

MA MAJOR RESEARCH PAPER

Coming into Focus: An Examination of how Political Actors and Media Outlets in Canada
Framed the *Chaoulli v. Quebec* case

Trevor Snyder

Professor Liora Salter (Supervisor)

The Major Research Paper is submitted
in partial fulfillment of the requirements for the degree of
Master of Arts

Joint Graduate Program in Communication & Culture
Ryerson University – York University
Toronto, Ontario, Canada

Submitted December 7, 2009

Trevor Snyder
Major Research Paper
Communication and Culture Program
Professors Liora Salter (Supervisor) & Abby Goodrum (Second reader)
November 2, 2009

**Coming into Focus: An Examination of how Political Actors and Media Outlets in Canada
Framed the *Chaoulli v. Quebec* case**

“This ruling does not ring the starting bell for a frantic, unbridled race towards the creation of a parallel, two-tier system.” – Philippe Couillard, then-Quebec Health Minister (Mills & Gordon 2005, June 10).

“Without sounding too apocalyptic about it, I think it could sound the end of medicare as we know it and (deliver) a very serious body blow to Canada as we know it.” – Roy Romanow, head the Royal Commission on the Future of Health Care in Canada (Tyler, 2005, Sept. 17).

“This is another Orange Revolution...I am relieved for Canadians. We will have delivered the Canadian people from another form of tyranny.” – Dr. Jacques Chaoulli, appellant in the *Chaoulli v. Quebec* Supreme Court case (Peritz, 2005, June 10).

“The real winners of this are Canadians who are sick...not because of a parallel private system, but because it will lead to huge improvements in the public system, and no parallel private system.” – Senator Michael Kirby, chair of a Senate committee that extensively examined Canada’s healthcare system (Makin, 2005, June 10).

Introduction

Chaoulli v. Quebec

On June 9, 2005, the Supreme Court of Canada handed down a ruling in one of the most controversial cases in Canadian history. In hindsight, it was a ruling that few expected and arguably one that few fully understood at the time.

Just over one year earlier, Dr. Jacques Chaoulli, a Quebec doctor, and George Zeliotis, a patient from Quebec appeared before the justices at a one-day hearing. There, they asked the court to strike down two Quebec laws that banned patients from purchasing private insurance for procedures covered in Quebec’s public health care system. These laws, in effect, barred patients

from going outside the public health care system for most treatments. The two appellants argued that the two laws, the *Health Insurance Act*¹, and the *Hospital Insurance Act*², indirectly violated patients' constitutional rights because they forced them to endure unreasonable wait times in the public system. Specifically, they said these wait times violated patients rights under Section 7³ of the *Canadian Charter of Rights and Freedoms*⁴ and Section 1⁵ of the *Quebec Charter of Rights and Freedoms*⁶. In light of this, the appellants called on the justices to strike down the laws and allow patients to access quicker service in the private health care sector.

Countering the position of the appellants were governments from across Canada.

Lawyers representing these governments argued that the wait times in Quebec's public health care system did not violate patients' rights under the *Canadian Charter* or the *Quebec Charter*. They also argued that striking down the two challenged Quebec laws would have dire consequences. Specifically, they argued that if the laws were struck down using the *Canadian Charter* it would allow for-profit health care systems to develop across the country. This, they said, would ultimately siphon resources away from the public health care systems and increase wait times for the vast majority of patients. With this in mind, the lawyers representing the governments called on the justice to uphold the laws.

One year later, the court announced its decision, with the majority of justices saying they found the governments' arguments unpersuasive. The court struck down provisions in the two challenged laws, calling them unconstitutional. The justices wrote that "prohibition on obtaining

¹ Health Insurance Act, R.S.Q. c. A-29

² Hospital Insurance Act, R.S.Q. c. A-28

³ "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

⁴ The Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11

⁵ "Every human being has a right to life, and to personal security, inviolability and freedom."

⁶ Charte des droits et libertes de la personne, L.R.Q., c. C-12

private health insurance, while it might be constitutional in circumstances where health care services are reasonable as to both quality and timeliness, is not constitutional where the public system fails to deliver reasonable services” (Chaoulli, 2005, par. 158). This ruling effectively meant that the Quebec government had to allow residents to seek treatment outside the public system when the public system could not provide quality treatment in a timely manner. If the Quebec government could provide a specific treatment in a reasonable time, however, it could bar residents from exiting the system.

The ruling, however, was not as straight forward as most individuals had expected. In its decision, the court did not rule on whether the challenged laws were unconstitutional under the *Canadian Charter*. Three justices ruled that the laws violated Section 7⁷ of the *Canadian Charter*, three ruled that it did not⁸, and Justice Marie Deschamp refused to comment on the matter. As a result, the ruling did not affect similar laws in other provinces. The provisions in the challenged laws were, instead, struck down using Section 1 of the *Quebec Charter*. This occurred because on the topic of the *Quebec Charter*, Justice Deschamp did offer an option, breaking the 3-3 deadlock⁹.

In the aftermath of the ruling, there was widespread confusion about what the ruling meant. This confusion only grew when the Supreme Court agreed to stay its ruling for 12 months. As the quotes at the beginning of this paper indicate, people portrayed the ruling in vastly different ways. Some people claimed it would have little impact on Canada’s health care systems. Some said it would open the door to privatization. Still others argued it would force

⁷ Justices McLachlin, Major, and Bastarache.

⁸ Justices Binnie, LeBel, and Fish.

⁹ Justice Deschamp refused to comment on the legal standing of the laws under the *Canadian Charter* because it was clear they would be struck down using the *Quebec Charter*.

governments to improve the public health care systems. Whatever the case, it is clear that there was a concerted effort by many groups to shape how the media portrayed the ruling and, indirectly, how the public interpreted it.

Study

This paper presents the findings of a study that examined how different political actors and the media presented the *Chaoulli v. Quebec* case to public. As should be clear, the *Chaoulli v. Quebec* case was both an extremely important case and an extremely complicated one. As a result, it is important to understand how it was presented to the public.

The study was conducted in two parts. First, the specific issues frames expressed by political actors at the Supreme Court hearing were identified and mapped. This was done by examining the transcripts and factums from the hearing and noting the different problem definitions, causal interpretations, suggested remedies, and moral appeals expressed by political actors there (Entman 1993). This review revealed that three distinct specific issues frames were put forth during the hearing by three distinct sets of actors.

