposition and advocacy themes would occur because each opposition theme corresponded most fittingly to a specific advocacy theme. That scheme of match-ups was as follows: equality/zero-sum, personal opportunity/quota, mandate/autonomy, and scapegoat/market.

The themes outlined in the last chapter were identified in this dissertation’s newspaper dataset in varying proportions, as can be seen in Table 6-1. This table, like many in this chapter, shows the percentage of articles employing each theme. Consequently, the total percentage in a column can equal greater than 100 because of the fact that a single article can include multiple themes. Similarly, non-debate framed articles may contain both fairness and management frames; therefore, the total percentage in columns reporting frame occurrences can equal greater than 100. Also, like many tables in this chapter, Table 6-1 shows the percentage of articles employing advocacy and

opposition themes, in aggregate. By definition, 100 percent of debate-framed articles feature advocacy themes, and 100 percent feature opposition themes.

Table 6-1: Percentage of Debate, Non-Debate, Overall Articles Employing Themes

Theme	In Debate Frame (n = 209)	In Non-Debate Frame (n = 544)	Overall (n = 753)	
Equality	31.58	43.56	40.23	} Fairness Frame
Zero-Sum	33.97	7.72	15.01	
Personal Opportunity	8.61	24.26	19.92	
Quota	15.31	4.04	7.17	
Mandate	73.21	45.40	53.12	} Mgmt Frame
Autonomy	43.06	4.23	15.01	
Scapegoat	12.92	4.78	7.04	
Market	28.23	6.62	12.62	
Advocacy	100.00	83.64	88.18	
Opposition	100.00	16.36	39.58	

This table shows that reporters most commonly chose to present “equality” and “mandate” themes in the newspaper articles examined here, overall, and they chose to use the mandate theme far more often than other themes in debate-framed articles. It is also worth noting that advocacy themes appeared 1,005 times in the dataset, while opposition themes appeared only 584 times. Consequently, it could be suggested that reporters generally “sided” with advocates of the way Title IX has been implemented.

In analyzing the newspaper dataset, significant patterns were found in the appearance of frames and themes by newspaper section ($X^2 = 34.7$, $df = 6$, $p < 0.001$, and $X^2 = 99.6$, $df = 21$, $p < 0.001$, respectively), by prominence in the newspapers ($X^2 = 329.0$, $df = 21$, $p < 0.001$, and $X^2 = 5.90$, $df = 3$, $p = 0.116$, respectively), and by centrality of Title IX ($X^2 = 47.8$, $df = 2$, $p < 0.001$, and $X^2 = 65.7$, $df = 7$, $p < 0.001$, respectively) (see Tables 6-2, 6-3, and 6-4). The data parsed by newspaper section, by

prominence, and by centrality showed the equality and mandate themes represented in high proportions.

Table 6-2: Percentage of Articles Employing Frames, Themes by Newspaper Section

Section	Frame	%	Theme	%
News (n = 254)	Fairness	40.94	Equality	37.01
			Zero-Sum	11.42
			Personal Opp	22.44
			Quota	4.72
	Mgmt	31.89	Mandate	57.09
			Autonomy	25.20
			Scapegoat	5.12
			Market	9.06
	Debate	36.22		
	Sports (n = 334)	Fairness	40.42	Equality
Zero-Sum				18.56
Personal Opp				18.56
Quota				7.19
Mgmt		43.41	Mandate	57.78
			Autonomy	8.38
			Scapegoat	4.79
			Market	16.47
Debate		28.44		
Editorial (n = 87)		Fairness	54.02	Equality
	Zero-Sum			13.79
	Personal Opp			16.09
	Quota			14.94
	Mgmt	51.72	Mandate	36.78
			Autonomy	18.39
			Scapegoat	9.20
			Market	13.79
	Debate	13.79		
	Sports commentary (n = 78)	Fairness	61.54	Equality
Zero-Sum				12.82
Personal Opp				35.42
Quota				6.41
Mgmt		41.03	Mandate	38.46
			Autonomy	6.41
			Scapegoat	20.51
			Market	6.41
Debate		12.82		
All (n = 753)		Fairness	44.36	Equality
	Zero-Sum			15.01
	Personal Opp			19.92
	Quota			7.17
	Mgmt	40.24	Mandate	53.12
			Autonomy	15.01
			Scapegoat	7.04
			Market	12.62
	Debate	27.76		

Table 6-3: Appearance of Frames and Themes by Prominence in Newspapers

Prominence	Frame	%	Theme	%
Front page (n = 81)	Fairness	46.91	Equality	45.68
			Zero-Sum	19.75
			Personal Opp	32.10
			Quota	4.94
	Mgmt	35.80	Mandate	51.85
			Autonomy	13.58
			Scapegoat	9.88
			Market	14.81
	Debate	33.33		
	Front sports (n = 112)	Fairness	39.29	Equality
Zero-Sum				22.32
Personal Opp				21.43
Quota				10.71
Mgmt		38.39	Mandate	60.71
			Autonomy	6.25
			Scapegoat	7.14
			Market	22.32
Debate		34.82		
Other non-sport (n = 260)		Fairness	43.08	Equality
	Zero-Sum			9.62
	Personal Opp			17.31
	Quota			8.08
	Mgmt	37.31	Mandate	52.31
			Autonomy	26.54
			Scapegoat	5.00
			Market	9.23
	Debate	30.00		
	Other sport (n = 300)	Fairness	46.67	Equality
Zero-Sum				15.67
Personal Opp				18.33
Quota				5.67
Mgmt		44.67	Mandate	51.33
			Autonomy	8.67
			Scapegoat	8.00
			Market	11.33
Debate		21.67		
All (n = 753)		Fairness	44.36	Equality
	Zero-Sum			15.01
	Personal Opp			19.92
	Quota			7.17
	Mgmt	40.24	Mandate	53.12
			Autonomy	15.01
			Scapegoat	7.04
			Market	12.62
Debate	27.76			

Table 6-4: Percentage of Articles Employing Frames and Themes, by Centrality of Title IX in Articles

Centrality	Frame	%	Theme	%
Central (n = 424)	Fairness	37.03	Equality	36.79
			Zero-Sum	18.16
			Personal Opp	15.80
			Quota	10.14
	Mgmt	37.97	Mandate	58.96
			Autonomy	20.99
			Scapegoat	10.38
			Market	14.62
	Debate	37.74		
	Important (n = 329)	Fairness	53.80	Equality
Zero-Sum				10.94
Personal Opp				25.23
Quota				3.34
Mgmt		43.16	Mandate	45.59
			Autonomy	7.29
			Scapegoat	2.74
			Market	10.03
Debate		14.89		
All (n = 753)		Fairness	44.36	Equality
	Zero-Sum			15.01
	Personal Opp			19.92
	Quota			7.17
	Mgmt	40.24	Mandate	53.12
			Autonomy	15.01
			Scapegoat	7.04
			Market	12.62
	Debate	27.76		

Even more important than an overall analysis of the newspaper dataset in investigating the first research question is an analysis of how the appearances of the fairness and management frames and of the individual advocacy and opposition themes have evolved over time. Such analysis has the potential to show how opposition and advocacy frames have evolved and also to show how the conflict has been transformed.

Tower Era (1974-76) Newspaper Dataset

The debate-framed articles from each era are especially important to analyze because they provide insight into the interaction between the advocacy and opposition sides of the Title IX issue. All but one of the 42 debate-framed articles of the Tower Era presented the mandate theme (see Table 6-5). In addition, about 55 percent contained the market theme, and half contained the autonomy theme. It is notable that, in debate-framed articles, the advocacy and opposition sides of the conflict were very evenly matched, in terms of their use of fairness themes (seven and three, respectively) and management themes (42 and 44, respectively).

Table 6-5: Tower Era Debate-Framed Articles (n = 42) by Theme and by Percentage of Articles Employing Themes

	Number	Percent	
Equality	5	11.90	} Fairness Frame
Zero-Sum	3	7.14	
Personal Opportunity	2	4.76	
Quota	0	0.00	
Mandate	41	97.62	} Mgmt Frame
Autonomy	21	50.00	
Scapegoat	1	2.38	
Market	23	54.76	

Looking more closely at the newspaper dataset from the Tower Era, and keeping in mind the general tendency for advocacy themes to be more prevalent than opposition themes in the media coverage, something worth noting is that in articles in which Title IX was the central topic or at least important, the advocacy side of the debate relied overwhelmingly on the mandate theme (see Table 6-6). At the same time, the opposition side relied on both the autonomy and market themes.

Table 6-6: Percentage of Tower Era Articles Employing Themes, by Centrality of Title IX

	Central (n = 69)	Important (n = 25)	All (n = 94)	
Equality	18.84	20.00	19.15	} Fairness Frame
Zero-Sum	4.35	0.00	3.19	
Pers Op	8.70	12.00	9.57	
Quota	0.00	0.00	0.00	
Mandate	73.91	72.00	73.40	} Mgmt Frame
Autonomy	26.09	32.00	27.66	
Scapegoat	1.45	0.00	1.06	
Market	40.58	20.00	35.11	
Advocacy	84.06	84.00	84.04	
Opposition	63.77	52.00	60.64	

Assuming that the newspaper accounts more or less reflected the reality of the conflict, in the scheme developed here, this means that there was a mismatch of sorts in the debate, with the advocacy side not matching the rhetorical strategy of the opposition side. Matching the strategy, and thereby countering the opposition most directly, would involve employing messages from within the same frame (management or fairness) and from the same thematic level. As explained earlier in the scheme established here, there are four theme matches: equality/zero-sum, personal opportunity/quota, mandate/autonomy, and scapegoat/market. If one side of a conflict can frame its argument in a new way—that is, using a different frame or theme—then it may be able to gain rhetorical advantage over the other side. This idea is consistent with Rosenthal’s findings but more specifically articulated.

As explained earlier, the mandate theme most closely counters the autonomy theme. Yet even as the opposition side of the debate relied on both the autonomy theme and the market theme during the Tower Era, the advocacy side continued to rely almost exclusively on the mandate theme, rather than shifting to or supplementing with the

scapegoat theme, which, again, would more suitably counter the market theme. It is noteworthy that the market and mandate themes appeared at fairly consistent levels across newspaper prominence, but the autonomy theme appeared far more often in non-sports pages and not very often on the front pages of the news or sports sections of the newspapers (see Tables 6-7 and 6-8). The opposition side of the Title IX conflict might have had an advantage in the arena of public opinion, if the market theme or the combination market-autonomy themes were more compelling than simply the mandate theme. Indeed, as will be seen, the advocacy side's later reliance on the scapegoat theme, which, according to the classification scheme developed here, matches up better against the market theme, suggests that there was a realization at some point that the mandate theme alone was not adequate.

Table 6-7: Percentage of Tower Era Articles Employing Themes, by Prominence

	Front Page (n = 7)	Front Sports (n = 20)	Other News (n = 33)	Other Sports (n = 34)	All (n = 94)
Equality	14.29	20.00	9.09	29.41	19.15
Zero-Sum	0.00	5.00	0.00	5.88	3.19
Pers Op	14.29	15.00	6.06	8.82	9.57
Quota	0.00	0.00	0.00	0.00	0.00
Mandate	100.00	80.00	69.70	67.65	73.40
Autonomy	14.29	5.00	51.52	20.59	27.66
Scapegoat	0.00	0.00	3.03	0.00	1.06
Market	42.86	45.00	27.27	35.29	35.11
Advocacy	100.00	90.00	78.79	82.35	84.04
Opposition	57.14	55.00	75.76	50.00	60.64

Table 6-8: Percentage of Tower Era Articles Employing Themes, by Section

	News (n = 33)	Sports (n = 49)	Editorial (n = 6)	Sports commentary (n = 6)	All (n = 94)
Equality	6.06	24.49	33.33	33.33	19.15
Zero-Sum	0.00	6.12	0.00	0.00	3.19
Pers Op	9.09	12.24	0.00	0.00	9.57
Quota	0.00	0.00	0.00	0.00	0.00
Mandate	84.85	69.39	16.67	100.00	73.40
Autonomy	48.48	14.29	33.33	16.67	27.66
Scapegoat	3.03	0.00	0.00	0.00	1.06
Market	24.24	40.82	50.00	33.33	35.11
Advocacy	90.91	83.67	33.33	100.00	84.04
Opposition	69.20	53.06	83.33	50.00	60.64

Grove City Era (1977-84) Newspaper Dataset

During the Grove City Era in the newspaper dataset, the autonomy and mandate themes dominated. Nearly 90 percent of the debate-framed articles in the Grove City Era contained the autonomy theme, and over 90 percent contained the mandate theme (see Table 6-9), far outnumbering the appearance of other themes. Again, the opposition and advocacy sides were fairly evenly matched, in terms of the overall extent to which fairness and management frames were presented.

Table 6-9: Grove City Era Debate-Framed Articles (n = 54) by Theme and by Percentage of Articles Employing Themes

	Number	Percent	
Equality	9	16.67	} Fairness Frame
Zero-Sum	4	7.41	
Personal Opportunity	1	1.85	
Quota	1	1.85	
Mandate	49	90.74	} Mgmt Frame
Autonomy	47	87.04	
Scapegoat	1	1.85	
Market	9	16.67	

In addition, in comparison with the Tower Era, in the Grove City Era the prevalence of the equality theme increased more dramatically in articles overall (see Table 6-10), from 19.15 percent to 37.58 percent of all articles employing the theme. Under closer scrutiny, it seems that the reason for the prevalence of this theme might have been that reporters used it uncritically as a modifier when writing about Title IX.³⁰⁶ In any case, this advocacy theme enjoyed a high degree of exposure during this era.

With such a small number of articles, it was difficult to show statistically significant patterns in overall coverage. Yet, looking at the individual themes, it becomes evident that when parsed by prominence, the personal opportunity theme was more prevalent in the sports pages—especially on the front sports page—than in other locations in the newspapers (see Tables 6-11 and 6-12). Indeed, the personal opportunity theme did not appear on the front page of any of the newspapers during this era but appeared on over one-third of the front sports pages. The autonomy theme is noteworthy, too, for its much more common appearances in the news sections of the newspapers and for its relative scarcity on the sports pages. Parsed by section, the market theme is noteworthy for its appearances in about one-fifth of sports and regular editorial pages and relative scarcity on news and sports commentary pages.

³⁰⁶ For example: Colman McCarthy, “Having a Ball on the President’s Lawn,” *The Washington Post*, 28 May 1983, p. A19: “...Title IX of the Civil Rights Act, which decrees equal participation in sports regardless of sex.”

