



## The evolution and formation of amicus curiae networks

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### ABSTRACT

This paper sheds light on two age-old questions of interest group behavior: how have interest group coalition strategies changed over time and which factors determine whether interest groups work together? Through the creation of a new network measure of interest group coalitions based on cosigner status to United States Supreme Court amicus curiae briefs, we illuminate the central players and overall characteristics of this dynamic network from 1930 to 2009. We present evidence of an increasingly transitive network resembling a host of tightly grouped factions and leadership hub organizations employing mixed coalition strategies. We also model the attribute homophily and structure of the present-day network. We find assortative mixing of interest groups based on industry area, budget, sales and membership.

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### 1. Introduction

Winning in front of the courts, the legislative arena, or the executive branch is not a solitary act. While interest groups use a variety of techniques to exert influence, coalition strategies are the dominant lobbying technique. That is, interest groups do not work alone. However, how they have worked together over the years and which factors bring them to work together today are less clear.

Interest group coalitions, in particular, are often used to pursue strategic goals at reduced costs, shape public debate by influencing a broader platform, gather information, and receive symbolic benefits (Hula, 1999). Thus it is necessary to understand interest groups as part of a network and the relationships among them. In this paper, we examine a comprehensive interest group network (perhaps the most comprehensive to date) over the last 80 years and what leads to coalitions among the gamut of today's active interest groups.

We make three primary contributions to the study of interest group coalitions. Foremost, we present and utilize a purposive and coordinated measure of interest group coalitions based on cosigning amicus curiae before the Court. The amicus network has a number of desirable properties. It occurs naturally in the function of government activity. Our data is not based on surveys, samples, incidental links or contrived settings, but culled from the actual, purposive and coordinated work of interest groups in front of the Court. It also comes close to a complete network of the population of interest, with an increasing probability of capturing the full

population given longer time spans due to the assumption that interest groups which often work together will eventually sign the same brief. Furthermore, the data we have gathered are longitudinal, which is of fundamental merit for future work on the evolution of complex social networks (Burt, 2000; Christakis and Fowler, 2007; Marsden, 1990; Robins, 1987; Borgatti, 2011).<sup>2</sup>

Second, we achieve a unique perspective on interest groups by applying network theory and methods. A network perspective provides a lens where the attributes of individuals are no more important than the relationships and ties with other actors in the network. This theoretical perspective is particularly apt for the study of interest groups. After all, the relative strength of interest groups is directly tied to their relationships. Rather than by solitary action, interest groups benefit and suffer by virtue of their ties. For example, network theory suggests that more open networks (weak ties and connections) result in a higher probability of introducing new ideas and opportunities (Granovetter, 1973). Understanding the existence and density of brokers within networks, which serve

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<sup>2</sup> We supplement our quantitative analyses with a sample of interest group leader interviews selected by network position. That is, we chose groups based on a range of network measures to ensure that groups held various positions in the networks. Our interviews reveal that substantial negotiation and coordination is often required when signing a brief as the details need to be agreed upon by all parties (personal communication, November 2010). The interviews address the work involved in preparing joint and independent briefs, the factors that lead them to work with others, and how they view their position in the networks. Similarly, Heaney (2004) uses original data obtained by interviews and finds that alliance formation is encouraged by previous network interaction, contact with mutual third parties, and having a central position in a network. In addition, he shows how interest groups manage their brokerage roles as dispersed actors in a decentralized system, rather than as central mediators that intervene in a wide range of policy disputes (Heaney, 2006).

as the bridges that fill structural holes, is useful in further characterizing and distinguishing interest group coalitions.

Finally, we use recent innovations in network methods to study the evolution of amicus curiae networks and the factors that lead to their formation. Our analysis has two major components. The first looks at the evolution of the network and node characteristics from 1930 to 2010. The second uses an exponential random graph model to estimate the effects of interest group characteristics (e.g., firm size and annual profits) on network formation from 2000 to 2009, while also estimating parameters that provide a structural description of the network (Hoff et al., 2002; Handcock et al., 2007; Krivitsky et al., 2009).

## 2. Interest group coalitions

Classic works in the interest group literature have sought to understand why interest group coalitions form. A discussion of resources initiates most scholarly work on this topic. That is, scholars maintain that coalitions serve as an economical and efficient means to form a more powerful bloc (e.g., Berry, 1977; Berry and Wilcox, 1989; Schlozman and Tierney, 1986; Hula, 1995; Hojnacki, 1998; Wasserman, 2003). Hojnacki's (1998) theory of strategic coalition formation summarizes the factors influencing coalition formation as perceived strength of the opposition, previous experience in a coalition, whether the group is pivotal or critical to the success of the coalition.<sup>3</sup> Coalitions thus signal broad support to policy makers on an issue (Mayhew, 1974; Kingdon, 1981; Esterling, 2004; Mahoney, 2004).