Next, media coverage of the case was examined. Specifically, media coverage in the *Toronto Star*, the *National Post*, the *Globe and Mail*, and the *Ottawa Citizen* was examined from the day the Supreme Court heard arguments in the case until six-months after the Supreme Court announced its ruling. Using content analysis, this part of the study identified (1) the presence or absence of the specific issue frames identified in the first part of the study; (2) the type of generic news frames (e.g. the Human Interest Frame) (Semetko and Valkenburg, 2000) used to present the case, and (3) which political actors were directly quoted in coverage of the case.

Literature Review

Overall, this study was conducted for two specific reasons.

1) Debate on Coverage of *Chaoulli v. Quebec*

First, it was conducted to inform an ongoing debate about how the *Chaoulli v. Quebec* case was portrayed by the media. Political scientist Peter H. Russell has suggested that the media exaggerated the meaning of the *Chaoulli* ruling. In a paper he presented to a conference on the case, he wrote that:

“Major decisions of high courts in constitutional democracies have a double life. The existence we readily recognize is the one at the legal level – what the judges actually wrote, their arguments and holdings and how judges and lawyers subsequently interpret and use the judges’ words. But high court decisions on matters of great public interest and controversy live at another level – at the political level, in the public discourse and debate of the political community...What the decision comes to mean in the political life of the country may differ – indeed may differ wildly – from what the judges actually decided. This is so because the decision’s political meaning is shaped by journalists, publicists, politicians and academics whose interpretation of the decision’s significance has only the most tenuous relationship with the judges’ words. *Chaoulli v. Quebec*, is surely a case with the potential of living such a double life.” (5)

As Russell went on to note, his early and very limited examination of the media’s coverage of *Chaoulli* case suggested that the media exaggerated the meaning of the court’s ruling. For instance, he noted that coverage suggested that the court’s ruling marked a “policy revolution” (Russell, p. 6) that would eventually establish a two-tier health care system right across Canada. As Russell notes in his paper, however, the actual decision handed down by the justices does not support this claim.

Certainly, there are other examples that lend support to Russell's view. One *National Post* editorial suggested the ruling in the *Chaoulli* case gave citizens in Quebec the right to purchase private health care (Editorial, 2005, July 6). This, of course, was an exaggeration. The ruling said that the government could still bar citizens from purchasing private health care for treatments provided by the public system in a timely manner. Another article¹⁰ implied that the *Chaoulli* ruling would inevitably force all other provinces to remove laws banning private health care (Makin, 2005, June 10). This was an exaggeration because the *Chaoulli* ruling deemed the challenged Quebec laws unconstitutional using the *Quebec Charter*. Since the *Quebec Charter* does not apply outside of Quebec, there was no reason to believe similar laws will be deemed unconstitutional outside of the province. Finally, John Ibbitson, a columnist with the *Globe and Mail*, went as far as to say that the *Chaoulli* ruling made it clear that the *Canadian Charter* and the *Canada Health Act* were irreconcilable (2005, Nov. 2). Again, this claim does not make sense since the *Chaoulli* ruling deemed the challenged laws unconstitutional using the *Quebec Charter*.

In light of Russell's findings and these examples, it was hoped that study would provide additional information on how the political meaning of the *Chaoulli* case may have diverged from its strict legal meaning. The study was intended to provide detailed information on which voices and arguments were present in the media's coverage of the case and how the framing of the case changed over time.

It should be noted that some theorists have already studied media coverage of the *Chaoulli v. Quebec* case. A study was conducted by four researchers at McGill University in

¹⁰ Throughout this paper, the term article will be used to refer to news articles, editorials, columns, and letters to the editor. I am aware that this usage broadens the definition of the term more than some people would like.

2006 (Quesnel-Vallee, A., et al, 2006). This study analyzed editorials published in Canadian newspaper in the months following the *Chaoulli* ruling. The researchers looked at how many editorials argued in favour of privatization, against privatization, or in favour of health care reform in general. They also looked at the types of arguments each side used. Specifically, they examined if five types of arguments were present in the articles. This research did produce some interesting findings. For instance, it found that the majority of the editorials published directly after the ruling did support greater privatization. It also found, rather surprisingly, that those arguing in favour of privatization utilized arguments about Canadian identity more than any other group.

It is hoped that my research will expand on this early work. The inclusion of non-editorial content and the widening of the sample range should allow new information to come to light. Also, it is hoped that this study will provide a more detailed understanding of the types of arguments presented at the Supreme Court hearing and in the media.

2) Gap in Framing Literature

The second reason the study is being conducted is to fill a gap in framing theory. Although framing theorists have explored many important questions, some “blind spots” remains. When it comes to explaining why the media frame issues and events the way they do, no totalizing theory has developed. Writing in 1999, framing theorist Dietram Scheufele noted that “although many researchers have examined extrinsic and intrinsic factors influencing the production and selection of news..., no evidence has yet been systematically collected about how various factors impact the structural qualities of news in terms of framing” (Scheufele, p. 109). With this in mind, Scheufele called on the field to pay greater attention to the “frame building” wing of

framing research, the wing that treats media frames as dependent variables and attempts to answer three questions: “what factors influence the way journalists or other societal groups frame certain issues?”; “how do these processes work?”; and “what are the frames that journalists use?” (Scheufele 1999, p. 108). One purpose of paper is to answer Scheufele’s call.

It is worth noting that while this wing of framing theory has received less attention from scholars in recent years, some of the earliest and most influential work in framing theory grew out of this tradition (e.g. Tuchman, 1978; Gans, 1979; Gitlin, 1980). These early works along with contributions from Bennett (1990), Iyengar (1991), and Shoemaker and Reese (1996) have helped identify a number of factors that influence the way the media frame events. Overall, these factors can be grouped into four categories: (1) the political or economic orientation of the medium or the outlet; (2) organizational practices and constraints; (3) journalistic belief systems; (4) techniques to attract audiences (Wicks, 2005). In this paper, I will build on this research and examine how two specific factors influenced the media’s framing of events. One of these factors has been explored thoroughly and the other – to my knowledge – not at all.

Firstly, I will examine how sourcing techniques may have influenced the media’s framing of the *Chaoulli* case. Many theorists have argued that, as a result of media routines (specifically, the use of news nets) and professional norms regarding objectivity, political elites and those with power are used as sources more than other political actors (Carragee & Roefs, 2004; Resse, 2001; Tuchman, 1978). As a result, these individuals have a greater influence over the media’s framing of events. In fact, one theorist (Bennett, 1990) went so far as to argue that news coverage is now indexed to elite discussions. With this in mind, I will examine if political elites were predominately used as sources by the media covering the *Chaoulli* case and, if they were, how that may have influenced the media’s framing of the case.