Table 6-10: Percentage of Grove City Era Articles Employing Themes, by Centrality of Title IX

	Central (n = 99)	Important (n = 50)	All (n = 149)	
Equality	29.29	54.00	37.58	} Fairness Frame
Zero-Sum	4.04	0.00	2.68	
Pers Op	6.06	22.00	11.41	
Quota	1.01	0.00	0.67	
Mandate	68.69	44.00	60.40	} Mgmt Frame
Autonomy	47.47	16.00	36.91	
Scapegoat	2.02	0.00	1.34	
Market	11.11	12.00	11.41	
Advocacy	93.94	88.00	91.95	
Opposition	54.55	24.00	44.30	

Table 6-11: Percentage of Grove City Era Articles Employing Themes, by Prominence

	Front Page (n = 15)	Front Sports (n = 14)	Other News (n = 80)	Other Sports (n = 40)	All (n = 149)
Equality	40.00	50.00	32.50	42.50	37.58
Zero-Sum	0.00	0.00	2.50	5.00	2.68
Pers Op	0.00	35.71	8.75	12.50	11.41
Quota	0.00	0.00	1.25	0.00	0.67
Mandate	66.67	42.86	62.50	60.00	60.40
Autonomy	40.00	14.29	47.50	22.50	36.91
Scapegoat	6.67	0.00	0.00	2.50	1.34
Market	6.67	21.43	7.50	17.50	11.41
Advocacy	100.00	78.57	91.25	95.00	91.95
Opposition	46.67	28.57	51.25	35.00	44.30

Table 6-12: Percentage of Grove City Era Articles Employing Themes, by Section

	News (n = 74)	Sports (n = 43)	Editorial (n = 22)	Sports commentary (n = 10)	All (n = 149)
Equality	36.49	39.53	27.27	60.00	37.58
Zero-Sum	2.70	2.33	0.00	10.00	2.68
Pers Op	8.11	23.26	4.55	0.00	11.41
Quota	1.35	0.00	0.00	0.00	0.67
Mandate	63.51	58.14	59.09	50.00	60.40
Autonomy	50.00	20.93	31.82	20.00	36.91
Scapegoat	1.35	0.00	0.00	10.00	1.34
Market	2.70	20.93	22.73	10.00	11.41
Advocacy	100.00	100.00	72.73	100.00	91.95
Opposition	54.05	44.19	40.91	20.00	44.30

Notably, the Grove City Era saw the first appearance of the quota theme on the opposition side of the Title IX conflict, but in only one non-front-page news section article. The scarcity of the quota theme on the opposition side of the Title IX conflict through this era is noteworthy because of the fact that the corresponding personal opportunity theme on the advocacy side had been used for several years. The opposition side of the conflict did not regularly rely on the quota theme until the mid-1990s. By not countering the personal opportunity theme with the quota theme, as would most suitably match according to the classification scheme established here, it could be suggested that the opposition side of the conflict allowed the advocacy side to gain rhetorical advantage. Thus, the advocacy side of the Title IX conflict might have been able to gain traction in the arena of public opinion for its position—and with often compelling personal stories, one of which is excerpted here to illustrate the point:

“It can’t be a fight; all groups have to work together,” said [Lacey] O’Neal, [a two-time Olympic hurdler], who told how frustrating it was for her to have had no chance of obtaining an athletic scholarship to college. “All of the boys around me were shooting for scholarships which I could not shoot for. When I was coach of Florida for a couple years, it brought tears to my eyes to be able to give out an athletic scholarship to a woman. And that was because of Title IX.”³⁰⁷

Restoration Era (1985-89) Newspaper Dataset

Looking at the newspaper dataset from Restoration Era, there were only seven debate-framed articles; consequently, an analysis of the debate-framed articles is not very informative. Looking at articles from the timeframe overall, the equality and mandate

³⁰⁷ Ronn Levine, “A Celebration for Title IX,” *The Washington Post*, 17 June 1982, p. C8.

themes were most prevalent (see Table 6-13). One noteworthy finding is that with proportionally far fewer debate-framed articles in this data subset, the overall proportion of opposition themes is diminished in comparison to advocacy themes. This perhaps shows with more clarity the tendency of the newspaper writers to default, in a sense, to an advocacy theme, rather than to an opposition theme, when discussing Title IX.

Table 6-13: Percentage of Restoration Era Articles Employing Themes, by Centrality of Title IX

	Central (n = 14)	Important (n = 23)	All (n = 37)	
Equality	21.43	65.22	48.65	} Fairness Frame
Zero-Sum	7.14	4.35	5.41	
Pers Op	0.00	17.39	10.81	
Quota	0.00	0.00	0.00	
Mandate	57.14	52.17	54.05	} Mgmt Frame
Autonomy	42.86	4.35	18.92	
Scapegoat	7.14	0.00	2.70	
Market	7.14	13.04	10.81	
Advocacy	78.57	95.65	89.19	
Opposition	50.00	17.39	29.73	

Overall, the numbers of some themes were so low that it was difficult to make definitive statements about patterns of coverage, especially when the articles were divided by prominence or by newspaper section—to the point that depicting the numbers graphically would be misleading and not very informative.

Cohen Era (1990-2001) Newspaper Dataset

Looking at the newspaper dataset from the Cohen Era, more individual debate-framed articles featured multiple themes than in past eras (see Table 6-14). Indeed, one single article featured seven of the eight debate-frame themes in the classification scheme

established here.³⁰⁸ This balanced presentation might indicate the newspapers’ awareness of the various themes and their inclination toward reporting matching themes—i.e., reporting all perspectives—in the context of debate-framed articles. The themes were distributed more evenly in the context of the debate frame in the newspapers in the Cohen Era than in any previous era. Yet grouping the advocacy themes together and comparing that group to the opposition themes grouped together (76 versus 59), the evenness resembles the previous eras analyzed, except for the Restoration Era in which debate-framed articles were especially scarce.

Table 6-14: Cohen Era Debate-Framed Articles (n = 53) by Theme and by Percentage of Articles Employing Themes

	Number	Percent	
Equality	20	37.74	} Fairness Frame
Zero-Sum	34	64.15	
Personal Opportunity	10	18.87	
Quota	12	22.64	
Mandate	33	62.26	} Mgmt Frame
Autonomy	9	16.98	
Scapegoat	13	24.53	
Market	4	7.55	

It is also notable that, in debate-framed articles, the opposition side of the conflict employed many more fairness themes than management themes—46 and 13, respectively—while the advocacy side used management themes more heavily—46 times, compared with 30 times for fairness themes. This suggests a mismatch between the sides in the debate-framed articles, which could have given one side an advantage in the arena of public opinion. This advantage could have gone to the opposition side of the

³⁰⁸ Andrew Gottesman, “Gender Equity Hit by Backlash: Non-Revenue Men’s Sports Take Their Case to Washington, *Chicago Tribune*, 7 May 1995, p. 5.

conflict, especially if fairness themes are more compelling in a debate setting, as Rosenthal suggested.³⁰⁹

As might be expected to follow from the more even distribution of themes in the debate-framed articles, the themes are more evenly distributed among articles overall, no matter how they are parsed—by centrality, prominence, or section, though not nearly perfectly (see Tables 6-15, 6-16, and 6-17).

Table 6-15: Percentage of Cohen Era Articles Employing Themes, by Centrality of Title IX

	Central (n = 142)	Important (n = 155)	All (n = 298)	
Equality	41.55	36.13	38.59	} Fairness Frame
Zero-Sum	27.46	14.83	20.81	
Pers Op	25.35	28.39	26.85	
Quota	13.38	2.58	7.72	
Mandate	57.75	47.10	52.01	} Mgmt Frame
Autonomy	6.34	1.94	4.03	
Scapegoat	14.08	4.52	9.06	
Market	7.75	10.32	9.06	
Advocacy	86.62	86.45	86.24	
Opposition	38.03	25.16	31.21	

Table 6-16: Percentage of Cohen Era Articles Employing Themes, by Prominence

	Front Page (n = 37)	Front Sports (n = 38)	Other News (n = 78)	Other Sports (n = 144)	All (n = 298)
Equality	54.05	36.84	41.03	34.03	38.59
Zero-Sum	21.62	34.21	14.10	20.83	20.81
Pers Op	45.95	18.42	28.21	23.61	26.85
Quota	2.70	10.53	16.67	3.47	7.72
Mandate	43.24	73.68	43.59	53.47	52.01
Autonomy	2.70	5.26	3.85	4.17	4.03
Scapegoat	13.51	10.53	8.97	7.64	9.06
Market	8.11	23.68	5.13	7.64	9.06
Advocacy	94.59	92.11	82.05	85.42	86.24
Opposition	24.32	52.63	25.64	30.56	31.21

³⁰⁹ Rosenthal: 76-79.

Table 6-17: Percentage of Cohen Era Articles Employing Themes, by Section

	News (n = 80)	Sports (n = 159)	Editorial (n = 36)	Sports commentary (n = 23)	All (n = 298)
Equality	41.25	32.08	52.78	52.17	38.59
Zero-Sum	16.25	25.16	16.67	13.04	20.81
Pers Op	40.00	21.38	19.44	30.43	26.85
Quota	6.25	5.03	25.00	4.35	7.72
Mandate	47.50	59.75	36.11	43.48	52.01
Autonomy	3.75	4.40	2.78	4.35	4.03
Scapegoat	8.75	6.29	13.88	21.74	9.06
Market	6.25	11.32	5.56	8.70	9.06
Advocacy	90.00	87.42	75.00	82.61	86.24
Opposition	23.75	37.11	27.78	21.74	31.21

Paige Era (2002-07) Newspaper Dataset

The debate-framed articles in the Paige Era were distributed similarly to those in the Cohen Era (see Table 6-18). Indeed, the pattern in the distribution of themes from the Cohen Era to the Paige Era was not statistically significant ($X^2 = 10.9$, $df = 7$, $p = 0.141$). And, when the usage of advocacy themes and opposition themes are grouped together, the evenness is found to have resembled the Cohen Era, as well; in fact it was closer—71 advocacy themes versus 70 opposition themes were used in this era’s debate-framed articles. Also like the Cohen Era, newspaper articles featuring a debate frame were more likely than in more distant eras to use three or more themes, rather than just two. In the Paige Era, the advocacy side of the conflict had fairness-framed themes appear more nearly as often in the newspapers as did the opposition side, 36 times versus 48 times. Still, if portraying the fairness frame gave an advantage in winning public support, as Rosenthal suggested,³¹⁰ then the advantage would have gone to the opposition side.

³¹⁰ Ibid.

Table 6-18: Paige Era Debate-Framed Articles (n = 53) by Theme and by Percentage of Articles Employing Themes

Theme	Number	Percent	
Equality	31	58.49	} Fairness Frame
Zero-Sum	29	54.72	
Personal Opportunity	5	9.43	
Quota	19	35.85	
Mandate	24	45.28	} Mgmt Frame
Autonomy	11	20.75	
Scapegoat	11	20.75	
Market	11	20.75	

In terms of the articles by centrality, it appears there was more even distribution of themes among articles in which Title IX was central, as compared to articles in which Title IX was just important (see Table 6-19). Again, the equality theme appears to be solidly established basically as the default theme for reporters, appearing in a far greater percentage of articles overall and across the board in terms of centrality of Title IX. Analysis of the prominence of themes in the newspaper articles and of themes by newspaper section in the Paige Era yielded nothing noteworthy.

Table 6-19: Percentage of Paige Era Articles Employing Themes, by Centrality of Title IX

	Central (n = 100)	Important (n = 76)	All (n = 176)	
Equality	52.00	57.89	54.55	} Fairness Frame
Zero-Sum	30.00	15.79	23.86	
Pers Op	19.00	27.63	22.73	
Quota	23.00	9.21	17.05	
Mandate	41.00	32.89	37.50	} Mgmt Frame
Autonomy	9.00	5.26	7.39	
Scapegoat	20.00	2.63	12.50	
Market	11.00	3.95	7.95	
Advocacy	90.00	89.47	89.77	
Opposition	49.00	27.63	39.77	

Inter-Era Newspaper Dataset Analysis

Table 6-20 shows how the pattern of newspapers coverage changed in terms of the frames portrayed in the conflict. The variation of distribution of frames over all eras was significant ($X^2 = 57.6$, $df = 8$, $p < 0.001$) and the variation between the Tower and Grove City and Cohen and Paige Eras was significant ($X^2 = 7.25$, $df = 2$, $p = 0.027$; $X^2 = 14.8$, $df = 2$, $p = 0.001$, respectively), but the variation between the Grove City and Restoration and Restoration and Cohen Eras was not significant ($X^2 = 4.61$, $df = 2$, $p = 0.100$; $X^2 = 0.296$, $df = 2$, $p = 0.862$, respectively).

Table 6-20: Percentage of Articles Employing Frames, by Era³¹¹

Frame	Tower, 1974-76 (n = 94)	Grove City, 1977-84 (n = 149)	Restoration, 1985-89 (n = 37)	Cohen, 1990-2001 (n = 298)	Paige, 2002-07 (n = 176)	All, 1974-2007 (n = 754)
Debate	44.68	36.24	18.92	17.79	30.11	27.72
Fairness	19.15	34.90	45.95	51.68	52.84	44.30
Management	45.74	36.24	48.65	45.64	29.55	40.19

In the Tower Era, fewer than one-fifth of articles employed the fairness frame; in the Restoration, Cohen, and Paige Eras, it was about half. Fewer Paige-Era articles featured a management frame as compared with the other eras. Clearly the overall conflict over the implementation of Title IX has shifted away from being a debate as the law has become accepted or at least as it has withstood legal and legislative challenges. Also, the conflict has become less about management and more about fairness as the law has been implemented.

More important, Tables 6-21 and 6-22 and Figures 6-1, 6-2, and 6-3 show how the conflict has been transformed in terms of both the frames and the themes employed.

³¹¹ Note: Again, non-debate articles may contain both fairness and management frames; therefore, the total percentage in columns can equal greater than 100.

The variation of distribution of themes over all eras was significant ($X^2 = 314.0$, $df = 28$, $p < 0.001$) and the variation between the Tower and Grove City, Restoration and Cohen, and Cohen and Paige Eras was significant ($X^2 = 25.6$, $df = 7$, $p = 0.001$; $X^2 = 27.4$, $df = 7$, $p < 0.001$; $X^2 = 22.9$, $df = 7$, $p = 0.002$, respectively), though the variation between the Grove City and Restoration Eras was not significant ($X^2 = 5.28$, $df = 7$, $p = 0.626$). The percentage of articles employing advocacy themes, in aggregate, has remained relatively stable over time, ranging from 84.04 percent to 91.95 percent of articles employing an advocacy theme. By contrast, the percentage of articles employing opposition themes was over 60 percent in the Tower Era and fell considerably in subsequent eras.

Table 6-21: Percentage of Articles Employing Themes, by Era

Era	Theme	Debate Context	Non-Debate	All	
		(n = 42)	(n = 52)	(n = 94)	
	Equality	11.90	25.00	19.15	} Fairness Frame
	Zero-Sum	7.14	0.00	3.19	
	Personal Opp	4.76	13.46	9.57	
	Quota	0.00	0.00	0.00	
	Mandate	97.62	53.85	73.40	} Mgmt Frame
	Autonomy	50.00	9.62	27.66	
	Scapegoat	2.38	0.00	1.06	
	Market	54.76	19.23	35.11	
Grove City					
		(n = 54)	(n = 95)	(n = 149)	
	Equality	16.67	49.47	37.58	} Fairness Frame
	Zero-Sum	7.41	0.00	2.68	
	Personal Opp	1.85	16.84	11.41	
	Quota	1.85	0.00	0.67	
	Mandate	90.74	43.16	60.40	} Mgmt Frame
	Autonomy	87.04	8.42	36.91	
	Scapegoat	1.85	1.05	1.34	
	Market	16.67	8.42	11.41	
Restoration					
		(n = 7)	(n = 30)	(n = 37)	
	Equality	28.57	53.33	48.65	} Fairness Frame
	Zero-Sum	28.57	0.00	5.41	
	Personal Opp	28.57	6.67	10.81	
	Quota	0.00	0.00	0.00	
	Mandate	85.71	46.67	54.05	} Mgmt Frame
	Autonomy	42.86	13.33	18.92	
	Scapegoat	14.29	0.00	2.70	
	Market	42.86	3.33	10.81	
Cohen					
		(n = 53)	(n = 245)	(n = 298)	
	Equality	37.74	38.78	38.59	} Fairness Frame
	Zero-Sum	64.15	11.43	20.81	
	Personal Opp	18.87	28.57	26.85	
	Quota	22.64	4.49	7.72	
	Mandate	62.26	49.80	52.01	} Mgmt Frame
	Autonomy	16.98	1.22	4.03	
	Scapegoat	24.53	5.71	9.06	
	Market	7.55	9.39	9.06	
Paige					
		(n = 53)	(n = 123)	(n = 176)	
	Equality	58.49	52.85	54.55	} Fairness Frame
	Zero-Sum	54.72	10.57	23.86	
	Personal Opp	9.43	28.46	22.73	
	Quota	35.85	8.94	17.05	
	Mandate	45.28	34.15	37.50	} Mgmt Frame
	Autonomy	20.75	1.63	7.39	
	Scapegoat	20.75	8.94	12.50	
	Market	20.75	2.44	7.95	