Social network theory also suggests that alliances form out of the pursuit for access to resources and information (Gilsing et al., 2008). That is, coalitions function as 'pipelines' through which information and knowledge flow. The incentive for interest groups to form networks appears to be similar to that of firms: to share information and to diffuse information more quickly or to enhance the efficiency of cooperation (Teece, 1986; Wasserman, 2003; Gilsing, 2005; Gilsing et al., 2008). In addition, there are control benefits, such as sanctions, reputation, and trust. The social network literature discusses the positive effects of networks on group performance, growth (Powell et al., 1996), speed of innovation (Hagedoom, 1993), organizational learning (Hamel, 1991), and reputation (Stuart, 1998).

Bacheller (1977) emphasizes the importance of both group characteristics and relationships for a complete understanding of the role of interest groups. The interest group literature provides an extensive and thorough examination of individual group characteristics. In spite of strong interest in group relationships (e.g., Heinz et al., 1993; Carpenter et al., 1998a), heretofore, there has not been much empirical work on group relationships. Whitford (2003, p. 46) states that "as recent studies suggest, the network aspects of group coordination – the specific interconnections between groups – may be as important as whether participation occurs at all." Our work brings renewed focus on the interconnections between groups.

Various network measures for interest group coalitions serve to effectively capture group relationships and have great potential to provide substantive insights. Our network characteristic measures may be useful to reexamine important questions previously assessed only with survey data and interviews, which

are the common approaches in the current interest groups literature. For example, Heaney's (2004) analysis showed no statistically significant effect of resource levels on leadership position within coalitions. Our measures of network centrality could be used, arguably as a more objective measures, of leadership position to reexamine this hypothesis. In addition, our measures will be available over longer time spans and across a host of policy areas.

Network hypotheses often focus on the location of groups in the network. If a group has a high measure of centrality they hold a brokerage position between groups. Central interest groups are better informed and more attractive network partners. Network density provides other interesting hypotheses to examine as well (Granovetter, 1973; Clark, 1988; Carpenter et al., 1998b; Burt, 2001). For example, Coleman's (1988) theory states that network closure creates trust in a social structure and secures information flows. Teasing out how different interest groups vary on basic network measures is therefore among the many interesting questions motivated by network theory that have not yet been addressed in the study of interest groups. The amici network data introduced here will be useful to interest group and judicial scholars, as well as those studying Congress and the Presidency.

## 3. A coordinated and purposive network measure

In Supreme Court cases, various parties with related interests submit briefs to the Court in favor of the petitioner, respondent, or in some cases, neither. Cosigners on amicus curiae briefs coordinate the content of the briefs and signatories.<sup>4</sup> A large percentage of amicus briefs come from interest groups (see Collins, 2008). We explore the use of this coordinated action as a measure of interest group networks. We argue that amicus curiae cosigning provides a better measure of interest group networks than the existent, yet nascent, literature.<sup>5</sup>

Using coalitions formed by the interest groups themselves when signing onto an amicus curiae brief, we arrive at purposive, coordinated actions by the interest groups better suited for our analyses.<sup>6</sup> Our interviews with interest group leaders reveal that substantial negotiation and coordination is often required when signing a brief, as the details need to be agreed upon by all parties (personal communication, November 2010).<sup>7</sup> This comports with (Wasby, 1995) who conveys that groups may not pursue coalitional activities because they can fail to reach consensus and often believe that they are ineffective or will have detrimental effects on their

<sup>4</sup> The term "cosigners" is sometimes used to distinguish the individual or group that initiated the brief from others that signed onto it. We use the term here to refer to everyone on the brief (see also Gibson, 1997).

<sup>5</sup> The earliest papers found that approximately 50% of interest groups indicated in surveys that they have participated in writing amicus briefs when asked about activity in the last two years (e.g., Solberg and Waltenburg, 2006; Scheppele and Walker, 1991). Schlozman and Tierney (1986) ask interest groups about litigation or otherwise using the Courts and reported that over 70% of groups did so. Kearney and Merrill (2000) find that the number is closer to 80% and Almeida (2004) finds 76%. Wasserman (2003) argues that because judicial strategies are high cost efforts, coalitions are optimal strategies, and concludes that the 80% seems reasonable. Our comprehensive list of amicus cosigners will allow us to get as reliable measure as possible because we can compare it to databases of interest groups. We can also track the number of groups participating in the process over time.

<sup>6</sup> While it is arguable whether the coalitions that are observed on the amicus curiae briefs are specific to those court cases, interviews with leaders in the interest groups emphasize that the amicus curiae coalitions are indicative of coalitions forged to act on issues across different policymaking venues. That is, if they reach agreement on a brief, they are likely to find similar common ground when working on issues in the legislative or executive realms. Regardless, this point is not critical to our current work as we study the amicus networks and their interaction with the judicial system.

<sup>7</sup> We selected the groups to interview based on their network position. That is, we wanted to get groups that scored both high and low on network measures to ensure that groups held various network positions.

<sup>3</sup> Some interest coalition formation literature distinguishes types of interest groups, arguing that different types of interest groups are more or less likely to join coalitions (Clark and Wilson, 1961; Caldeira and Wright, 1990). This suggests that one should account for the type of interest group, such as whether it is a trade association, citizen group, or union, though Mahoney (2004) did not find this distinction to be statistically significant in her recent work. We are able to reexamine this question since we include Standard Industrial Classification (SIC) codes.

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