Secondly, I will examine how the use of generic news frames (e.g. the Human Interest Frame, the Conflict Frame) influenced coverage of the case. To date, most theorists studying framing have looked at the use of generic news frames (e.g. Vreese & Semetko, 2001) or specific issue frames (e.g. Lakoff, 2004) exclusively. To my knowledge, no work has been done in which the interaction of these two types of frames is examined. Using this study, I will attempt to remedy that problem. I will examine how the use of generic news frames influenced the range of perspectives presented in articles. I will examine if certain generic news frames allow more perspectives to be included in coverage than others. Also, I would like to examine if certain generic news frames are strongly linked with certain perspectives at the *Chaoulli v. Quebec* hearing. Did articles that used the Human Interest generic news frame, for instance, predominately highlight the perspective of the appellants? Before moving on to discuss the specific research questions that this study attempted to answer, it is first necessary to provide some key definitions.

Definitions

Since Erving Goffman introduced the concept of framing (1974), it has skyrocketed in popularity and has been taken up by theorists working in a wide range of disciplines. Theorists working in sociology (e.g., Gamson, 1992), economics (e.g., Kahneman & Tversky, 1979), psychology (e.g., Minsky, 1975), linguistics (e.g., Lakoff, 2004), policy research (e.g., Schon & Rein, 1994), social-movement research (e.g., Snow & Benford, 1988), and communications (e.g., Entman, 1991; Iyengar, 1991) have all studied the concept.

Sadly, despite this research, some fundamental disagreements still remain. First and foremost, there is disagreement regarding what should be considered a frame (Fisher, 1997). Although all theorists appear to agree that frames influence the way that people perceive and

classify the world around them, different emphasis has led to vastly different working definitions.

For the purposes of this study, two types of frames will be discussed: specific issue frames and generic news frames (de Vreese & Semetko, 2001).

A specific issue frame, which is the type of frame traditionally discussed in framing theory, will be defined as “a central organizing idea or story line that provides meaning to an event or an issue” (Gamson & Modigliani 1987, p. 43) and which is socially shared and persistent over time (Reese 2001, p. 11). Specific issue frames tend to be very narrow in their focus and often only apply to one type of issue or event. Consistent with framing theory, it will be assumed that the attachment of a specific issue frame to an issue or event promotes the use of certain causal reasoning devices (Gamson & Modigliani, 1987) and, as a result, functions to define problems, diagnosis causes, make moral judgments, and suggest remedies (Entman, 1993). It will also be assumed that because different specific issue frames ultimately support different policy positions, political actors actively promote specific issue frames that favour their political preferences in what are known as framing contests. Finally, in line with Gamson and Modigliani's theory of frame packages (1989), it will be assumed that specific content frames can be detected in the texts either through the presence of five symbolic devices (metaphors, exemplars, catch phrases, descriptions, and visual images), reasoning devices, or through a combination of both.

The second type of frame that will be discussed in the study are generic news frames. A generic news frame will be defined as a “cognitive device used in information encoding, interpreting, and retrieving [which] is communicable, and ...is related to journalistic professional routines and conventions (Pan & Kosicki, 1993, p. 57). Generic news frames differ from specific

issue frames in that they can be applied to a wide range of issues and events. They also differ from specific issue frames in that they do not necessarily (although they sometimes do) promote certain causal reasoning devices or problem definitions, diagnose causes, make moral judgments, or suggest remedies. To date, five major generic news frames have been identified by scholars: the Attribution of Responsibility Frame, the Conflict Frame, the Human Interest Frame, the Economic Consequences Frame, and the Morality Frame (Semetko and Valkenburg, 2000). The Attribution of Responsibility Frame presents an issue “in such a way as to attribute responsibility for its cause or solution to either the government or to an individual or a group” (Semetko & Valkenburg, 2000, p. 96). The Conflict Frame highlights “conflict between individuals, groups, or institutions as a means of capturing audience interests” (Semetko & Valkenburg, 2000, p. 95). The Human Interest Frame “brings an individual's story or an emotional angle to the presentation of an event, issue, or problem (Valkenburg et al, 1999, p. 551). The Economic Consequence Frame highlights the “actual or potential economic impact or consequence of an event, issue, action, or problem on individuals, society or nations (Zhou, 2008). And finally, the Morality Frame interprets an issue or problem in terms of “moral prescription,” such as presenting moral messages, or offering “specific social prescriptions about how to behave”(Semetko & Valkenburg, 2000, p.96).

As noted earlier, to date no theorists have examined how the use of generic news frames influences the use of specific content frames.

Specific Research Questions

The study reported in this paper was designed to examine how the media covered the *Chaoulli v. Quebec* case and how two particular factors influenced the diversity of perspectives

presented by the media: (1) sourcing practices and (2) the use of generic news frames. Having said that, the study attempted to answer five specific research questions:

RQ1: Did the media's coverage of the case reflect the diversity of specific issue frames present in the case? That is to say, were some specific issue frames present in the case largely excluded from the media's coverage?

RQ2: Did the diversity of specific issue frames in the media decrease with time?

RQ3: Did the media utilize certain parties present at the hearing as sources more than others?

RQ4: Were any of the five identified generic news frames dominant in the media's coverage of the case?

RQ5: Was there a relationship between the type of generic news frames used and the diversity of specific issue frames present?

RQ6: Was there a significant correlation between any generic news frames and specific issue frames?

Outline

To answer the questions above, the paper will proceed in the following fashion. First, the specific issue frames presented during the *Chaoulli v. Quebec* will be outlined. Following that, the results of the content analysis study will be presented. And, finally, in the third part of the paper, the significance of those findings will be discussed.

Part One: Qualitative Study of Court Proceedings

As noted earlier, the specific issue frames presented during the Supreme Court hearing on June 8, 2004 were identified through an analysis of the transcript from the proceedings (Chaoulli, 2004l) and the factums presented by various political actors (Chaoulli, 2004a,b,c,d,e,f,g,h,i,j,k).

To identify the specific issue frames present in the transcript and the factums, Entman's (1993) theory of the four functions of frames was drawn on. In his highly influential paper, Entman argued that frames perform four specific functions: (1) define problems, (2) diagnosis causes, (3) make moral judgments, and (4) suggest remedies. In light of this theory, the transcripts and the factums from the case were reviewed to see how the perspectives of the political actors differed on six fundamental questions.

Problem definition

- 1) What has caused the long wait times in Canadian health care systems?

Desired action

- 2) What should the Supreme Court do in response to the appeal?