Figure 6-1: Percentage of Articles Employing Themes, by Era, Bar Graph

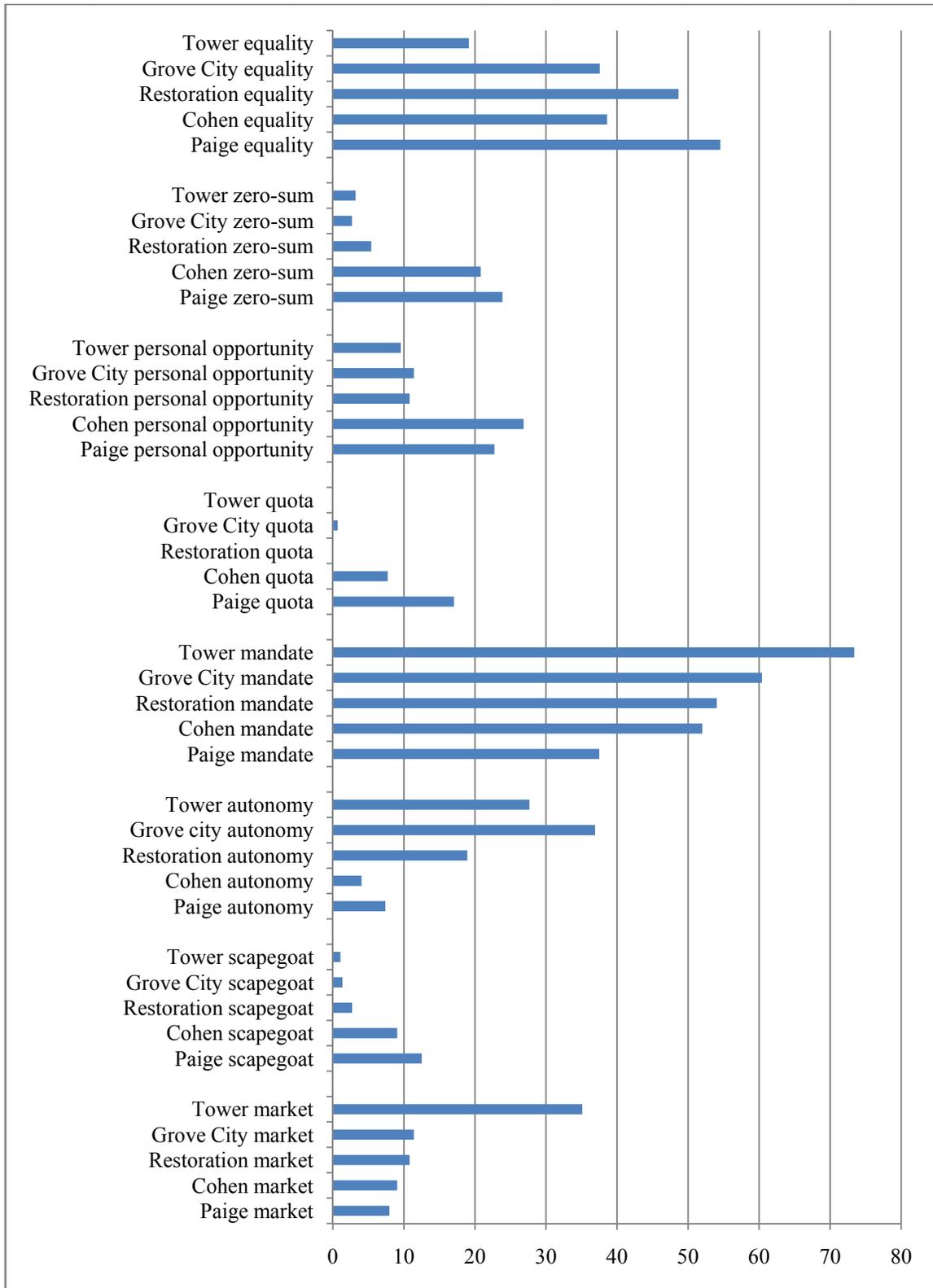


Figure 6-2: Percentage of Articles Employing Themes, by Era, Line Graph

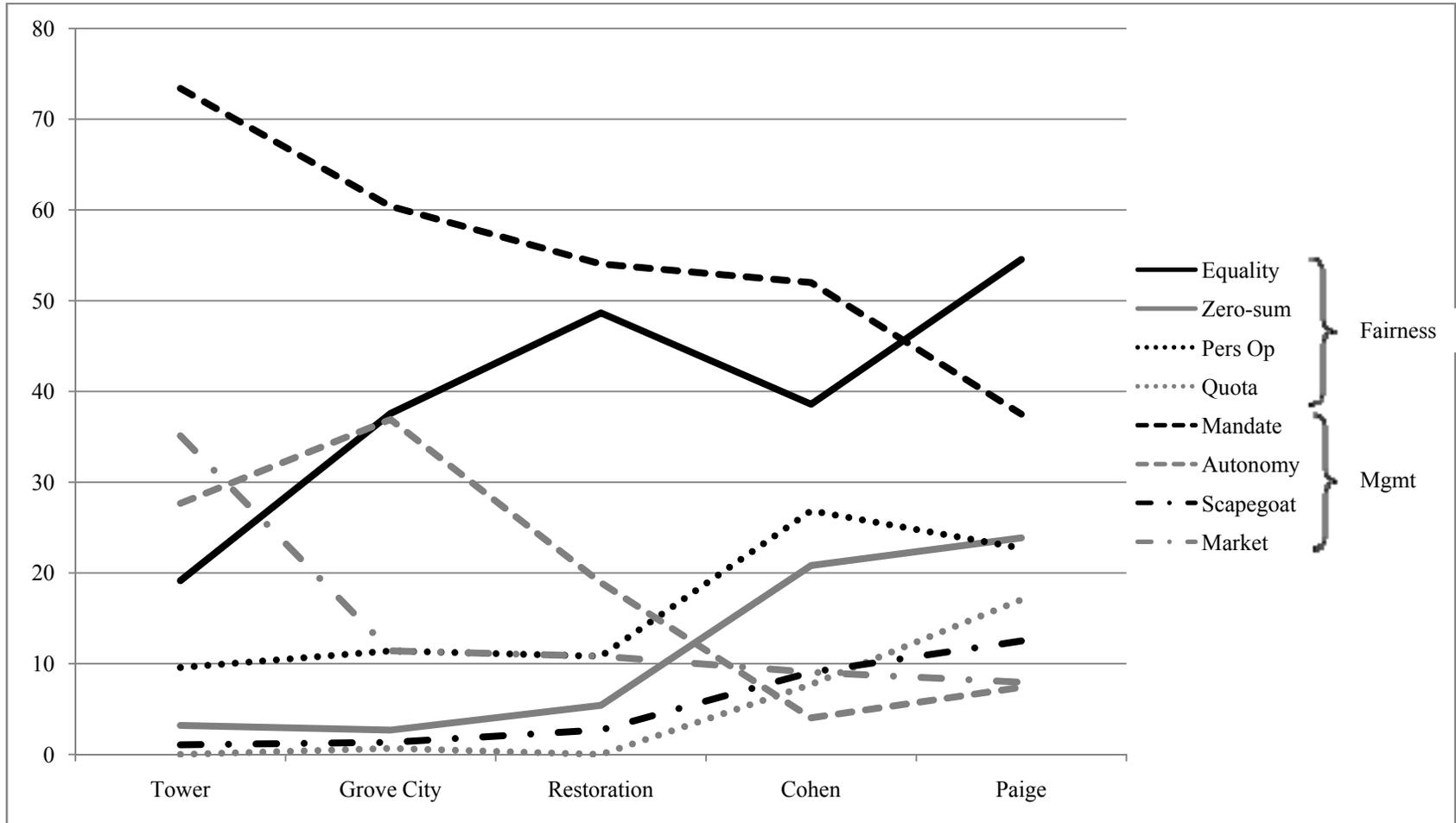
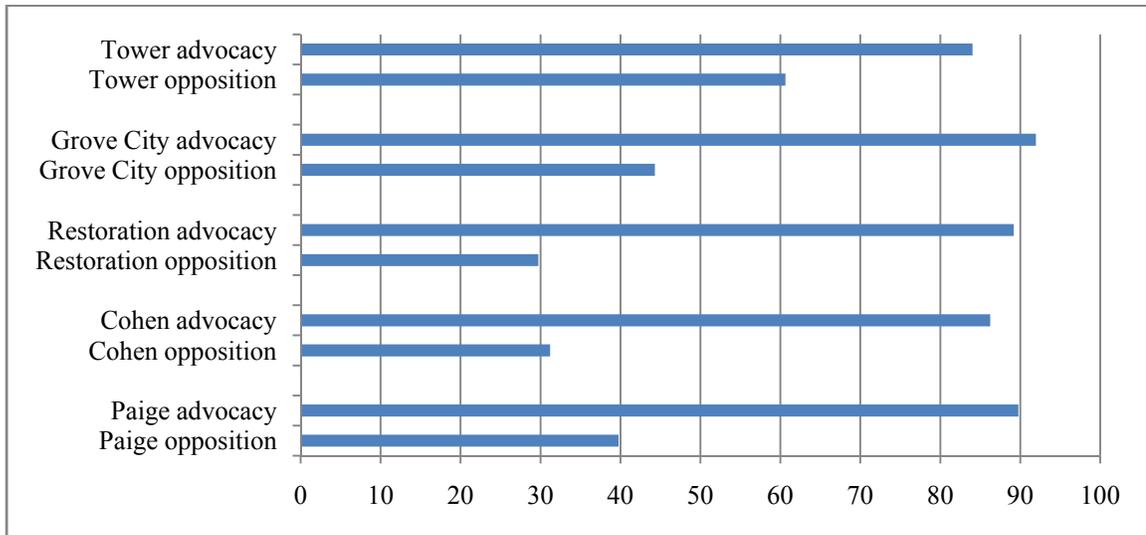


Table 6-22: Percentage of Articles, in Aggregate, Employing Advocacy or Opposition Themes, by Era

	Tower (n = 94)	Grove City (n = 149)	Restoration (n = 37)	Cohen (n = 298)	Paige (n = 176)	All (n = 754)
Advocacy	84.04	91.95	89.19	86.24	89.77	88.06
Opposition	60.64	44.30	29.73	31.21	39.77	39.39

Figure 6-3: Percentage of Articles Employing Advocacy or Opposition Themes, in Aggregate



In the Paige Era, proportionally nearly three times as many newspaper articles employed the equality theme as in the Tower Era, and it was matched by a proportional seven-fold increase in the zero-sum theme over the same time span, though the zero-sum theme still appeared proportionally far less often than the equality theme did.

As women’s participation in sports increased, so did the appearance of the personal opportunity theme in the newspapers. Indeed, the appearance of the personal opportunity theme more than doubled, proportionally, from the Tower Era to the Paige Era. The corresponding quota theme was late to appear in the newspapers but also

increased over time to appear proportionally almost as often as the personal opportunity theme.

Both the mandate and corresponding autonomy theme decreased, proportionally, in the frequency with which newspaper articles used them. The decreases were dramatic and probably were the result of other themes being found more compelling to reporters, as compared with other fairness-frame themes.

The scapegoat theme increased in its proportional appearance in newspaper articles, perhaps as it was discovered and found to be an effective counter to the market theme, which coincidentally decreased dramatically in its proportional appearance in the newspaper articles, overall.

Perhaps more enlightening in studying the transformative process illustrated by the conflict over the implementation of Title IX is the evolution of theme appearances in the context of debate-framed newspaper articles, as shown in Table 6-21. These articles, after all, specifically depict the conflict.

The equality theme in the early eras appeared proportionally less commonly in debate-framed articles than in articles overall, but this changed over time so that by the Cohen Era, the theme's appearance in debate-framed articles was the same as in articles overall, and in the Paige Era, the theme's appearance in debate-framed articles was actually greater than in articles overall. Also, the equality theme's corresponding zero-sum theme appeared proportionally far more frequently in debate-framed articles than in articles overall. Moreover, the equality and zero-sum themes appeared in more nearly equal proportions in debate-framed articles than in articles overall, across all eras. Indeed, in the Paige Era, the proportion of debate-framed articles using each of these

themes was nearly the same (58.49 percent using the equality theme, and 54.72 percent using the zero-sum theme). This suggests a consistent point-counterpoint aspect to the conflict and an effort—whether conscious or not—by each side of the conflict to counter the other on the same thematic level and therefore not to allow the other side advantage on that level.

The personal opportunity and quota themes appeared in proportionally zero to few articles in the first three eras examined here, and in fairly evenly matched proportions. It was not until the Restoration Era that the personal opportunity theme appeared in a greater proportion of debate-framed articles, perhaps especially with more girls and women participating in sports and therefore being able to provide evidentiary examples of personal opportunity in the debate. It was not until the Cohen Era when the quota theme appeared in a noticeably greater proportion of articles. This probably is a function of the rulings in the *Cohen* series of court cases, which made clear that the “substantial proportionality” prong of the three-part test to measure compliance with Title IX was really the only safe harbor for educational institutions. This would raise the currency of the quota theme on the opposition side of the conflict (indeed the quota theme jumped in popularity to appear in over one-third of debate-framed articles in the Paige Era). It stands to reason, too, in a dynamic transformational conflict context like this that the quota theme would jump in prevalence after the personal opportunity theme jumped in currency.

Conversely, the mandate and autonomy themes appeared in high proportions in the early eras examined, in debate-framed articles, which suggests that the conflict was rhetorically well-matched between the advocacy and opposition sides. In the last two

eras, though, the proportion of debate-framed articles displaying the autonomy theme decreased, suggesting resignation on the part of opponents that the theme had lost its power after the series of *Cohen* court decisions. This could help to explain the opposition side's shift toward the more personal and possibly more compelling zero-sum and quota themes.

There was a stark contrast in the proportional appearance of the scapegoat and market themes in the Tower Era (2.38 percent of debate-framed articles using the scapegoat theme, compared to 54.76 percent using the market theme). Once the advocacy side's scapegoat theme really began appearing in greater proportions of articles in later eras, the market theme became proportionally less prevalent. Again, once the market theme was being countered at the same thematic level, it appears that the debate shifted toward the more personal zero-sum and quota themes on the opposition side of the conflict.

Transformation of the Conflict

In summary, the findings indicated that debate frames in the Title IX conflict did evolve over time. Evidence showed that certain frames were used more heavily in the early history of the conflict and other frames emerged later. For example, in the context of the debate frame, which most obviously demonstrated the rhetorical back and forth of the conflict, it was found that in the early history of the conflict, management frames were used almost exclusively. Gradually both sides of the conflict started to rely on fairness frames in the debate so that by the most recent timeframe analyzed, fairness frame themes were used more often than management themes. Thus, the conflict overall was transformed from being based on management themes to being based on fairness themes, from featuring impersonal and technical concerns over the implementation of the law to featuring personal and qualitative concerns.

Moreover, in the Tower Era, when the conflict was new, there was a great deal of arguing on the part of both opponents and advocates from a management frame perspective, though the advocates also relied somewhat on one fairness theme (equality). In the Grove City Era, there was a greater contrast, with opponents arguing from the management perspective and advocates arguing more from the fairness perspective. As mentioned throughout the analysis of the newspaper dataset by era, a certain evenness of rhetoric developed, with both sides of the conflict employing all of the themes described in the classification scheme developed here. Under closer scrutiny, it becomes evident that in the post-Tower eras, on a higher level, what generally took place was a migration of the opponents from what appears to have been their preferred frame, management, to

fairness; conversely, there was a migration of advocates from what appears to have been their preferred frame, fairness, to management.