Causal assumptions

- 3) If the court struck down the challenged laws, how would it affect Canada's health care systems?
- 4) If the court struck down the challenged laws, how would it affect the meaning of the *Canadian Charter of Rights and Freedoms*?
- 5) If the court struck down the challenged laws, how would it affect Canada's political system?

Moral appeal

- 6) What kind moral principles should be considered in the case?

In the end, this qualitative analysis of the text revealed that three specific issue frames were presented at the Supreme Court hearing.

Appellant Frame

The first frame, which will be referred to as the Appellant Frame, was presented by numerous groups at the hearing. It was presented by the two appellants: Jacques Chaoulli and the lawyers representing George Zeliotis. It was also presented by lawyers representing the Cambie Surgeries Corporation and a number of private clinics¹¹ from British Columbia who were acting as interveners in the case.

The position taken by this group was expressed quite clearly. The appellants argued that the wait times in Quebec's public health care system had become so excessive that barring patients from seeking treatment outside of the system was unconstitutional. They said the laws that barred patients from exiting the public system violated patients' rights under Section 7 of the *Canadian Charter* and Section 1 of the *Quebec Charter*.

They also said that these violations could not be justified under special provisions in Section 1 or Section 7 of the *Canadian Charter* because, as they argued, the violations were not necessary to achieve a broader social goal. This group argued that barring individuals from exiting the public health care system was not necessary to maintain that system. To support this claim, they pointed to a number of countries and provinces that allow parallel private health care systems to operate and which still have a strong public system (Chaoulli 2004l, p. 20).

In terms of explaining why Quebec's public health care system had such long wait times, this group blamed the structure of the system itself. They argued that the public system's monopoly kept resources in the health care sector from being fully utilized. They noted that the Quebec government often capped the number of hours that doctors could work in order to

¹¹ False Creek Surgical Centre Inc., Delbrook Surgical Centre Inc., Okanagan Plastic Surgery Centre, Speciality MRI Clinics Inc., Fraser Valley MRI Ltd., Image One MRI Clinic Inc., McCallum Surgical Centre Ltd., 4111044 Canada Inc., South Fraser Surgical Centre Inc., Victoria Surgery Ltd., Kamloops Surgery Centre Ltd., Valley Cosmetic Surgery Ltd., Surgical Centres Inc., the Anaesthesiologist Society.

control health care cost. They argued this rationing, while necessary for budgetary purposes, inadvertently lengthened wait times and placed patients' lives in danger (Chaoulli 2004l, p. 34).

Due to this interpretation, those presenting the Appellant Frame called on the Supreme Court to strike down the laws that barred patients from exiting Quebec's public health care system immediately. This, they argued, would have a number of positive consequences.

Firstly, it would allow a private health care system to emerge. The emergence of this system, they argued, would have a positive impact on the public health care system by lessening demands on it and allowing resources to be fully utilized. Chaoulli also argued that the emergence of the system could actually entice some Canadian doctors currently practicing in the United States to return home (Chaoulli 2004l, p. 26).

Secondly, it would force the state to recognize that there are limits on how much it can intervene in the lives of citizens. Specifically, it would force the state to recognize that it cannot violate the rights covered in Section 7 of the *Canadian Chart* with impunity whenever the administration of justice is not involved (Chaoulli 2004l, p. 36).

In terms of the moral appeals put forth by this group, the most reoccurring theme was that of freedom. Supporters of this frame argued that citizens should be free to do whatever they can to sustain their own lives (Chaoulli 2004l, p. 27). They also argued that any government intervention that limited their freedom to do so infringed on their innate rights. Chaoulli invoked the theories of Friedrich Hayek to defend this position (Chaoulli 2004l, p. 14).

Government Frame

The frame directly opposed to the Appellant Frame was the Government Frame and it was presented by a number of groups. It was presented at the hearing by lawyers representing the governments of Canada, Quebec, Ontario, New Brunswick, Saskatchewan, and British

Columbia. It was also presented by lawyers representing the Charter Committee on Poverty Issues, the Canadian Health Coalition, and the Canadian Labour Congress.

These groups argued that while there were wait times in Quebec's public health care system, they were not unreasonable and they did not violate patients' rights under the *Canadian Charter* or the *Quebec Charter*. They noted that most western countries force patients to wait some time for treatment and argued that wait times are a natural part of any health care system. They suggested that wait times develop because health care professionals are forced to prioritize treatment, moving those with the most pressing health issues to the front of the line (Chaoulli 2004l, p. 68). They went on to argue that even if the wait times did violate patients' rights under Section 7 of the *Canadian Charter* and Section 1 of the *Quebec Charter* those violations were justifiable under special provisions¹². Specifically, they were justifiable because removing the ban on private health care would ultimately undermine the public health care system and, as a result, a long-term policy goal of the government (Chaoulli 2004c, p. 7).

These groups called on the court to uphold the two challenged Quebec laws. They argued that not doing so would have dire consequences on a number of fronts.

Firstly, as has already been mentioned, they argued that striking down the challenged laws would allow a parallel private health care system to develop in Quebec and that the development of that system would undermine the public health care system. The groups presenting the Government Frame argued that once a private health care system developed, many health care professionals would exit the public system in search of higher pay. This would ultimately starve the public system of resources. At the same time, the groups argued that the demands on the public system would increase. They argued that the doctors who moved to the private system would attempt to treat patients with simple or minor ailments in order to

¹² Provisions in Section 1 and Section 7 of the Canadian Charter of Rights and Freedoms.

maximize profit. This would leave only the most complex and expensive cases for the public system. Under this combined pressure, the groups argued that wait times in the public system would actually increase (Chaoulli 2004c, p. 9,15).

A second dire consequence of striking down the laws would be that it would change the meaning of Section 7 of the *Canadian Charter*. The groups argued that Section 7 has traditionally been interpreted as only applying to individuals moving through the Canadian justice system. It was designed to ensure that their rights were not violated in any way that was not in accordance with the “principles of fundamental justice.” Supporters of the Government Frame argued that using Section 7 to strike down a law that was unrelated to the administration of justice would inadvertently expand the meaning of the Section 7. As a result, it would also expand the number of social policies that could be challenged using the *Canadian Charter* (Chaoulli 2004l, p. 71).

Finally, the supporters of this frame argued that striking down the law would drastically alter Canada’s political landscape. Supporters of this frame argued that up to this point it was generally understood that the judicial branch of government would defer to the legislative branch of government on questions of complex social policy. They went on to argue that by striking down the challenged Quebec laws, the courts would indirectly be setting social policy and infringing on the legislative branch’s domain. As a result, the supporters of this frame argued that the justices should exercise restraint and allow the challenged laws to stand (Chaoulli 2004l, p. 73).

In terms of moral appeals, the supporters of the government frame focused on equality. They argued that it was important that all citizens in Canada receive equal treatment in the health care system regardless of their economic standing. They argued that striking down the challenged

Quebec laws would undermine this ideal and allow Canadians with more economic resources to jump the queue (Chaoulli 2004l, p. 70).

Kirby Frame

The third frame presented at the hearing can be seen as a compromise between the two aforementioned ones. The Kirby Frame, as it will be known as, was presented primarily by two groups at the hearing. It was presented by lawyers representing a group of current and former Canadian Senators¹³, led by Senator Michael Kirby. This group of Senators conducted an extensive study of Canada's health care system in 2002 when they all sat on the Standing Senate Committee on Social Affairs, Science and Technology. The second group to present the Kirby Frame was the Canadian Medical Association, a professional association that represents many of Canada's doctors at the national level.

The position taken by supporters of the Kirby Frame was quite similar to that taken by supporters of the Appellant Frame on the question of patients' rights. Supporters of the Kirby Frame also argued that the wait times in Quebec's health care system have grown to the point that they violated patient's rights under Section 7 of the Canadian *Charter* and Section 1 of the *Quebec Charter* (Chaoulli 2004l, p. 57). They also argued that those violations could not be justified under special provision in Section 1 or Section 7 of the *Canadian Charter of Rights and Freedoms* (Chaoulli 2004l, p. 48).

Where supporters of the Kirby Frame differed from the supporters of the Appellant Frame was on the question of why wait times had grown to such a level in Quebec. Supporters of the Kirby frame did not blame the public system monopoly itself for the long wait times. Rather, they blamed the government for not sufficiently supporting the system. They argued that, over

¹³ Senator Marjory LeBreton, Senator Catherine Callbeck, Senator Joan Cook, Senator Jan Cordy, Senator Joyce Fairbairn, Senator Wilbert Keon, Senator Lucie Pepin, Senator Brenda Robertson, Senator Douglas Roche.

time, successive Canadian governments at the federal and provincial levels had neglected Canada's health care systems and wait times had grown as a result (Chaoulli 2004l, p. 57).

To solve this problem, these groups called on the Supreme Court to make a very specific type of ruling. They called on the Supreme Court to strike down the two challenged Quebec laws but stay their ruling for a period of time (Chaoulli 2004l, p. 62). Doing so, they argued, would force the government to act, but give it time to develop alternatives to simply allowing a private system to develop. This, they said, would have a number of positive effects.

First of all, they argued, it would most likely force the government to establish wait time guarantees. These would be legally enforceable limits on how long governments could force patients to wait for specific treatments. If a patient was forced to wait longer than the guaranteed wait time, the government would be forced to pay for the treatment in another jurisdiction or in a private hospital. The groups argued that forcing governments to bring in such guarantees would ensure that they adequately funded the public health care systems and that patients' rights were not violated in the future. It is important to note that these groups did not believe that governments would allow a private health care system to develop just because the challenged Quebec laws were struck down. The groups felt that the political environment facing Canadian politicians would make such a move impossible (Chaoulli 2004l, p. 64).

The second reason these groups supported striking down the challenged Quebec laws was because they believed it would ultimately make the government more accountable. As the lawyers for these groups argued, as things stood, governments were able to violate the rights of Canadian patients and those patients had absolutely no recourse. While the lawyers admitted that the ruling could expand the meaning of Section 7 of the *Canadian Charter*, they did not believe that was unreasonable if the alternative was giving the government absolute impunity.

The third reason the group supported striking down the challenged Quebec laws but staying the ruling was because they believed it would appropriately maintain the current division of powers between the judicial and legislative branches of government. These groups argued that by staying the ruling, the judicial branch would insure that it was not indirectly setting social policy, while still protecting the constitutional rights of Canadians. These groups argued that this was an appropriate response given the dilemma facing the courts (Chaoulli 2004l, p. 63).

In terms of moral appeals, these groups focused on the responsibility of government. Their central point was that if the government wished to bar citizens from seeking treatment outside of the public health care system, it had a responsibility to adequately fund the public health care system. It could not have it both ways they argued (Chaoulli 2004l, p. 44).

Part Two: Quantitative Analysis of Media Coverage of *Chaoulli v. Quebec* Hearing

Having outlined the specific perspectives put forth by political actors at the *Chaoulli v. Quebec* case, it is now necessary to examine how the media covered the case.

To analyze media coverage, a rather simple method was used. First, a sample of articles on the case was collected from the *Toronto Star*, the *Globe and Mail*, the *National Post*, and the *Ottawa Citizen*. This was done using the Lexus-Nexus database. To be included in the sample, an article had to include the word “Chaoulli” or “Zeliotis” and it had to have been published between June 8, 2004 (the date the Supreme Court heard arguments in the case) and December 8, 2005 (six-months after the Supreme Court announced its ruling). Ultimately this method identified 141 articles which were suitable for the study.

Once the articles were collected, the paragraphs that specifically related to the *Chaoulli v. Quebec* case were identified. Paragraphs were seen as being related to the case if they met at least one of six criteria: (1) mentioned the case directly; (2) provided background information on

the case; (3) described the arguments put forth by the parties in the case; (4) described the opinions rendered by justices in the case; (5) directly challenged the arguments put forth by parties in the case or the opinions rendered by the justices in the case; (6) or speculated on the possible consequences of the case.

Next, paragraphs that contained keywords associated with one of the three frames were identified. These keywords were identified in the first part of the study during the analysis of the court transcript and factums. Keywords were terms or phrases used predominantly by supporters of one specific issue frame. These keywords were generally associated with the position being put forth by the political actors.

Finally, the articles were coded by me and one volunteer. During this process, the presences of generic news frames, specific issue frames, and direct sources were coded.

The presence of generic news frames were identified using a methodology developed by Semetko & Valkenburg (2000) (see appendix one). This required the coder to read the entire article and then answer 19 questions. Each of the questions was used to determine the degree to which one of the five generic news frames was present.

The presence or absence of the three specific issue frames was coded using a similar method. The coder was asked to scan the article to see if any keywords associated with a specific issue frame were present. If any of them were, the paragraph was then analyzed to see if it contained any of the reasoning devices associated with that specific issue frame. This was done using a questionnaire (see appendix two). If a paragraph contained a keyword associated with a specific issue frame and a reasoning device associated with that specific issue frame was found, it was coded as being present.

Finally, the presence or absence of sources was coded using a list of political actors who participated in the hearing. For practical reasons, a list that included actors who did not participate in the hearing was not used. This list would have simply been too big.