The opposition and advocacy sides of the Title IX conflict appear to have tried to throw one another off kilter by deploying new, original themes that required different response themes, consistent with the matching-up of themes in the classification scheme developed here. Thus, the actions of the sides of the conflict provided legitimacy for the classification system and match-up scheme. The newspaper coverage, too, also lent legitimacy to the match-up scheme by frequently featuring the various themes in point-counterpoint match-ups, as the scheme would have suggested, in debate-framed articles. It also should be noted that the way that the disputants in the conflict over Title IX reacted to one another, choosing to employ countering advocacy and opposition themes, rather than demonstrating willingness to compromise or capitulate, lends support for the earlier suggestion that the conflict over the implementation of Title IX fits into the “outcome” category of Gray and Donnellon’s scheme, in which both sides are focused on achieving their favored outcomes at all cost,³¹² and in the “compromise-win” category in Pinkley’s paradigm, in which any compromise would be viewed as a loss.³¹³ This makes Title IX in the context of sports different from Title IX in other educational contexts; in other contexts, such as graduate school admissions, student financial aid, and work-study, compromise seems to have been easier to achieve, so that comparatively few obvious instances of discrimination are evident today.

³¹² Rogan: 160.

³¹³ Pinkley: 124.

Moreover, there is evidence in the newspaper dataset to suggest that the sides of the conflict were aware of one another's rhetorical strategies and maneuvered to counter one another more effectively.³¹⁴ This process of rephrasing and adapting to one another during the course of an ongoing conflict after the entrance of a third party (in this case, the newspapers, the courts, and the Congress) is consistent with the Mather and Yngvesson model in which disputants assert different perspective on the dispute, which, in turn, require rephrasing on the other side of the dispute.³¹⁵ Not only was it found that the disputants were aware of and adapted to one another's rhetorical strategies, the disputants also questioned one another's motives. Rather than accepting the advocacy side's stated objectives at face value, evidence suggests that opponents believed Title IX advocates wanted parts of men's athletics budgets—particularly budgets from football and basketball—redistributed to women's athletics, even if that meant destroying the men's athletics.³¹⁶ Similarly, rather than accepting the opposition side's claims of supporting the principles behind Title IX, just not the impact of the law, the advocacy

³¹⁴ See Andrew Gottesman, "Gender Equity Hit by Backlash: Non-Revenue Men's Sports Take Their Case to Washington," *Chicago Tribune*, 7 May 1995, p. 5: "...Deborah Brake, staff counsel for the National Women's Law Center in Washington, said Title IX opponents have used the label of 'reverse discrimination' only to win political points: 'They're trying to force it into that box. Any time you use the word 'quota' in Washington, all thinking stops—and they're throwing it into every sentence.'"

³¹⁵ Mather and Yngvesson: 776-777.

³¹⁶ See Congress, House, Committee on Education and Labor, Subcommittee on Postsecondary Education: 51, testimony of Tom Osborne, football coach, University of Nebraska, 17 June 1975: "To have women's athletic programs emerge full blown without possibly a demand for them seems a little irresponsible... The point is we don't see where the money is going to come from... We don't see how that can be done without wrecking what is now in existence." Osborne is noteworthy not only because of his testimony here but also because of the fact that he later served as Representative from Nebraska's 3rd congressional district, 2001-2007.

side questioned whether opponents in fact wanted to maintain discriminatory policies.³¹⁷ This finding is consistent with the dynamic process outlined by Koehler in which disputants hold differing views of one another than what might be reality, in addition to differing opinions on the issues in dispute.³¹⁸

Beyond the summary of points and counterpoints in the Title IX conflict as it played out in the mass media and in the legal and legislative realm, there is a bigger picture that clarifies the extent and dynamism of the transformation of the conflict. It also helps to explain why the conflict has persisted for as long as it has. That bigger picture has to include an understanding of the events that changed the very basis of the conflict. In addition to strategic rhetorical moves on each side of the conflict, it was also actual events relevant to each side that forced opponents and advocates to adjust and reframe their arguments.

For example, the *Grove City* decision constituted a loss for the advocacy side of the conflict and, therefore, required a change in rhetorical strategy to attempt to succeed in the new political landscape. In order to regain lost ground, Title IX advocates had to rephrase their arguments to help ensure restoration of the law. As suggested earlier, advocates had, to some extent, migrated to lower-level philosophical ground in which their opponents had a natural rhetorical advantage—that is, the practical, management frame (and, specifically, to the mandate theme in the management frame). Figure 6-1,

³¹⁷ See Bart Barnes, “Lack of Money Halts Boom in Women’s Sports,” *The Washington Post*, 5 July 1981, p. D4: “Leaders in the women’s sports movement remain skeptical... ‘We have an administration that does not seem to have dedicated itself to the enforcement of civil rights. It’s a troublesome message,’ says [Margot] Polivy of the AIAW.”

³¹⁸ Koehler, 3.

shown earlier, illustrates this. The *Grove City* loss compelled advocates to migrate back to the original principles behind Title IX and to move away from the management frame to some extent toward the fairness frame (most notably, to the personal opportunity theme as well as the equality theme). In other words, advocates moved away from arguing about implementation, seemingly conceding that the implementation was not ever going to be perfectly satisfying to the opposition, and argued that the debate was not really about implementation minutiae but about fairness.

Similarly, the Civil Rights Restoration Act constituted a new loss for the opposition, and this loss was enhanced by the *Cohen* court decisions. Faced with this loss, Title IX opponents were compelled to recast their arguments in an attempt to gain advantage in the arenas of public opinion and public policy. They then migrated toward the ground in which their opponents (i.e., Title IX advocates) had the natural advantage—the fairness frame and, more specifically, the zero-sum and quota themes—during the *Cohen* and *Paige Eras*. Figure 6-1 shows that the opponents' migration was as dramatic, if not more so, than that of the advocates. In other words, opponents, like advocates, to some extent moved away from arguing on implementation grounds toward arguing on fairness grounds but, obviously, with a different tack on what fairness meant.

This gravitation of both sides of the Title IX conflict toward the fairness frame represents the sort of “narrowing” of the conflict that Mather and Yngvesson suggested happens as conflict categories are challenged in a dispute.³¹⁹ In this case, the legitimacy and importance of management minutiae and the relevant frame and themes were

³¹⁹ Mather and Yngvesson: 778.

challenged and, in a sense, lost in the Title IX dispute. Yet this process took place over a long period of time, and only through complex social and communication processes.

Thus, the conflict over the implementation of Title IX was transformed in fundamental ways, more than once. This helps to explain the persistence of the conflict and the lack of a settlement on the issue.

Title IX “Just Mentioned” Articles

As mentioned in the method chapter, it seems that the equality theme was a sort of default theme for the media, and this tendency appears to have been augmented by advocacy agents’ deliberate and disciplined injection of this theme into interview quotations and editorial commentary, especially in more recent history. Still, the findings showed that the prevalence of the equality theme could also be attributed to reporters’ choices. As mentioned, the mandate theme, too, figured heavily into the over-representation of advocacy themes in the newspaper articles. Moreover, the mandate theme was not used in as regular and disciplined a way by advocacy agents as was the equality theme. Consequently, the frequent appearance of the mandate theme, especially in articles in which Title IX was not central, was almost purely due to media choices. It is conceivable that the mandate theme, like the equality theme, flowed naturally from the actual Title IX legislative language and that reporters adopted it uncritically for describing the law and its impact.

In any case, the consistent backdrop of Title IX coverage featuring the equality and mandate themes would be important from a cultivation theory perspective. Even when other, opposition themes became prominent in the coverage of a particular legal or

legislative occurrence, the coverage of those opposition themes came in occasional downpours. Meanwhile, the overall, ongoing coverage of Title IX—particularly that characterized by Title IX being “just mentioned”—featured a constant “drip-drip” infusion of the equality, mandate, and personal opportunity themes (see Table 6-23). This phenomenon is noteworthy and may explain some of the findings relevant to the third research question, which deals with public opinion.

Table 6-23: Number and Percentage of “Title IX Just Mentioned” Centrality Articles (n = 683) Employing Themes³²⁰

Theme	Number	Percent	
Equality	327	47.88	} Fairness Frame
Zero-Sum	35	5.12	
Personal Opportunity	125	18.30	
Quota	2	0.29	
Mandate	174	25.48	} Mgmt Frame
Autonomy	8	1.17	
Scapegoat	4	0.59	
Market	46	6.73	
Advocacy	630	87.55	
Opposition	91	13.18	

Research Question 2: What, if any, has been the correlation between opposition and advocacy frames appearing in the public policy debates and variations in reporting and commentary on Title IX?

Comparing the appearance of advocacy and opposition frames between the legal and legislative dataset and the newspaper dataset can provide insight into the role of mass media in this public policy conflict. The legal and legislative data that are mentioned in the following pages constitute the most important official public records of the Title IX

³²⁰ Note: This dataset includes five debate-framed articles; consequently, the aggregate percentage of articles employing advocacy and opposition themes totals slightly more than 100%.

implementation conflict. The collection is not exhaustive but is nearly so—and an exhaustive collection was reviewed and considered, and only duplicative documents, and no significant ones, have been excluded. The next several pages go methodically through the legal and legislative dataset for each era to see whether the major thrusts or theme patterns that can be identified here are consistent with the patterns found earlier in the newspaper dataset.

Tower Era (1974-76) Legal and Legislative Dataset

The part of the dataset relevant to this timeframe consists entirely of the transcripts of Congressional proceedings and supporting documents. In the earliest document analyzed, *Hearing on the Higher Education Act of 1971: Hearing before the Committee of the Whole of the U.S. Senate*, Senator Strom Thurmond said about an amendment that eventually would become Title IX, “The implications of the amendment are unknown. This matter deserves a lot of careful consideration.”³²¹ This quotation more or less summarizes the debate of the time in that it was framed mainly as a management issue, and discussion of managerial issues dominated the Congressional debate. The transcript of this hearing shows that the debate was further dominated by two subsidiary frames, or themes: autonomy and mandate. The following excerpts are illustrative of the themes found throughout this debate, which should be noted was over how the amendment would affect admissions policies, not over how it would affect athletics. Indeed, at this point, it is not clear that anyone understood that the amendment

³²¹ Congress, Senate, Hearing on the Higher Education Act of 1971: 30,443.

would apply to athletics, consistent with Thurmond's quotation and with a lack of media coverage of how the law might affect athletics.

[Autonomy theme] We must view title X [which became Title IX in the next session of Congress] for what it plainly is, just one more giant step toward involvement by the Federal Government in the internal affairs of institutions of higher education. The constant danger is that all too often Federal involvement in the internal affairs of institutions is but the first step toward ultimate Federal control... Passage of title X would establish a dangerous precedent. It is an extremely grave decision that faces us, whether we will enact legislation adopting the policy that the Federal Government can reach into the very heart of local, private institutions and remove from those vested with authority the right to control the character of their own institutions.³²²

[Mandate theme] It has been said that this is an unwarranted intrusion on the part of the Government into the administration of higher education institutions. We all know that the Government has intruded now for many years in the administration of all the schools, elementary and secondary, and higher education. It has intruded in terms of the Civil Rights Act... Mr. Chairman, to summarize briefly, title X, at least as I see it, is simply an assertion of the basic American belief in human equality, and the title merely asks that universities and colleges act in good faith with their historic promise so that American women will be judged on an equal footing, on the basis of merit, as individuals....³²³

These excerpts show themes that endured through the passage of Title IX and beyond. It is reasonable to think that these themes, having been used in the past, were natural ones to use once Title IX was passed and once Title IX's relevance to athletics was discovered. Indeed, the evidence suggests that once the relevance of Title IX to athletics was understood, the autonomy frame was strengthened by emergence of the market theme. The Congressional record reporting on the "Tower Amendment" reveals this, as the following excerpt illustrates:

³²² Ibid.: 39,248-39,249, statement of Rep. John Erlenborn.

³²³ Ibid.: 39,260, statement of Rep. Edith Green.

[Market theme] At most colleges and universities, intercollegiate athletics are funded in whole or in part by monies raised, for example, through the sales of tickets to men's football or basketball games and through fundraising campaigns for general, scholarship, or other specific purposes. As I understand it, at some schools other sports are also substantial revenue-producers: ice hockey at Colorado and Ohio State, wrestling, perhaps, at Iowa, Iowa State, Oklahoma, Oklahoma State, and Lehigh, and so forth. In these cases, impairment of the financial base of the revenue-producing activity threatens not only the continued viability of that activity, but the viability of the entire athletic program... I do not believe that congress intended Title IX to extend to intercollegiate athletics... Grave concern has been expressed that the HEW rules will undercut revenue-raising sports programs and damage the overall sports program of the institutions.³²⁴

In conference committee, the "Tower Amendment" was deleted and replaced by the "Javits Amendment," which mandated that HEW publish Title IX regulations that would include "reasonable provisions" covering intercollegiate athletics.³²⁵ On June 4, 1975, HEW promulgated rules and regulations as instructed by Congress. These, in turn, instigated a new round of Congressional hearings and legislative activity related to Title IX, including a second attempt by Senator Tower to amend Title IX. Like "Tower I," "Tower II" relied on a market theme and again was couched in a context of general theoretical support of the values underpinning Title IX.

In addition, the U.S. House of Representatives held six days of hearings, gathering testimony from diverse sources, to review whether HEW's regulations were consistent with the intent of Congress in enacting the law. Like previous discussion and debate of Title IX, these hearings were dominated by the autonomy and market themes

³²⁴ Congress, Senate, Tower Amendment to the Education Amendments of 1974: 15,323, statement of Sen. John Tower.

³²⁵ Department of Health, Education, and Welfare, Office of the Secretary: 24128.

on the opposition side. At this point, the zero-sum theme started to appear, as well, as the following excerpts from the Congressional record illustrate. The advocacy side of the conflict continued to rely on the mandate theme.

[Autonomy theme] This is the classic way of going it. They don't say that you have to do this but they say one way that you can avoid having your university declared ineligible for Federal contracts and whatever is to do these things. And if you don't then maybe, maybe not, you see. So, in effect what it does is put a tremendous amount of pressure on you to comply with these things that they say you don't have to comply with because you recognize that if you do that you are safe. There is no one that can come along and say you violated the regulations. On the other hand if you don't do that you are put in a position of having to explain how it is that you are not in violation and maybe they will accept the explanation, maybe they won't. So, the easy way out or the simple way out and one always seeks the simple escape from bureaucratic regulation, is the simple way out is to say, well, let us do it even if they say we don't have to.³²⁶

[Market theme] To have women's athletic programs emerge full blown without possibly a demand for them seems a little irresponsible... [E]very man here would agree—nobody sees more value in competitive athletics than we do. We are 100 percent for women's athletics. The point is we don't see where the money is going to come from. [Zero-sum theme] If Government wants to give the money for the women's equal program, that is fine with us. We don't see how that can be done without wrecking what is now in existence.³²⁷

[Zero-sum theme] Any way we look at it, we can't see that it is going to do anything other than eliminate, kill, or seriously weaken the programs that we already have in existence... I am not personally opposed to women's intercollegiate athletics. So help me. I am not. I think they have the same things to be gained from their programs as men do. The only question is how the money is going to be supplied and what source it is going to come from.³²⁸

³²⁶ Congress, House, Committee on Education and Labor, Subcommittee on Postsecondary Education: 59, statement of Rep. James O'Hara, 17 June 1975.

³²⁷ Ibid.: 51, Osborne.

³²⁸ Ibid.: 47 and 49, testimony of Darrell Royal, president, American Football Coaches Association, 17 June 1975.

[Mandate theme] We cannot in good conscience continue to allow our educational institutions to deny women and girls the educational opportunities that have been the assumed right of their brothers. The Title IX regulation provides a start in the direction of providing equal educational opportunity regardless of sex. I urge the Congress to demonstrate its commitment to equal educational opportunity by allowing the Title IX regulation to take effect in its entirety on July 21, 1975. Such an action would be consistent with the spirit of International Women's Year and would serve to reinforce the principles of equal opportunity upon which this country was founded two centuries ago.³²⁹

After this, the zero-sum theme became more prevalent on the opposition side of the conflict in the legal and legislative dataset. Also, the equality theme started to appear, as did a hint of the scapegoat and personal opportunity themes, on the advocacy side of the conflict. The following excerpts from the Congressional record illustrate each of these themes.

[Zero-sum theme] There is a chance that at St. Louis University without the Tower bill in effect, that we would either lose the athletic program, both men's and women's, or it would be taken back to where we were a few years ago with club sports.³³⁰

[Equality theme] We feel that any bill designed to weaken Title IX will be a detriment to the advancement of equal educational opportunity. Women's Intercollegiate Athletics, as well as many other areas in education need Federal support in order to move closer to our country's goals of non-discrimination and equality. If the Tower and O'Hara Bills are passed, needed support would be taken away from Women's Athletics, therefore resulting in a definite setback of women in sport.³³¹

[Personal opportunity theme] Many women are avid sports fans; I count myself among them, but what we want now is an opportunity to move

³²⁹ Ibid: 163, statement of Rep. Patsy Mink, 23 June 1975.

³³⁰ Congress, Senate, Committee on Labor and Public Welfare, Subcommittee on Education: 33, testimony of Sue Jones, assistant athletic director, St. Louis University, 15 July 1975.

³³¹ Ibid.: 18, testimony of Aleen Swafford, women's athletic director, University of Nebraska—Lincoln, 5 July 1975.

from spectator to participant and to have the opportunity to cheer for members of both sexes... [Scapegoat theme] Finally, actions taken at NCAA's recent emergency conference on financing indicates that the NCAA is already "ruining" itself, primarily because of its own excesses. This fact was recently underscored by *Newsday* sports columnist Sandy Pawde, when he said, and I quote: "If college athletic programs face deep financial problems, the root of the trouble started long before Title IX. Today's problems go back to the lack of vision of the (Walter) Byers years in the NCAA and the lack of planning by men like (Darrell) Royal and (Bear) Bryant and other coaches and athletic directors. These are the men who overstaffed their football and basketball programs, who spent thousands on feeding athletes at special training tables, who traveled their states and the country looking for athletic talent, who drew up schedules demanding expensive plane and hotel bills, who lavishly carpeted and furnished their athletic dormitories and locker rooms and made gods out of high school athletic stars. [*Newsday*, July 20, 1975]" Clearly the financial shambles of men's intercollegiate athletics cannot be blamed on Title IX or women's sports programs. The NCAA itself has estimated that the current annual deficit of its members is almost \$50 million. And this is no doubt a conservative estimate of the deficit.³³²

Also, challenging the notion that this was a management issue with a market theme, one witness providing testimony to Congress reframed it as a fairness issue with the equality theme:

At the very least, the Tower bill would provide tacit support for the notion that college athletics are commercial ventures rather than educational programs... I urge the committee to... permit the Title IX regulations to function without inhibiting amendments. If the future demonstrates that Title IX leads to inequitable situations, there is ample time to develop sound solutions based on actual experience.³³³

Comparing the legal and legislative dataset in the Tower Era with the newspaper dataset, frames and themes appearing in the newspapers generally reflected the trends in the legal and legislative dataset: The autonomy, mandate, and market themes were

³³² Ibid: 51 and 54, testimony of Margie Chapman, student, University of Arkansas, 15 July 1975.

³³³ Ibid: 101 and 102, testimony of Harry Fritz, dean, State University of New York at Buffalo, 15 July 1975.

dominant. Moreover, reporters often quoted directly from the legislative debates. This was especially the case with debate-framed articles which, not surprisingly, often covered the legislative debate. This is worth noting inasmuch as the debate-framed articles show the newspapers serving more or less as a conduit for information, rather than as a filter or an interpreter, to the public—at least for the legislative proceedings. Still, the autonomy theme was even more prominent in the legislative hearings of the era than would be indicated by the newspapers coverage.

Also, it is worth looking specifically at the early appearances of the zero-sum theme in the Tower Era. The zero-sum theme seems like a natural extension of the market theme that had been established from the beginning of the debate over Title IX. It constitutes arguably one of the most compelling themes in the debate, and one might expect to see it appear frequently in the newspapers. Yet as common as the zero-sum theme was in legislative hearings, it was hardly adopted by the media, and only in sports section articles. Indeed, there is only a hint of the theme in its earliest appearances, and it is only inferred that cuts to men's sports would come as a result of adding women's sports, even though the suggestion was explicit in Congressional testimony. This could reflect a slant in the media against the opposition side of the conflict.

Grove City Era (1977-84) Legal and Legislative Dataset

For this period in the history of Title IX, there is little in the legal and legislative dataset, other than an HEW policy interpretation and court documents relevant to *Grove City College v. Bell*, a noteworthy court case which was on the one hand viewed as a

setback to Title IX advocates and which on the other hand brought temporary clarity to the reach of Title IX.

The policy interpretation on Title IX was promulgated by HEW on December 11, 1979, a little over a year after Title IX was supposed to have been fully implemented. In developing the policy interpretation, HEW gathered public comments and reported a summary of them. These “public” documents are noteworthy because, unlike Congressional and court proceedings, they were more hidden from the public. Therefore, the public relied much more on the newspapers to report what was happening behind the scenes or, more specifically, to understand the ways that competing interests were framing the issues. Even more, the public relied on the government agency to provide adequate synopses of public comments.

In HEW’s summary of the public comments that were collected about the policy interpretation, there were allusions, at least, to the autonomy, market, and mandate themes under the management frame, as the following excerpts illustrate.

[Market theme] *Comment:* Football and other “revenue producing” sports should be totally exempted or should receive special treatment under Title IX.³³⁴

[Mandate theme] *Response:* ...an institution of higher education must comply with the prohibition against sex discrimination imposed by that title and its implementing regulation in the administration of any revenue producing activity.³³⁵

[Autonomy theme] *Comment:* A coalition of many colleges and universities urged that there are no objective standards against which compliance with Title IX in intercollegiate athletics could be measured.

³³⁴ Department of Health, Education, and Welfare, Office for Civil Rights: 71,421.

³³⁵ *Ibid.*: 71,421.

They felt that diversity is so great among colleges and universities that no single standard or set of standards could practicably apply to all affected institutions. They concluded that it would be best for individual institutions to determine the policies and procedures by which to ensure nondiscrimination in intercollegiate athletic programs.³³⁶

The court documents relevant to *Grove City College v. Bell* featured two themes, both under the management frame: autonomy and mandate.

[Autonomy theme] At issue in this case is whether a private college called Grove City College which seeks to avoid government entanglement, which seeks to remain independent, and which seeks to operate efficiently, must either expel students who receive federal scholarships, or must agree that it is subject to government regulation.³³⁷

[Mandate theme] The purpose of Title 9 is to assure that education programs that are subsidized by federal money will not discriminate... Now, the federal government has come into this situation with this special kind of statute provision that says we will hold financial scholarship aid for you, but what we want in return is an assurance that you do not put your scholarship program on a discriminatory basis.³³⁸

On February 28, 1984, the Supreme Court decided the case in favor of the college but went further than simply ruling that the college should not have to sign a form for the federal government. The Court also ruled that federal regulations followed federal funds only to the direct point of disbursement—for example, in the case of federal financial aid to students, to the college financial aid office—and therefore did not apply institution-wide. As will be seen in the next timeframe analyzed, the Restoration Era, this decision spurred further action in Congress in which the fairness frame became prevalent, in

³³⁶ Ibid.: 71,423.

³³⁷ *Grove City College v. Bell*: 1, statement of David M. Lascell, attorney for Grove City College, 29 November 1983.

³³⁸ Ibid.: 7 and 12, statement of Paul M. Bator, acting solicitor general, 29 November 1983.

addition to the management frame that was exclusively present in the Grove City Era. Newspaper coverage was consistent with the activity in the legal and legislative realm.

The prevalence in the media of the autonomy theme and relative scarcity of the market theme on the opposition side of the conflict probably are functions of the official proceedings of the timeframe. The HEW policy interpretation and the *Grove City College v. Bell* court case both had a great deal to do with implementation and consequently about colleges' authority to manage their own affairs, which would be associated with the autonomy theme, rather than with finances, which would more likely be reflected with the market theme. Consequently, according to the scheme developed here, in terms of the matching-up of themes, the Grove City Era features an overall more well-matched debate than the Tower Era, though the opposition side might still have some advantage; again, that is because according to the classification scheme devised here, the mandate and autonomy themes are rhetorical counterparts for the advocacy and opposition sides of the debate, respectively.

Consistent with the legal and legislative proceedings of the era, the newspaper dataset heavily featured the mandate and autonomy themes and featured the zero-sum, personal opportunity, quota, scapegoat, and market themes to a much smaller extent. Indeed, it should be noted that, even as the personal opportunity theme began to appear in both the legal and legislative dataset and in the newspaper dataset, it does not appear that the newspapers were filtering out the corresponding quota theme; this theme simply did not appear in the legal and legislative dataset through the Grove City Era. The one notable divergence of the newspapers from the reality of the legal and legislative

proceedings is, to an even greater extent than in the Tower Era, the over-representation of the equality theme.

Restoration Era (1985-89) Legal and Legislative Dataset

Looking at the legal and legislative dataset from the Restoration Era, much of the testimony given on the Civil Rights Restoration Act of 1985 was about Title IX. The overwhelming share of the testimony relevant to Title IX came from the advocacy side of the conflict. This might have been because of the fact that the advocacy side, at this point in the history of Title IX, was on the defensive after suffering a defeat in the *Grove City College v. Bell* case. The original object of this legislation, after all, was to address perceived problems that the Supreme Court's decision created.

The advocacy side of the conflict relied mainly on the personal opportunity theme, though the equality and mandate themes appeared as well. For example,

[Personal opportunity theme] And when we look at President Reagan praising our Olympic victories, we need to remember that it was Title IX that got a lot of these young women the opportunity even to compete in the sports that enabled them to achieve those victories for our country.³³⁹

[Personal opportunity theme] Most of my teammates and I would not have been there without Title IX of the Education Amendments of 1972. Most of them, like me, were attending college on athletic scholarships, something almost unheard of prior to Title IX. Because of Title IX, my college basketball team has excellent coaches, good equipment, facilities, and uniforms. We didn't have to sell cookies or finance our travel expenses like most of our older counterparts.³⁴⁰

³³⁹ Congress, House, Committee on Education and Labor, *Civil Rights Restoration Act of 1985*: 325, statement of Rep. Steve Gunderson, 7 March 1985.

³⁴⁰ *Ibid.*: 609, testimony of Cheryl Miller, student, University of Southern California, 22 March 1985.

[Mandate theme] ...[T]his bill is not about Federal intrusion into operations of non-Federal public and private entities. Rather, it is about not using Federal taxpayers' monies to support discrimination. The Civil Rights Restoration Act of 1985 is neither a ground breaking piece of legislation nor a revolutionary idea... Discrimination... has no place in our society. If it was not made clear to the Supreme Court, what Congress intended when these civil rights statues were enacted, it is imperative to make it clear now.³⁴¹

Agents of the opposition side of the conflict used mainly the autonomy theme to argue their points. For example,

[Autonomy theme] Certain elements of the women's rights movement seem to have the notion that by causing Title IX to be enacted they are solely responsible for the recent enhancement of women's rights on the campuses of U.S. colleges and universities. I do not accept this characterization... As soon as injustices were identified (many of which were based upon choices of earlier generations of women, which choices are not now relevant to today's society) the college administrations hastened to eradicate the effects of such discrimination. Because these programs were based on notions of fair play and substantial justice, not compulsion by law, such programs have continued unabated after the Supreme Court's decision in the Grove City case. No one was awaiting a relaxation in the law so as to reimpose discriminatory policies.³⁴²

It is worth noting that this excerpt demonstrates an effort on the opposition side of the conflict to diminish the perceived significance and impact of Title IX and to attribute strides in women's opportunities and participation to factors other than Title IX.

Though the autonomy theme dominated, the opposition side of the conflict used market theme as well:

[Market theme] I have to say that there are revenue sports, the big sports, if you will, and then all the other sports that we want to have and some

³⁴¹ Ibid.: 14, statement of Rep. William H. Gray, 7 March 1985.

³⁴² Ibid.: 787, testimony of H. Hal Visick, on behalf of Jeffrey R. Holland, president, Brigham Young University, 25 March 1985.

profusion to provide opportunity for intercollegiate participation by all students, including women.³⁴³

Again, the overwhelming amount of testimony in these hearings came from the advocacy side of the conflict. Still, even to the extent it was present, the opposition side of the conflict during the Restoration Era seems to have missed the opportunity, consistent with the Grove City Era, to meet the advocacy side's themes directly. While the autonomy theme countered the mandate theme, the equality and personal opportunity themes went unanswered in the Restoration Era Congressional hearings. Further, when President Reagan vetoed the bill (again, Congress ultimately overrode the veto), he used only an autonomy theme in his veto message:

A significant portion of the private sector—entities principally engaged in the business of providing education, health care, housing, social services, or parks and recreation—would for the first time be covered nationwide in all of their activities, including those wholly unrelated activities of their subsidiaries or other divisions, even if those subsidiaries or divisions receive no Federal aid. Again, there was no demonstrated need for such sweeping coverage.³⁴⁴

The lack of debate-framed articles in the newspaper dataset was consistent with the lack of legal and legislative activity during this timeframe. The scarcity of opposition themes in the newspapers was also consistent with the patterns found in the legal and legislative dataset. Still, considering the fairness-frame nature of the Restoration Era legislative efforts and the current management status quo determined by *Grove City v. Bell*, it is noteworthy that so many articles, particularly from the advocacy side of the conflict, included management themes and that more did not include fairness frames.

³⁴³ Ibid.: 344, testimony of Joseph Pettit, president, Georgia Institute of Technology, 7 March 1985.

³⁴⁴ President, *Veto*—S. 557: 2.

Again, however, the small number of articles in this era makes it difficult to make definitive statements about how the datasets track with one another.

Cohen Era (1990-2001) Legal and Legislative Dataset

As with the transcripts of the Congressional hearings examined in the Restoration Era, the Cohen Era hearings featured almost exclusively Title IX advocacy themes. This may have been a function of a combination of any one of the following or other factors: a) the advantage that Title IX had enjoyed in the legislative process with the override of President Reagan's veto of the Civil Rights Restoration Act of 1988, in spite of perceived disadvantages in its application and administration in the collegiate sports realm, b) the relative sloth and defiance with which some institutions moved toward compliance, c) the ongoing ambiguity about exactly what constituted compliance with Title IX as administered by federal bureaucrats, or d) concrete evidence of the "narrowing" of the conflict frames, as Mather and Yngvesson suggested would be part of the conflict transformation process, as the advocacy side of the conflict was "winning" in the quest to frame the overall conflict.³⁴⁵

At this point in time, the conflict over Title IX had been on for over two decades and more, and therefore the rhetoric surrounding it had matured. Themes appearing in the Congressional testimony during the Cohen Era included equality, personal opportunity, mandate, and scapegoat—in other words, all advocacy themes in the classification scheme developed here. While the testimony included all advocacy

³⁴⁵ Mather and Yngvesson: 778.

themes, it was dominated by the scapegoat and mandate themes. It is worth noting that testimony on the advocacy side of the conflict came largely from people outside Congress.

On the opposition side, there was very little testimony in the Congressional record. Moreover, opposition-themed comments that entered the record came mainly from members of Congress themselves, with few exceptions. The opposition testimony that did appear during the Cohen Era in Congress relied on the zero-sum, quota, autonomy, and market themes—in other words, on all opposition themes in this study’s classification scheme. It is worth noting that the autonomy theme by this point had evolved over earlier eras: Rather than relying on a promise to move toward equality as had been the case in the past, the theme now came to rely on a history of moving toward equality and crediting factors other than Title IX—and equally important, discounting the influence of Title IX itself.³⁴⁶

Rhetoric from the relevant court cases during this timeframe was dominated by the mandate and quota themes. Still, other themes were employed, as well, including the equality theme on the advocacy side and the autonomy and market themes on the opposition side.