To ensure that there was sufficient inter-coder reliability for all variables, a preliminary test was done using 27 randomly selected articles from the sample. After these articles were coded by me and my volunteer, the inter-coder reliability for each variable was calculated using Cohen's kappa. It was decided ahead of time that any variables that did not produce a coefficient of 0.70 or higher would be dropped. This threshold was chosen as a result of Kimberly Neuendorf's writing on the subject. In *The Content Analysis Guidebook*, Neuendorf notes that although there is disagreement as whether inter-coder levels below 0.80 are acceptable, "beyond-chance statistics, such as Scott's *pi* and Cohen's *kappa*, are afforded a more liberal criterion" (p. 143). Within that same book, Neuendorf points out that some theorists do consider 0.70 to be an acceptable threshold (Frey, Botan, and Kreps, 2000). Ultimately, only two variables (questions three and five in appendix one) did not reach the threshold. Results related to these questions were not included in the final results.

Once the preliminary test was complete, my volunteer and I randomly divided the articles and coded them.

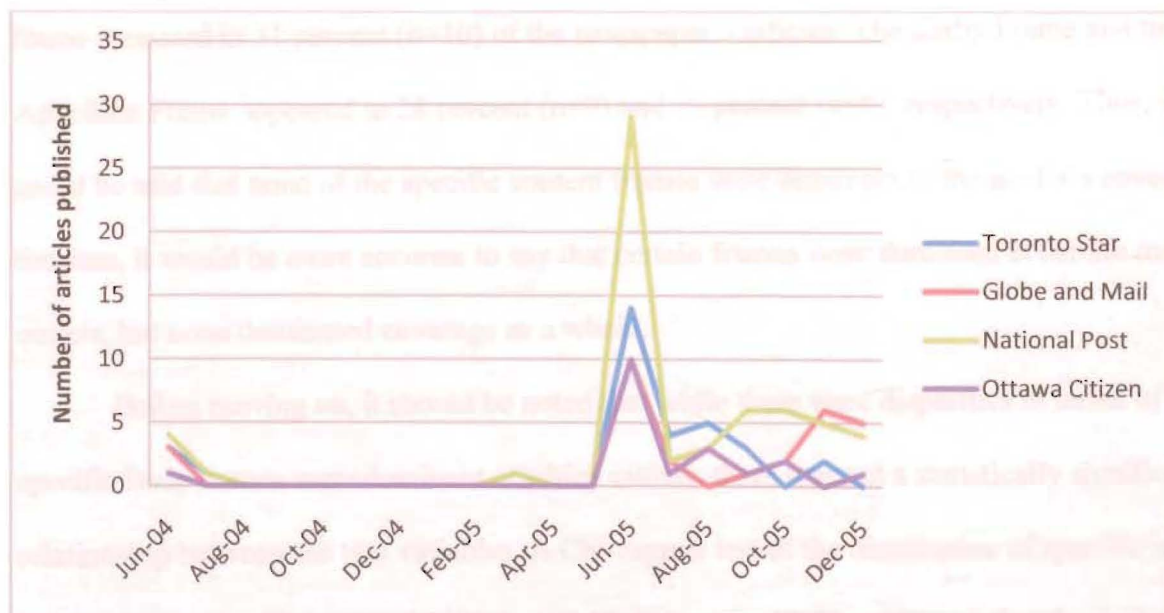
Results

The results produced by the study were interesting. Beyond the specific research questions, the study revealed that the *Chaoulli* case was covered far more heavily in certain outlets than in others. In total, of the 141 articles published on the case between June 8, 2004 and December 8, 2005, 43 percent (n=61) appeared in the *National Post*, 23 percent (n=32) in the

Toronto Star, 21 percent (n=29) in the *Globe and Mail*, and 13 percent (n=19) in the *Ottawa Citizen*.

The study also revealed that coverage of the case was highly concentrated in terms of time. A month by month comparison shows that 45 percent (n=63) of the articles appeared in June 2005, the month the Supreme Court handed down its ruling. Outside of that month, coverage was quite low. Only eight percent (n=11) of the articles on the initial court hearing appeared in June 2004, the month the Supreme Court heard arguments in the case and only a total of 21 articles appeared on the case before the Supreme Court ruling came down.

Graph 1: Coverage of the *Chaoulli v. Quebec* Case in Four Canadian Newspapers between June, 2004 and December, 2005.



Q1: Did the media's coverage of the case reflect the diversity of specific issue frames present in the case? That is to say, were some specific issue frames present in the case largely excluded from the media's coverage?

The study showed that none of the specific issue frames presented at the Supreme Court hearing were remarkably dominate in the media's overall coverage of the case. The Appellant

Frame was the most pervasive in media coverage, appearing in 29 percent (n=42) of articles, followed by the Government Frame in 22 percent (n=31) and the Kirby Frame in 21 percent (n=30)¹⁴. While these findings could be seen as proof that the four Canadian newspapers provided a balanced snapshot of the case, a closer look brings that claim into question.

A paper by paper examination indicates that some papers did clearly allow one frame to dominate their coverage. For instance, the Appellant Frame clearly was dominant in the *National Post*'s coverage. It appeared in 36 percent (n=22) of the paper's coverage, compared to the Kirby Frame, which appeared in 18 percent (n=11), and the Government Frame which appeared in ten percent (n=6) per cent of the articles. The opposite trend appeared in the *Toronto Star*'s coverage. The Government Frame was clearly dominant in the *Toronto Star*'s coverage. That frame appeared in 31 percent (n=10) of the newspaper's articles. The Kirby Frame and the Appellant Frame appeared in 28 percent (n=9) and 19 percent (n=6), respectively. Thus, while it could be said that none of the specific content frames were dominant in the media's coverage of the case, it would be more accurate to say that certain frames were dominant at certain media outlets, but none dominated coverage as a whole.

Before moving on, it should be noted that while there were disparities in terms of which specific issue frames were dominant at which outlets, there was not a statistically significant relationship between the two variables. A Chi-Square test of the distribution of specific issue frames by paper only produced a result of 8.19, below the 12.59 total needed to deem the relationship statistically significant in a two-tailed test.

¹⁴ A specific content frame was considered to be present if one or more of the reasoning devices associated with that frame were coded as being present.