³⁴⁶ See the testimony of Grant Teaff, director of athletics, Baylor University, 17 February 1993, found in Congress, House, Committee on Energy and Commerce. Subcommittee on Commerce, Consumer Protection, and Competitiveness (1993): 17: [Autonomy theme] “[Title IX advocates fail] to acknowledge the many external ‘forces’ that are making colleges and universities address Title IX and gender equity. One of the key factors that is ‘forcing’ change at many institutions is simply the public scrutiny and debate over gender equity and opportunities for women... I think it is overly simplistic to say that colleges and universities will not take action on their own to address Title IX and gender equity because they want to ‘maintain intercollegiate athletics as a boys’ club.’ On the contrary, I already have commented on the efforts of the intercollegiate athletic community to address gender equity and to expand opportunities for female student-athletes. Whatever it once may have been, college athletics no longer is a ‘boys’ club.’ Shrinking financial resources and increasing operating costs, not some effort to maintain intercollegiate athletics as an entrenched boys’ club, constitute the greatest single obstacle to achieving gender equity.”

Patterns in the appearance of themes in the legal and legislative dataset were largely reflected in the newspapers of this era. Newspapers throughout the history of Title IX demonstrated some balance in presenting advocacy and opposition themes in aggregate, albeit less and less over time. Consequently, the fact that there was increasingly more balanced representation of individual themes in the Cohen Era suggests the agents on each side of the conflict were the ones—not reporters—who evolved and adapted to the terms of the conflict by countering one another with matching themes. This might further underscore the maturity of the conflict and the debate surrounding the implementation of Title IX at this point in the law’s history, that each side of the conflict was countering the other with matching themes in the newspapers. Indeed, there is evidence in the newspaper dataset to suggest that the sides of the debate understood the rhetorical tactics employed by their adversaries and recognized the work needed to counter them:

...Deborah Brake, staff counsel for the National Women’s Law Center in Washington, said Title IX opponents have used the label of “reverse discrimination” only to win political points: “They’re trying to force it into that box. Any time you use the word ‘quota’ in Washington, all thinking stops—and they’re throwing it into every sentence.”³⁴⁷

Also, it should be noted that the over-representation of the mandate and equality themes in the newspapers, as compared with their appearance in the legal and legislative dataset, noted in earlier eras, continued to characterize coverage patterns.

³⁴⁷ Andrew Gottesman, “Gender Equity Hit by Backlash: Non-Revenue Men’s Sports Take Their Case to Washington,” *Chicago Tribune*, 7 May 1995, p. 5.

Paige Era (2002-07) Legal and Legislative Dataset

During this era, the series of court cases entitled *National Wrestling Coaches Association v. Department of Education* relied on the quota and zero-sum themes from this study's classification scheme. This study's findings were consistent with Rosenthal's findings relevant to the Department of Education Office of Civil Rights (OCR) hearings of 2002 and 2003 that "the [Title IX] opponents' strategy... featured male athletes telling personal sagas of lost scholarships, cut teams, and dropping out of school."³⁴⁸ Moreover, Rosenthal found that the advocacy side of the conflict during those hearings started with what was identified here as the mandate theme and was "forced... to rethink its strategy" and then shifted to using the equality and personal opportunity themes described here.³⁴⁹

The OCR hearings of this era presented an interesting episode in that they took place over the course of many months, thereby allowing shifts of rhetorical strategy on both sides of the conflict in the context of what constituted a sort of single, serialized hearing and giving Rosenthal an excellent case to study discursive framing. Because Rosenthal has already analyzed this episode and because this study's findings largely replicated hers, details and illustrative excerpts from much testimony will not be presented here. It should be noted that the advocacy side's reliance on the mandate theme in the early stages of the hearings was consistent with the advocacy side's heavy use of that theme in the Cohen Era, as described earlier. As noted there, the use of fairness frame themes on the opposition side of the conflict in the face of management

³⁴⁸ Rosenthal: 76.

³⁴⁹ Ibid.: 76.

frame themes on the part of the advocacy side might have given an advantage to the opposition side of the conflict in influencing public opinion.

It should also be noted that while Rosenthal identified five of the frames/themes in the OCR hearings transcripts that this study did (the debate frame and all four of the fairness frame themes), this study also found in the transcripts the additional four, management themes identified in the classification scheme developed here, all of which Rosenthal more or less clumped into a single management-oriented frame (what she called the “impersonal policy frame”).³⁵⁰ Again, the appearance of all themes identified in this dissertation, as well as the apparent awareness and deliberateness of each side of the conflict in terms of rhetorical strategy underscores the maturity and transformative nature of the conflict. The endurance of the conflict, in turn, underscores the irreconcilability of the two sides.

³⁵⁰ Ibid.: 72. For example, see all four management themes in Department of Education, Office for Civil Rights, *The Secretary's Commission on Opportunity in Athletics: Transcript of Proceedings* (Washington, 29-30 January 2003), 370 and 372, testimony of Donna de Varona: **[Mandate theme]** “If you endow a sport, you still have to comply with Title IX. You can’t separate that sport out. It still has to come under the umbrella of Title IX... I certainly don’t want to depart from 30 years of federal law.” Also see in the same document (Philadelphia, 4-5 December 2002), 209, testimony of Julie Foudy: **[Scapegoat theme]** “What the finding says is that there often is the case of this arms race where the expenditures are so high that even if they are profit-generating—if they are revenue-producing, they don’t become profit-generating and it’s more the question of the expenditure control... and that resources are dwindling because of that.” Also see in the same document (Washington, 29-30 January 2003), 122, testimony of Lisa Graham Keegan: **[Market theme]** “...[I]f you could match these numbers at mixed universities and single-sex universities, I just think they are extremely interesting and informative about how many people are actually coming out for sport, because we are asking about opportunities, demand, and whether we are meeting it or not or discriminating against it. I think it is incredibly relevant.” Also see in the same document (Washington, 29-30 January 2003), 371-372, testimony of Gerald Reynolds: **[Autonomy theme]** “I think we should explore the feasibility of building some more flexibility into the current role. And the example that comes to mind is Marquette. In that example, the alumni came up with money they could have funded the wrestling team, because of our current rule that wasn’t an option for that school... With the restrictions that were attached, they decided... to walk away from the offer. I’m saying we should take a look at the conditions and see if it is possible to come up with a new set of conditions. I’m not suggesting we do away with the rule completely, but to see if it could be modified.”

The legislative hearings during the Paige Era featured mainly the personal opportunity and scapegoat themes. These are consistent with Title IX's coming of age. At this point, women had more athletic accomplishments than ever before to attribute to Title IX and also had evidence to support the idea that there were economic factors other than Title IX to blame for retrenchment of men's non-revenue-producing sports. The equality theme also was used in the legislative hearings. The mandate theme was absent in these hearings, as were all the opposition themes, though the opposition themes were referenced and refuted by Title IX advocates. The absence of opposition themes in the legislative record probably was attributable to the fact that the hearings were about the Bush administration's plan to revisit Title IX compliance rules, and this review in itself might be considered a form of opposition response. Other than the customary overrepresentation of advocacy themes in the newspaper dataset, the newspaper coverage tracked pretty closely with the legal and legislative dataset during the Paige Era.

Inter-Era Legal and Legislative Dataset Analysis

Overall, this study's findings suggest that the media did a good job of presenting all of the frames and subsidiary frames (themes) that were used by opponents and advocates in the conflict over the implementation of Title IX, especially in debate-framed articles. This finding is consistent with Richards and King's thesis—that the media prefer to tell stories that emphasize conflict and pit sides against one another.³⁵¹ Also, the coverage of frames and themes in the media largely mirrored the appearance of

³⁵¹ Richards and King: 479.

frames and themes in the legal and legislative record in terms of the timing. This includes the pattern of migration described in the newspaper dataset analysis in which opponents moved from management frames to fairness frames to match the rhetorical strategies of the advocates, and in which advocates moved from fairness frames to management frames to match the opponents.

That said, the migration—and, consequently, the dynamism of the conflict, overall—did appear more obvious in the legal and legislative record than in the newspapers. In part, this could be due to the fact that, throughout the history of the conflict, there was over-representation in the newspapers of themes from the advocacy side of the conflict. Also, it could be in part due to the fact that the legal and legislative documents reflected the actual activities and events of the conflict, and not as much the responses to them; in other words, because the actual events of the conflict more often were instigated by the opposition throughout the history of the Title IX conflict, the advocacy side was underrepresented in these documents while being covered with greater balance in the newspaper depictions of the overall conflict.

Research Question 3: What is the relationship between public opinion and the appearance of opposition and advocacy frames in the mass media?

Based on the work of Baumgartner and Jones and MacKuen, which suggested that public opinion is volatile and subject to media influence,³⁵² it was expected that after the frames' and themes' appearance in the newspapers, public opinion would reflect the most

³⁵² See Baumgartner and Jones, MacKuen and Coombs.

prominent and most prevalent mass media frames and themes presented in the conflict. This would suggest that the newspapers were influencers of media consumers by virtue of what they allowed to travel through the communication model.

Again, the various frames and themes appeared in the media in a way that generally reflected their appearance in the legal and legislative discourse in terms of timing. However, as mentioned in the analysis of the previous question, their appearance often followed a different pattern in terms of prevalence, with some advocacy themes being over-represented in the newspapers. This was particularly the case with the drip-drip infusion of the equality, mandate, and personal opportunity themes through articles in which Title IX was “just mentioned.” This is not to say that the timing of the appearances of the various frames and themes produced any surprises, just that newspapers were something more than simple conduits of frames and themes, even if this was not on purpose.

In any case, the dissertation’s expectations about public opinion were not supported. Looking at Table 6-24 reveals that there have been very few public opinion surveys since 1972 that have asked questions about Title IX or Title IX-related topics. Moreover, there has been no consistency in the questions asked. That said, in the surveys that have been conducted, the topics of Title IX and equality for women in sports appear always to have enjoyed high levels of public support. Public opinion was overwhelmingly pro-Title IX or at least pro-equality-in-sports and basically did not change over time as the appearance of opposition themes diminished or as the appearance of advocacy themes increased in the proportion of newspaper articles containing them.

It cannot be said that public opinion has trended in any way consistent or correlated with the presentation of mass media frames in the conflict. At best, it can be said that opposition themes, however they were represented in comparison to advocacy themes, apparently failed to resonate with the public and failed to gain advantage in the arena of public opinion. The public opinion data was simply insufficient to allow an extension of the work of Baumgartner and Jones or MacKuen to the Title IX conflict. This will be discussed this further in the next chapter.

Table 6-24: Public Opinion and Title IX³⁵³

Year	Survey Question	Answer	%
1974	Should girls have equal financial support for their athletic activities as boys? ³⁵⁴	Yes No Don't know	88 7 5
1979	The federal government may require all high schools to spend the same amount of money on women's sports as on men's sports. Do you approve or disapprove of this plan? ³⁵⁵	Approve Disapprove Don't know	62 29 10
1985	Do you think that schools and colleges should give equal funds to men's sports and women's sports? ³⁵⁶	Yes No No opinion	72 19 9
1990	Do you agree or disagree with the following statements about women's athletics?... Women should be given the same number of opportunities to compete on intercollegiate athletic teams as men. ³⁵⁷	Agree Disagree Not sure	85 14 1
1995	Now let me ask you some questions about some changes in federal government policy which have been under consideration in Washington these days, as a result of the Republicans taking over control of Congress... Do you tend to agree or disagree with weakening laws protecting girls' and women's equal education and athletic opportunities? ³⁵⁸	Agree Disagree Not Sure	24 70 6
1997	Do you think college funding for men's and women's sports should be equal or not? ³⁵⁹	Equal Not Equal Don't know	88 10 4

³⁵³ Note that the surveys summarized here use different questions and methods and cover different topics.

³⁵⁴ Sigelman and Wilcox, 89, from the Roper Center's online POLL database, quoting the Gallup Organization, "Public Attitudes Toward Education," for the Charles F. Kettering Foundation, personal survey of 1,543 adults nationwide.

³⁵⁵ Ibid., from the Roper Center, quoting the Gallup Organization, "Public Attitudes Toward Education," for the Charles F. Kettering Foundation, personal survey of 1,511 adults nationwide.

³⁵⁶ Ibid., from the Roper Center's online POLL database, quoting Lieberman Research, "Sports Poll 1988," for Sports Illustrated, mail survey of 2,043 adults nationwide.

³⁵⁷ Ibid., from the Roper Center, quoting Louis Harris and Associates, "Reforming Intercollegiate Athletics," for the Knight Commission, telephone survey of 1,255 adults nationwide.

³⁵⁸ Ibid., from the Roper Centers' online POLL database, quoting Peter Y. Harris Research Group, Women's Equality Poll 1995, for the Feminist Majority Foundation, telephone survey of 1,364 adults nationwide.

³⁵⁹ Ibid., from the Roper Center's online POLL database, quoting CBS News, CBS News Poll, August 1997, telephone survey of 1,307 adults nationwide.

2003	Based on what you have heard or read about Title IX, do you think its overall impact has been—mostly positive (or) mostly negative?	Mostly positive	61
		Mostly negative	25
		Mix	4
		No opinion	10
	How responsible do you think Title IX has been for the growth in women’s sports in the last few decades? Do you think it has been—the main factor, a major factor but not the main factor, a minor factor, or not a factor at all?	Main factor	18
		Major, not main	47
		Minor factor	24
		Not a factor	6
		No opinion	5
	Do you think Title IX’s regulations should be—made stronger, stay about the same as they are now, or be made weaker? ³⁶⁰	Stronger	20
		About the same	50
		Weaker	21
		No opinion	9
2007	Title IX is a federal law that prohibits high schools and colleges from discriminating on the basis of gender in athletics. Do you favor or oppose Title IX?	Strongly favor	65
		Favor	17
		Oppose	6
		Strongly oppose	9
		Don’t know	3
	If a girls’ sports team in high school were being treated worse than the boys teams, and the girls or their parents wanted to take action to get equal treatment, would you support or oppose them taking action? ³⁶¹	Strongly support	74
		Support	14
		Oppose	3
		Strongly oppose	5
		Don’t know	4

³⁶⁰ Kiefer.

³⁶¹ The Mellman Group, Inc., 1 and 2.

Chapter 7: Discussion and Notes for Further Research

The previous chapter described the dynamic, transformational communication process involved in the ongoing conflict over the implementation of Title IX, thereby addressing all but one of the questions posed in Chapter 1, on page 2. This chapter will discuss how that process, in particular the opposition side of it, relates to this dissertation's conceptualization of "backlash," thereby addressing the remaining question from Chapter 1: "How do the opposition's actions and communications constitute backlash, how are these actions and communications different from other kinds of opposition, and why is this distinction important?" It will also discuss limitations of the present research and will suggest topics and directions for future research.

The Title IX Conflict and "Backlash"

To revisit the conceptual definition of backlash: Backlash can be defined as a sudden, often emotional, antagonistic oppositional response to the *impact* of a movement, trend, or *policy*, and this response stems from "play," misalignment or conflict of goals, in the social system.

The response of the opposition to the implementation of Title IX fits this definition, for the most part. First, as the previous chapter showed, the opposition's response to Title IX has been antagonistic and often emotional. Second, that response for the most part has been to the impact of the law, rather than to the underlying principle of equality embodied by it. Moreover, one could argue that certain legal and legislative activities—specifically, the *Grove City* decision for the advocacy side, and the Civil Rights Restoration Act and the *Cohen* decisions for the opposition side—nearly as much

as the passage of the original Title IX legislation itself, have been jarring enough to elicit responses consistent with this dissertation's definition of backlash. (As mentioned in the previous chapter, this series of jarring activities could also help to explain the longevity of the conflict.) Finally, the oppositional response has existed for over three decades as a result of perceived "play" in the social system and the perceived ability to shape the way and extent to which the law is implemented and thereby to influence the extent of its impact.

Again, the key to understanding the concept of backlash as posited in this dissertation is to accept the premise that backlash exists not against Title IX itself (that, by the definition used here, constitutes a different kind of opposition) but rather against a policy's effects. That is to say, in regard to Title IX, it is not simply a matter of stakeholders opposing the policy; it is a matter of them opposing the effects (or perceived effects) of the policies. Consequently, as Goode suggested, it is perfectly possible for someone at once to pay lip service to nondiscrimination and to express backlash in disapproval of the way Title IX is being concretely applied.³⁶²

Evidence suggests that the conflict over the implementation of Title IX involves just this sort of opposition, making it a prime example of backlash. Indeed, throughout the history of the conflict, opponents have expressed sentiments supporting equality in principle but opposing the practical application of Title IX. For example, there is explicit evidence that the Tower Amendment constituted a backlash response and not simply opposition to Title IX based on principle:

³⁶² Goode, 300.