Table 1: Presence of Specific Issue Frames by Paper

	Appellant Frame	Kirby Frame	Government Frame	Total
Toronto Star	6 (19%)	9 (28%)	10 (31%)	25
Globe and Mail	9 (31%)	6 (21%)	6 (21%)	21
National Post	22 (36%)	11 (18%)	6 (9%)	39
Ottawa Citizen	5 (26%)	4 (21%)	5 (26%)	14
Total	42	30	27	99

A second qualification should also be made about media coverage of the case. When one looks at which specific reasoning devices were present in coverage, it becomes apparent that the media focused very narrowly on one debate that took place at the hearing. At the Supreme Court hearing, the political actors debated a number of different issues. They debated how the court's ruling could affect health care systems across Canada, the meaning of some *Canadian Charter* rights, and the role of the courts in Canada's political process. But media coverage of the case focused almost entirely on the debate over how the ruling could influence health care systems across Canada. Forty percent (n=39) of the time, when reasoning devices from a specific issue frame were present, they speculated about the impact the ruling could have on the health care systems¹⁵. Speculation about how the ruling could affect *Canadian Charter* rights¹⁶ only appeared 13 percent (n=24) of the time and speculation about how it could affect the role of the courts¹⁷ appeared only four percent (n=8) of the time. Thus, it should be noted that while none of the specific content frames dominated the media coverage as a whole, one segment of each frame did and this likely narrowed the public's understanding of the case.

RQ2: Did the diversity of specific issue frames in the media decrease with time?

¹⁵ Reasoning devices listed under the heading Consequence: Health Care in Appendix Two used to make this calculation.

¹⁶ Reasoning devices listed under the heading Consequence: Legal in Appendix Two used to make this calculation.

¹⁷ Reasoning devices listed under the heading Consequence: Political in Appendix Two used to make this calculation.

To test whether or not the diversity of specific issue frames decreased over time, a very simple method was used. All of the articles were sorted chronologically and then subdivided into three groups. The first group contained articles published before the Supreme Court handed down its ruling. The second group contained articles published the day after the Supreme Court handed down its ruling. And the third group contained all articles published after that day¹⁸. The dominance of each specific issue frame was then calculated for each time period. This was done by calculating how many articles from that time period contained a reasoning device from one of the three content frames and, of those, what percentage contained reasoning devices from each specific frame.

Overall, the findings do not suggest that the diversity of specific content frames presented by the media drastically decreased over time. The Appellant Frame did become more dominant over time, but not to a degree that it drowned out competing perspectives.

In the first group of articles (n=21), all three frames were represented fairly equally. In total, 14 articles from this time period contained a reasoning device from one of the three frames and, of those, 64 percent (n=9) contained elements of the Kirby Frame, 50 percent (n=7) contained elements of the Appellant Frame, and 42 percent (n=6) contained elements of the Government Frame.

In the second group of articles (n=28), the Appellant Frame started to become dominant. Of the 15 articles that contained reasoning devices from one of the three frames, 73 percent (n=11) contained elements of the Appellant Frame, 60 percent (n=9) contained elements of the Kirby Frame, and 53 percent contained elements of the Government Frame.

¹⁸ Articles were divided in this fashion because it was impossible to divide them into three equally sized groups. To do so, would have required articles from one day to appear in two different groups.

Finally, in the third group of articles (n=93), the distance between the Appellant Frame and the other frames widened. Of the 42 articles which contained reasoning devices from one of the three frames, 57 percent (n=24) contained the Appellant Frame, 40 percent (n=17) contained the Government Frame, and 29 percent (n=12) contained the Kirby Frame.

Overall, these findings are interesting on two levels. Firstly, they are interesting because they shed better light on how the debate over the *Chaoulli v. Quebec* case shifted over time. The results clearly show that over time the arguments put forth by the appellants become more pervasive in media coverage of the case. As noted earlier though, these arguments never eclipsed those put forth by the other political actors at the hearing, becoming the default narrative on the case.

That leads me to the second reason these findings are interesting. There is an assumption in the framing literature that, over time, the diversity of framing will decrease and a few frames will become dominant (e.g., Miller & Riechert, 2001). This assumption has been supported by some studies (e.g. Gamson 1992), but the findings of other studies seem to counter this view (e.g., Lawrence, 2004; Beuson and Saguy, 2005). In general, this study seems to offer qualified support to the view that diversity of framing will decrease over time. The findings seem to suggest that one perspective did become more pervasive in media coverage over time and others became less so. Having said that, it is important to note that these findings do not support the often unstated assumption in framing literature that at the end of most framing contest there is a clearly defined dominant perspective and all other perspectives are forgotten. These findings clearly show that while one perspective did become dominant, the others were not silenced entirely.

RQ3: Did the media utilize certain parties present at the hearing as sources more than others?

Interestingly, it does not appear that there was a preference in the media to use supporters of one frame as sources. Thirty two percent of the time (n=25), when political actors from the Supreme Court hearing were used as sources, they were supporters of the Kirby Frame. Supporters of the Government Frame were used as sources 23 percent (n=18) of the time and supporters of the Appellant Frame were used as sources 22 percent (n=17) of the time.

Taking a closer look at specific actors, the findings do show that some of the 12 political groups who presented arguments at the hearing were used as sources more than others. Representatives of the Canadian Medical Association and the Canadian Orthopedic Association were the most commonly used sources. Seventeen percent (n=13) of the time when political actors from the hearing were used as sources, they were representatives of those two groups. Representatives of the Senate Committee were the second most highly used sources. They were used as sources 16 percent (n=12) of the time. Representatives of George Zeliotis and the Canadian government were the third and fourth most commonly used sources. They were both cited 9 percent (n=7) of the time.

Table 2: Directly Quoted Sources from the *Chaoulli* Hearing by Paper

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	Total
Toronto Star	2	4	0	2	1	2	3	0	0	0	0	0	1	1	16
Globe and Mail	2	1	2	1	4	2	1	0	0	0	0	0	2	1	22
National Post	1	1	2	5	5	1	2	0	0	0	2	0	3	1	23
Ottawa Citizen	1	1	0	4	3	1	1	1	0	0	2	0	6	2	22
Total	6	7	4	12	13	6	7	1	0	0	4	0	12	5	—

Legend: (1) Rep. Jacques Chaoulli; (2) Rep. George Zeliotis; (3) Rep. Cambie, et al; (4) Rep. Senate Committee; (5) Rep. CMA and COA; (6) Rep. Que. Gov't; (7) Rep. Can. Gov't; (8) Rep.

Ont. Gov't; (9) Rep. NB Gov't; (10) Rep. Sask. Gov't; (11) Rep. CHC and CCPI; (12) Rep. for CLC; (13) Justice in majority opinion; (14) Justice in dissenting opinion.