I want to emphasize that one of the prime reasons for my wanting to preserve the revenue base of intercollegiate activities is that it will provide the resources for expanding women's activities in intercollegiate sports. I have a vested interest because I have a daughter who is a potential varsity tennis player, and I would like to see that she gets the opportunity.³⁶³

Similar sentiments were expressed by the opposition in the Grove City Era. For example,

NCAA President James Frank denied that the association had ever opposed Title IX or equality of opportunity for women in sports. "The NCAA has opposed bureaucratic overreach, but not the principles of equal opportunity," he told a symposium on the implications of Title IX in Washington.³⁶⁴

During the Restoration Era, even as President Reagan vetoed the Civil Rights Restoration Act, he included in his veto message verbiage consistent with backlash as he offered an alternative to the bill he vetoed:

Our bill advances the protection of civil rights. It would prohibit discrimination against women, minorities, persons with disabilities, and the elderly *across the board* in public school districts, public systems of higher education, systems of vocational education, and private educational institutions which receive *any* Federal aid....³⁶⁵

Again, this suggests agreement in principle with the Civil Rights Restoration Act, just not with what the perceived impact of it would be when practically applied.

In the Cohen Era, it was almost customary on the opposition side of the conflict to express explicit support for the principle of women's athletics equality embodied in Title IX, consistent with a backlash response, while in the selfsame breath decrying the impact of the law:

³⁶³ Congress, Senate, Tower Amendment to the Education Amendments of 1974: 15,323, statement of Sen. Tower, 20 May 1974.

³⁶⁴ Bart Barnes, "Lack of Money Halts Boom in Women's Sports," *The Washington Post*, 5 July 1981, p. D4.

³⁶⁵ President, *Veto—S. 557*: 2.

Representative Dennis Hastert, the Illinois Republican who had urged the hearing be held, said he still supports Title IX and that the law has “done a great deal of good... The unintended consequence, though, has been a cutback of men’s sports and not the growth of women’s sports... It’s a trend across the country, and we want to stop it.”³⁶⁶

Amici’s members strongly support the objective of Title IX to enable women to develop their full potential in athletics as well as in other educational endeavors... With this brief amici do not suggest that the goal of Title IX has been everywhere realized or that all discrimination against women has been eradicated.³⁶⁷

Also in the Cohen Era, it is worth noting that the actual term “backlash” was used—sometimes correctly according to the definition given here, and sometimes not. In these example instances, it is basically used correctly, though probably unwittingly (emphasis added):

Along with a recent court decision and a new political climate, that sentiment is driving a *backlash* against Title IX. It has prompted congressional hearings, scheduled for Tuesday in Washington, that represent the first time Title IX has come under such an organized attack from men’s teams.³⁶⁸

Yesterday was the eighth annual National Girls and Women in Sports Day... There was much talk about Title IX and the continuing *backlash* against it, led by male coaches of male teams.³⁶⁹

“I wonder if people who came up with Title IX realized the *backlash*,” said Chainey Umphrey, a member of the U.S. national team whose

³⁶⁶ “Brown’s President Asks for a Clear Policy on Title IX,” *The New York Times*, 10 May 1995, p. B19.

³⁶⁷ *Brown v. Cohen* (1997c).

³⁶⁸ Andrew Gottesman, “Gender Equity Hit by Backlash: Non-Revenue Men’s Sports Take Their Case to Washington,” *Chicago Tribune*, 7 May 1995, p. 5.

³⁶⁹ Robert Lipsyte, “It’s Still Strut Your Stuff for the Good Old Boys,” *The New York Times*, 4 February 1994, p. B10.

collegiate program at UCLA was discontinued. "...Bringing in women's sports is great, but you don't want to hurt the men's."³⁷⁰

In the Paige Era the opposition side of the conflict continued to express support for the principles behind Title IX, consistent with this dissertation's definition of backlash. For example,

What is very important is that the world knows we embrace Title IX," NWCA executive director Mike Moyer said. "We don't believe there should be discrimination on gender on college and university campuses. Period. But when the coach of a men's sport is forced to cap the size of his program, that very obviously appears to violate what Title IX is all about."³⁷¹

I believe that Title IX was and is important. But somehow, some way, some of what was good in sports should not be eliminated. There should be a restudy of how Title IX is being administered. There needs to be greater flexibility, to adapt and establish a system that gives greater opportunities to both men and women, [said Olympian Dick Fosbury].³⁷²

Conditions Allowing Backlash against Title IX to Emerge in the Media

Altogether, the transformation of this conflict through rhetorical strategies deployed in the newspapers examined here illustrates the "play" in the social system that is required for backlash to exist and, in the case of Title IX, to persist for over three decades. All the characteristics of the conflict mentioned in the previous chapter and thus far in this chapter demonstrate that a consistent misalignment of goals has existed in the

³⁷⁰ Lori Van Lonkhuyzen, "Boys Gymnastics Takes a Tumble; A Number of Factors Hasten Sport's Demise," *The Washington Post*, 3 May 1995, p. B08.

³⁷¹ "Title IX Still a Tough Deed at 30; Small Sports Face Financial Inequity," *The Washington Post*, 9 May 2002, p. D01.

³⁷² Ira Berkow, "Fosbury Bemoans Decline of College Track and Field," *The New York Times*, 24 March 2002, p. 8.12.

conflict over the implementation of Title IX. Moreover, for the most part, the opponents' behavior, as shown here, has been consistent with this dissertation's definition of backlash.

In addition, the conditions for backlash to appear in the mass media existed, as well. Both sides of the conflict had access to get their messages—specifically, their frames—into the mass media. Consequently, both sides could view the mass media as venues for engaging in the conflict. It is apparent that both sides of the conflict recognized the value of getting their frames into the mass media. When Title IX opponents had setbacks in the legal and legislative realms, they sought to convey backlash frames in the media. This indicates the opposition's recognition of the mass media as places to effect the “play” aspect of backlash—in other words, to attempt policy change or at least to delay the implementation of Title IX and to divert attention from the core issues of equity, discrimination, and barriers to equal access, toward issues like reverse discrimination, survival of tradition, and harm to the status quo.³⁷³ Similarly, when advocates pushed for policy changes or perceived policy setbacks on the horizon, they sought to get advocacy frames covered in the media. Some of these actions could be characterized as “counter-backlash,” as will be explained below. As mentioned earlier, it was also apparent from their comments about one another's motives and actions that each side of the Title IX conflict explicitly recognized the mass media messaging strategies being employed by the other side.³⁷⁴

³⁷³ See Greendorfer.

³⁷⁴ See Gottesman, p. 5.

The Role of the Mass Media in Relation to Title IX Backlash

The public nature of the conflict over Title IX has demonstrated the integral role that the mass media play in the social system when backlash is part of the dynamics. The integral role of the mass media in a conflict that involves backlash helps to explain, probably more than other factors, the success or failure of the implementation of public policies like Title IX that are designed to end discrimination and expand human rights. Conflicts that involve backlash feature a couple of important phenomena that mass media provide. First, the mass media can allow backlash to appear more intense and more widespread than might, in fact, be the case in reality—a sort of third-person effect—thereby creating an urgency in the minds of policy- and opinion-makers. As mentioned earlier, studies have shown that media exposure of an issue can influence the form and magnitude of official policy responses and, therefore, also the timeframe in which policies are implemented.³⁷⁵ Second, in turn, it is likely that the media attention accompanying a backlash response to an anti-discrimination policy exacerbates the diversion of attention and energy from policy implementation that already accompanies any form of opposition.³⁷⁶ Consequently, it is the contention of this dissertation that any public policy conflict that involves backlash is primarily a mass media phenomenon; therefore, the study of backlash against Title IX belongs primarily in the mass communication literature. In the future, researchers looking at other public policy conflicts might be able to understand the role of the mass media, based on what has been

³⁷⁵ See Baumgartner and Jones; Dearing and Rogers; Gonzenbach; MacKuen; and Trumbo.

³⁷⁶ See Greendorfer..

articulated here regarding the role of the mass media in the conflict over the implementation of Title IX.

It is worth noting that, in regard to the overall transformation of the Title IX conflict, some communications and actions of the advocacy side could be considered a form of backlash, as well, as defined in this dissertation. This was most specifically the case after the *Grove City* decision. It could be argued that the court decision created exactly the sort of jarring effect to what had become the status quo position that would fit the definition of backlash. The advocates' response to the sudden impact of the decision stemmed from a conflict of goals consistent with backlash. This, therefore, might fittingly be characterized as "counter-backlash," and this phenomenon deserves further investigation in future research, both in this context and in the context of other anti-discrimination policy conflicts.

This "counter-backlash" response and subsequent regaining of ground that took place with the Civil Rights Restoration Act arguably led to a renewed—or possibly even what could be characterized as a new—backlash response, on the part of Title IX opponents, consistent with this dissertation's definition of backlash. After all, the Civil Rights Restoration Act created yet another jarring impact stemming from a conflict of goals and elicited a response similar to the response to the original Title IX legislation.

Thus, this dynamic backlash/counter-backlash phenomenon arguably provides an apt description of the Title IX conflict and explanation for the conflict's persistence. Also, all of this validates the conceptualization of backlash posited in this dissertation and validates the concept's use as a legitimate, specific social science and mass communication concept. This also suggests that the phenomenon is worth further study.

Summary: How This Study Advances Understanding of Conflict Transformation

The current study advances several previously posited theoretical works and, consequently, fits into larger theoretical contexts. First, this research gives some depth to at least one of Gray and Donnellon's conflict categories (outcome),³⁷⁷ which otherwise is basically only descriptive. Second, this research also gives depth to Pinkley's compromise-win conflict category³⁷⁸ but explains the machinations of at least one major manifestation of this category, rather than just implying that there have to be certain activities underpinning it from each side of a conflict. That is to say, this study could be part of a greater effort to develop previously identified conflict frame categorizations and to begin forming an understanding of the social processes—including especially the mass communication processes—taking place within all of the identified conflict frame categories. This study has presented a model by which the processes behind at least two paradigms' conflict frame categories might be predicted; a full understanding of all conflict frame categories requires the development of many other models. While there is an absence of consensus about the number and types of frames people use to define their conflicts, there is agreement that greater research needs to be done to understand the social processes—especially the language processes and interactions—behind them.³⁷⁹ This study provides some of that.

³⁷⁷ Rogan: 160.

³⁷⁸ Pinkley, "Dimensions of Conflict Frame: Relation to Disputant Perceptions and Expectations," *The International Journal of Conflict Management*, 3, no. 2 (1992): 101.

³⁷⁹ Rogan: 162

In addition, this study provides support for the conflict transformation process framework posited by Mather and Yngvesson, especially as it relates to the narrowing of conflict categories.³⁸⁰ The study extends this framework by showing the processes leading up to such narrowing and by explaining in some detail the language, participant, and audience components of the processes. Applying the framework shows how the arguments of the backlash side of the Title IX conflict were largely delegitimized—and, therefore, narrowed—with the passage of the Civil Rights Restoration Act. It also explains why the backlash side of the conflict then reframed its arguments to fit the available fairness frame context. This transformation was both played out in the newspapers analyzed and also described by them.

Figure 7-1 shows a rudimentary graphic depiction of the Title IX conflict to summarize the relationship between the mass media, legal and legislative advocates and opponents, and public opinion. Initially, the anti-discrimination policy was promoted by Congress (a legal source), without any real call for it from the public, causing a jolt to the status quo (represented by the lightning bolts at the top of the figure). This was felt by stakeholders and reported by the mass media (consequently, lightning bolts extend toward both of these groups in the figure). Subsequently, opposition and advocacy stakeholders engaged in conflict communication strategies in the courts and other public policymaking settings (represented by the funnel cloud) and in the media (represented by the rain clouds). In turn, mass media coverage became part of the official debate as it was referenced in legal and legislative documents like the *Congressional Record* and in court briefs, as depicted by the arrows linking the funnel and rain clouds.

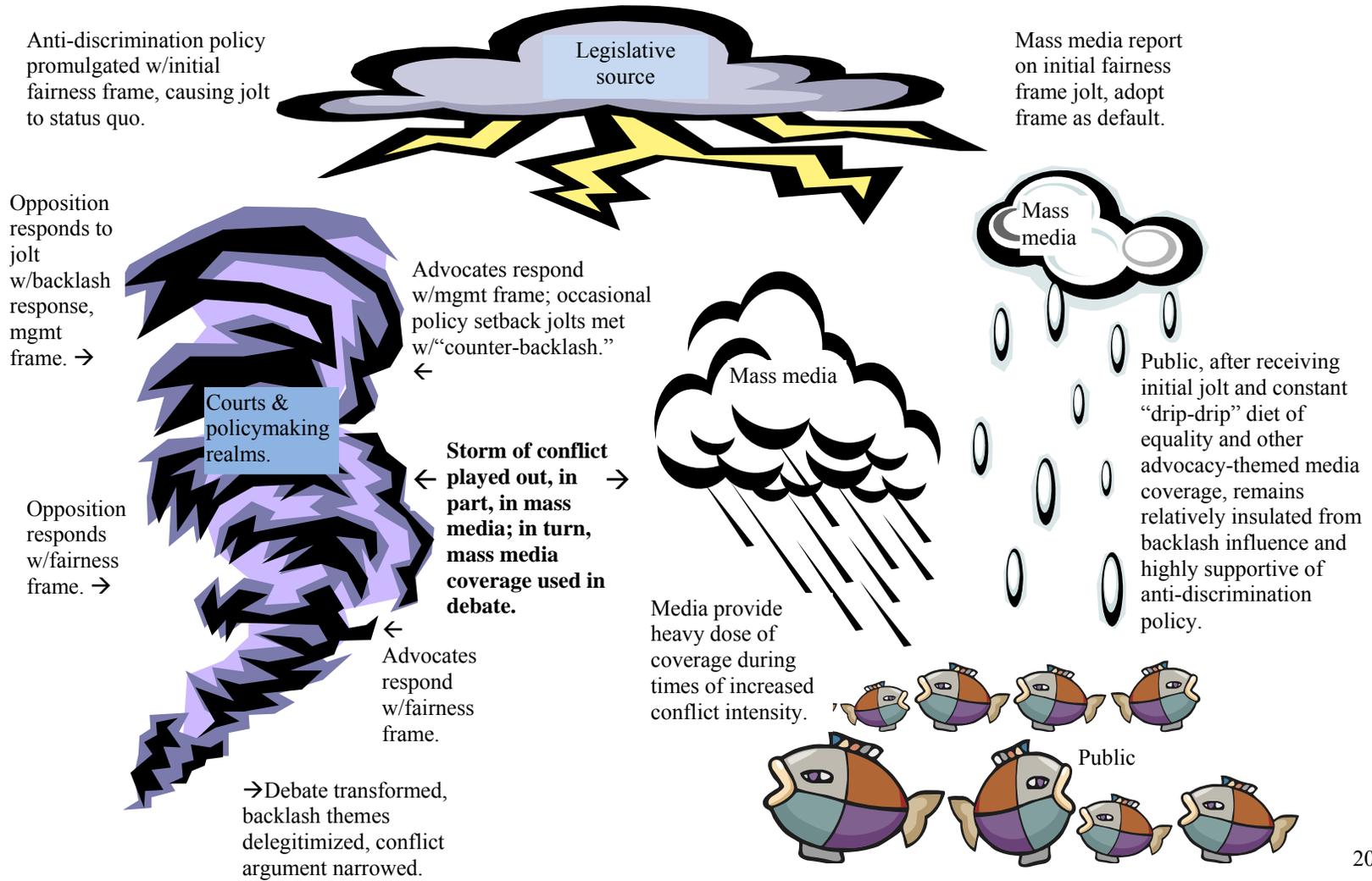
³⁸⁰ Mather and Yngvesson: 778-779.

The opposition's communications, consistent with backlash, were countered by the advocates in ways consistent with a "matching-up" of conflict themes established in this dissertation. Occasional anti-discrimination policy setbacks were met with what could be coined "counter-backlash" communications from policy advocates. The overall transformation of the conflict was consistent with the narrowing of conflict categories established by Mather and Yngvesson.³⁸¹ Again, the conflict is represented in Figure 7-1 by the funnel cloud, to illustrate both the stormy, back-and-forth, inter-related nature of the conflict and the transformational narrowing of the conflict categories. Opposition and advocacy framing strategies and responses are depicted by arrows pointing into the funnel cloud.

Media reporting of the conflict basically provided a fair representation of the actual conflict that took place in the legal and legislative realm, with a few exceptions, as noted earlier. Reporting of the occasional major conflict event is represented by the downpour of rain from one raincloud in the figure. Yet the media also provided some consistent cultivation of equality and other advocacy themes, represented by the "drip-drip" of the other raincloud, thereby potentially serving as a mitigating factor and to some extent insulating the public, represented by the school of fish in the figure, from the Title IX conflict. This potentially prevented backlash sentiments from taking hold in the arena of public opinion and allowed public opinion to be and remain highly supportive of the anti-discrimination policy.

³⁸¹ Mather and Yngvesson: 778-779.

Figure 7-1: Graphical Depiction of Title IX Conflict: Mass Media-Legal/Legislative-Public Opinion Relationship



Limitations

The most important limitation from the perspective of this dissertation's research questions was the scarcity of polling data relevant to Title IX and women in sports. Further research, especially into surveys done for local media or for other major media outlets, might unearth additional survey data, which could be helpful in doing a more meaningful analysis of the impact of backlash on the conflict over the implementation of Title IX. As mentioned in the last chapter, the survey questions that have been asked have not been consistent. Thus, on the one hand, attempts to find relationships between mass media coverage of Title IX and public opinion are hamstrung by the dearth and inconsistency of the past surveys; on the other hand, there is strength in the fact that different questions asked in different ways have received consistent (high) levels of support over time.

Another limitation of the current research was its reliance on the three newspapers that were analyzed. For all of the strengths of using these three particular newspapers, as outlined in the method chapter, this is a limitation for a few reasons: first, probably no one reads all three of these newspapers, second, not everyone reads even one of them, and, third, people rely on more than just newspapers as a source of news. Further research ideally would include an expanded collection of large regional and national newspapers. Further research ideally would include media other than newspapers, especially from television news broadcasts, as impracticable as it would be to procure such data.

An expanded or new line of research could also include not only big national or regional newspapers but also small local newspapers. As mentioned earlier, small local

newspapers are more likely to reproduce gender stereotypes than smaller circulation newspapers.³⁸² Consequently, while the current research found no significant difference in the reporting patterns of in-house versus syndicated or news service reporting (See Table 7-1: $X^2 = 4.24$, $df = 7$, $p = 0.752$), something different might be found in small local newspapers that use syndicated and news service material. Analyzing small local newspapers could produce very different findings, which might be influential in different ways than the large regional or national newspapers are.

Further research could also inquire into the possible varying influence of different kinds of news media consumers; for example, sports media consumers might be more vocal and more influential than news media consumers in public policy contexts.

Table 7-1: Percentage of Articles Employing Themes by In-House or Outside Source

	In-House (n = 694)	Outside (n = 59)	All (n = 753)	
Equality	40.20	40.68	44.89	} Fairness Frame
Zero-Sum	14.84	16.95	15.01	
Pers Op	20.75	10.17	19.92	
Quota	7.06	8.47	7.17	
Mandate	53.60	47.46	53.12	} Mgmt Frame
Autonomy	14.84	16.94	15.01	
Scapegoat	7.06	6.78	7.17	
Market	12.39	15.25	12.62	
Advocacy	88.76	81.36	88.18	
Opposition	38.33	52.54	39.44	

Another limitation of the current research was the reliance on primary source court and legislative documents and then the final permutation, newspaper articles. A major missing component is the public relations communications that supported the advocacy and opposition sides of the conflict—that is, for example, the press releases,

³⁸² Kahn: 154-173.

correspondence, and press conference statements issued by each side of the conflict. Future research should include an analysis of such documents and their relation to what appeared in the media; this could give further insight into the role of the media as either filters or conduits for information. For the current research, no such documents ultimately were included in the analysis because of their spotty availability; press releases from the *Cohen* court cases were readily available from the Brown University Web site, for example, but not from other sources. Some entities involved in the conflict have disappeared altogether, leaving no archive of such materials.

Notes for Further Research

In the current study, some findings arose that could be interesting for future research.

As mentioned in the previous chapter, the opposition and advocacy sides of the Title IX conflict employed frames and themes consistent with a match-up classification scheme developed based on prior exploratory research. Other non-media research on the topic, conducted by Rosenthal, lent support to that match-up scheme. Moreover, newspaper coverage also lent legitimacy to the scheme by frequently featuring the point-counterpoint match-ups consistent with the scheme in debate-framed articles about Title IX. Further investigation should be conducted to determine whether such match-up schemes exist in other equality legislation or public policy debate contexts and whether those schemes also are legitimized by the mass media. Such research could be part of an investigation of how mass media “frame the frames” in the context of public policy conflicts by virtue of how they present the frames in relation to one another. In other

words, future research could look at how mass media coverage itself legitimizes conflict frames by featuring them together in a single news story, consistent with Richards and King's thesis that the media prefer to tell stories that emphasize conflict and pit sides against one another.³⁸³

On another note, more data was collected than was needed to answer questions relevant to this dissertation. Consequently, a number of extensions of this research are available for future consideration.

For example, there was a significant difference in the use of themes employed by female reporters as compared with male reporters (see Tables 7-2 and 7-3), $X^2 = 41.8$, $df = 7$, $p < 0.001$. A look at the individually matched pairs of themes helps to highlight these differences. Male reporters used the equality theme in about 35 percent of articles and the zero-sum theme in about 20 percent; female reporters used the equality theme in 50 percent of articles and zero-sum in less than eight percent. Male reporters used the personal opportunity theme in less than 18 percent of articles and quota themes in about eight percent; female reporters used the personal opportunity theme in over 26 percent of articles and the quota theme in less than five percent. Male reporters used the mandate theme and scapegoat themes in about the same proportions as female reporters did but used the autonomy theme more (over 16 percent versus about 11 percent) and used the market theme more (over 15 percent versus under ten percent). Male reporters used the overall fairness frame less often than female reporters (in about one-third of articles as compared with about half). Male reporters used the management frame more often than

³⁸³ Richards and King: 479.

female reporters (in about 37 percent of articles as compared with under 30 percent). Also, male reporters were more likely to report on the Title IX conflict as a debate (in nearly 30 percent of articles) than female reporters (under 23 percent of articles).

Still, there were far fewer articles authored by women (257) than were authored by men (402); therefore, the impact of these factors is unclear. This finding is not relevant to the current research, but it might be important to other research or interesting in itself as a future research topic.

Table 7-2: Percentage of Articles Employing Frames and Themes, by Sex of Author (n = 659)³⁸⁴

Author sex	Frame	%	Theme	%
Male (n = 402)	Fairness	33.58	Equality	35.32
			Zero-Sum	19.65
			Personal Op	17.66
			Quota	8.71
	Mgmt	36.82	Mandate	52.49
			Autonomy	16.67
			Scapegoat	7.46
Debate	29.60	Market	15.67	
Female (n = 257)	Fairness	48.25	Equality	50.97
			Zero-Sum	7.78
			Personal Op	26.46
			Quota	4.67
	Mgmt	29.18	Mandate	51.75
			Autonomy	10.89
			Scapegoat	7.00
Debate	22.57	Market	9.34	

Table 7-3: Percentage of Articles Employing Advocacy and Opposition Themes, in Aggregate, by Sex of Author

	Male (n = 402)	Female (n = 257)	All (n = 659)
Advocacy	82.84	95.72	87.86
Opposition	46.77	26.85	39.00

³⁸⁴ Total equals only 659 because 94 articles were either co-written by a male-and-female-author team or contained no byline by which to determine authorship or the sex of the author.

Also, as mentioned in Chapter 5, articles under 250 words in length were ignored for the purposes of this dissertation. It might be worth analyzing these articles in light of this dissertation's assertion that simple mentions of Title IX and the advocacy themes that accompanied them are powerful. Just as simple advocacy-themed mentions of Title IX in articles longer than 250 words are influential, so might be shorter articles as compared with longer articles, if indeed the themes that are only mentioned are influential.

Another line of inquiry not followed in the current research but for which data was collected was the source of quotations for articles. Articles were coded for whether they used quotations from agents in the conflict over the implementation of Title IX, and they were also coded for the sex and position (e.g., coach, player, interest group representative, policymaker) of the agents. These data were not relevant to this dissertation's research questions, but their analysis nevertheless could provide an interesting extension of the current research. First it could be interesting to learn whether there is a correlation between the sex of the agent giving the quotation and the quotation's likelihood to appear in the newspapers. The form of quotations used could also be interesting—whether presented as direct quotations or as paraphrases. It also could be interesting to learn whether there is a correlation between the position of the agent and the likelihood of quotation appearance and whether the quotations appear as direct quotations or paraphrases. An inter-dataset analysis looking at the quotations from the newspapers and the quotations as presented in press releases and related documents could give additional insight into the role of the mass media as either conduits or filters for information. Such analyses as suggested in this paragraph and the previous one could

also give insight into possible gender bias on the part of the mass media, both in terms of use of sources and content of quotations used.

To extend this last idea, a good complement to the current research would be a discourse analysis of the datasets, to look for patterns not relevant to the frame analysis offered here. Such analysis could be extended also to include newspapers or other mass media coverage of phenomena other than Title IX and women in sports. It could include broader analysis of mass media coverage of women's issues or of women in sports.

Also to extend this idea, future research could include interviews with agents involved in the conflict over the implementation of Title IX. It would be especially interesting to know whether the agents understood the strategy of countering their adversaries' frames or whether that phenomenon arose organically or whether that phenomenon was to any extent mass media-driven. It also would be interesting to know to what extent the agents thought the media coverage of their sides of the conflict was fair and complete or whether one side or the other thought the media acted in a biased way.

A broad interdisciplinary study could include analysis of economic realities and other factors that might have had an impact on Title IX and women's participation in sports. The current study revealed sentiments from opponents suggesting that Title IX was not entirely—and some suggested not even close to entirely—responsible for the increase in women's participation in sports. Alternative explanations should be explored. For example, further research could be conducted to look at correlations between family economic factors, such as women's mass entry into the workforce corresponding with the implementation of Title IX, and the encouragement of girls to get into sports.

Finally, the current research should be applied to other, similar public policy—especially rights legislation—contexts. With a rigorous definition of backlash now available, researchers should be able readily to identify backlash when it first appears in a public policy conflict. This would allow a more complete analysis of backlash as a mass media phenomenon, as it could be observed and analyzed from the beginning, rather than being reviewed from an historical standpoint as was done in this dissertation with the conflict over the implementation of Title IX.

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**Appendix:
Newspaper Coding Scheme**

Category	Possible codes	Indicators
Newspaper	<i>Chicago Tribune</i>	Self-explanatory
	<i>New York Times</i>	Self-explanatory
	<i>Washington Post</i>	Self-explanatory
Year	1974-2007	Self-explanatory
Month	1-12	January-December
Date	1-31	Self-explanatory
Section	Editorial	Appears on editorial/op-ed page or newspaper labels as commentary
	News	Appears in non-sports news section
	Sports	Appears in sports section, but not editorial
	Sports editorial	Editorial appearing in sports section or newspaper labels as sports commentary
Word Count	Raw number	Self-explanatory
Author sex	Male	Self-explanatory
	Female	Self-explanatory
	MF	Article coauthored by at least one of each sex
	No author name listed	Self-explanatory
Article origin	In-House	In-house author
	Outside	Associated Press or syndicated article/column
Page location in newspaper	Specific page number	Self-explanatory
Prominence	Front page	Front page of newspaper
	Other non-sport	Other non-sport section placement
	Front page sports	Front page sports section
	Other sport	Other sport section placement
Centrality	Central	Article is about Title IX or Title IX is extremely important (might be mentioned in headline)
	Important	Title IX is important to the story, even though the story is not explicitly about Title IX
	Just mentioned	Title IX is basically just mentioned in passing
Quotations in article	Yes	Quotations—that is, direct quotations in quotation marks, not paraphrases—about Title IX are included in the article
	No	Quotations about Title IX are not included in the article

Quotation origin	MC	Male coach/athletic director
	FC	Female coach/athletic director
	MI	Male interest group rep (could be attorney)
	FI	Female interest group rep (could be attorney)
	MP	Male player or parent of male player
	FP	Female player or parent of female player
	ML	Male legislator or policymaker
	FL	Female legislator or policymaker
	MO	Male other (e.g., fan)
	FO	Female other
Frame	Fairness	Characterized by equality, personal opportunity, quota, or zero-sum theme (see themes below)
	Management	Characterized by autonomy, market, mandate, or scapegoat theme (see themes below)
	Debate	Characterized by combination of opposing themes (see themes below)
	Neutral	No discernible frame or frame not characterized by any of the identified themes
Theme	Equality	Focuses on “opening doors” for aggregate numbers of women involved in sports and on increasing overall opportunity for women, as a class of people; focuses on the continuing necessity to promote equality of rights to overcome historic sex discrimination and to eliminate inequality; sometimes attacks “radical” conservative groups for undermining the law; more recently has come to incorporate the idea that no roll-back in gains, either tangible or philosophical, would be acceptable
	Zero-Sum	Constitutes the philosophical opposite of equality theme; says Title IX is unfair because it results in men’s athletics teams being cut; suggests that the gains of women have come at the expense of opportunities for men; focuses on lost opportunities for men; is characterized by phrases like “leveling the field”
	Personal Opportunity	Says Title IX has been so successful at providing equality of opportunity for women that it would be unfair and un-American to alter it; focuses on the opportunities and rewards that Title IX affords individuals; characterized by references to lost chances, dashed dreams, opened doors, and personal successes of individual athletes and coaches

	Quota	Constitutes the philosophical opposite of personal opportunity theme; says Title IX is about quotas, and quotas are un-American; depicts Title IX as a quota law, fostering “reverse discrimination;” often includes blame of out-of-control bureaucrats or “radical” feminist groups for distorting the law; focuses on opportunities taken away from individuals and on complying with the law by applying proportionality or ratios of men to women
	Mandate	Says market arguments are not valid or do not apply; the law trumps finances in running an athletics program; characterized by calls for immediate, enforced equality, regardless of short-term discomfort or upheaval; often appears in college administration discourse, in discussions of compliance and in discussions of scholarships, equipment, facilities, salaries, budgeting, and of adding women’s teams
	Autonomy	Constitutes the philosophical opposite of mandate theme; says educational institutions should be allowed to manage their affairs as they see fit, without government interference; often includes pleas to allow educational institutions to get to equality in their own way, in their own time, as they see fit; in early days, often expressed in terms of there being ambiguity in how to comply with the law and with a leave-us-along-to-figure-it-out sentiment surrounding compliance management; references to “over-reaching” are common
	Scapegoat	Says that cuts to men’s athletics programs are a matter of mismanagement, particularly in regard to football budgets and that Title IX is simply a scapegoat for poor management and lack of managerial acumen and entrepreneurial will in the quest to achieve equality
	Market	Constitutes the philosophical opposite of scapegoat theme; says Title IX is anti-market and therefore un-American; focuses on the lack of demand on the part of women and girls for athletic opportunities and on the meeting of apparent needs on the part of educational institutions; often suggests that the addition of women’s teams is not justified, especially if the women’s sports will not produce revenue; focuses on the idea that revenue-generating sports should be treated specially, or separately, and not be “counted” in determining Title IX compliance