In terms of whether or not the media demonstrated a preference for elite sources, the findings of the study are not clear. It could be argued that the media did not demonstrate a preference for elites. After all, representatives of the Canadian Health Coalition and the Charter Committee on Poverty Issues (both grass roots political advocacy groups) were cited almost as often (n=4) as representatives of the Quebec government (n=6). Others, however, could argue that the media did demonstrate a preference for elite sources since some non-elites were excluded from media coverage entirely. Representatives of the Canadian Labour Congress were never used as sources. The findings are clearly ambiguous. The simple fact, unfortunately, is that the study did not produce enough data to make legitimate inferences either way. Political actors from the hearing were rarely quoted directly while the case was being discussed in articles. As a result, it cannot be said that this study supports or changes the view that media prefers to use elites as source.

Equally, the lack of data makes it impossible to test Bennett's claim (1990) that news coverage is indexed to elite discussion on an issue. In fact, it is impossible to say if sourcing techniques played any role in shaping the media's coverage of the *Chaoulli v. Quebec* case. It could be argued that it clearly did not since the most popular sources, representatives from the Canadian Medical Association and the Canadian Orthopaedic Association, supported the least popular frame. Again, however, there simply is not enough data to make any kind of inferences either way.

RQ4: Were any of the five identified generic news frames dominant in the media's coverage of the case?

The study indicated that the Conflict Frame was dominant in the media's coverage of the *Chaoulli* case. Nearly 92 percent (n=130) of the articles on the case included at least one of the characteristics of the frame (see appendix two) . The Morality Frame was the second most dominant at 70 percent (n=99), followed by the Attribution of Responsibility Frame at 65 percent (n=92), the Human Interest frame at 54 percent (n=76) and the Economic Consequences frame at 52 percent (n=74).

Table 3: Use of Generic News Frames by Paper.

	Attribution of Responsibility	Human Interest	Conflict	Morality	Economic Consequences	Total
Toronto Star	21	22	27	20	17	107
Globe and Mail	18	16	30	20	16	100
National Post	39	27	57	45	30	198
Ottawa Citizen	14	11	16	14	11	66
Total	92	76	130	99	74	

It should be noted that these findings both reinforce and challenge some previous framing research. Previous framing research has found that the Conflict and Economic Consequences frames tend to be dominant in coverage of politics (Cappella & Jamieson, 1997, and De Vresse et al, 2001). These findings support the view that the Conflict Frame is a dominant frame, but they also bring into question the dominance of the Economic Consequence Frame. While it is impossible to say why exactly these findings did not conform to previous studies, it would be logical to assume that subject matter played a role. As Semetko and Valkenburg (2000) have noted, the type of frame used by news workers depends in part on the type of topic being covered. It is possible that the debate over health care simply brought questions about morality and responsibility to the forefront, and pushed economic considerations to the background. To establish if this is common in debates over health care reform, it will be necessary for other researches to examine similar debates.

It should be noted that there was not a wide disparity between the different news sources in terms of the use of generic news frames. The Conflict Frame was dominant at each media outlet and the Morality Frame and Attribution of Responsibility Frame were generally the second and third most popular frames. The *Toronto Star* is the only paper that broke with this trend. In its coverage, the Human Interest Frame was the second most dominant generic news frame.

A Chi-Squared Test confirms that there was not a significant correlation between the use of generic news frames and media outlets. The distribution produced a Chi-Square value of 3.78, well below the 21.03 total needed to deem it a statistically significant relationship in a two-tailed test.

RQ5: Was there a relationship between the type of generic news frames used and the diversity of specific issue frames present?

To analyze whether some generic news frames allowed more perspectives from the case to be presented, a simple Chi-Square test was done. For this test, all of the articles that included elements from one generic news frame were first identified. The number of specific issue frames presented in each of those articles was counted and they were grouped into four categories: those containing zero, one, two, and three specific issue frames. To see if the use of generic news frames significantly influenced the number of specific content frames present, a Chi-Square test was then done.

Table 4: Number of Specific Issue Frame (SIF) Present by Generic News Frame (GNF)

GNF	0 SIF Present	1 SIF Present	2 SIF Present	3 SIF Present	Total
Attribution of Res.	32	34	21	5	92
Human Interest	28	28	15	5	76
Conflict	60	43	22	5	130
Morality	42	36	16	5	99
Economic Con.	32	24	13	5	74
Total	194	165	87	25	

Overall, this test did produce some interesting findings. For instance it did suggest that the Attribution of Responsibility Frame and the Human Interest Frame allowed more views from the hearing to be incorporated than the other generic news frames. The test found that when an article included elements of the Attribution of Responsibility Frame, it was increasingly likely (23.6 percent and 2.4 percent) that two or three specific issue frames would be present in it. It also found that when an article included elements of the Human Interest Frame, it was increasingly likely (6.9 per cent and 23.9 percent) that two or three specific issue frames would be presented. Interestingly, the test also found that the Conflict Frame allowed the least number of views from the hearing to be presented. When elements of the Conflict Frame were present, it was increasingly likely (12.1 percent) that no specific content frames would be present.

Table 5: Percentage Deviation, Number of Specific Issue Frame (SIF) present by Generic News Frames (GNF).

GNF	0 SIF Present	1 SIF Present	2 SIF Present	3 SIF Present
Attribution of Res.	-15.6%	+5.5%	+23.6%	+2.4%
Human Interest	-10.6%	+5.2%	+6.9%	+23.9%
Conflict	+12.1%	-5.6%	-8.4%	-27.5%
Morality	+3.0%	+3.8%	-12.5%	-4.8%
Economic Con.	+28.8%	-41.2%	-38.7%	+6.5%

While these findings are interesting, it cannot be said that there is a statistically significant relationship between the use of generic news frames and the number of specific issue frames present. The result of the Chi-Square test was 5.22 did not exceed the total of 22.0 needed to deem the relationship statistically significant in a two-tailed Chi-Square test.

RQ6: Was there a significant correlation between any generic news frames and specific issue frames?

To assess if there was a correlation between the use of generic frames and the presence of specific content frames, Spearman's rank correlation coefficient was calculated for fifteen

relationships. On one level, articles were ranked based on the number of generic news frame attributes they possessed (see appendix one). They were then ranked based on the number of reasoning devices they contained from each specific issue frame. The Spearman rank correlation coefficient then tested whether the articles that possessed a high number of generic news frame attributes also contained a high number of specific content frame reasoning devices.

Ultimately, the tests indicated that there was not a strong correlation between the use of any generic news frames and the presence of any specific content frames. In fact, the only correlation that approached a moderately significant level was between the use of the Attribution of Responsibility generic news frame and the presence of the Appellant Frame.

Table 6: Spearman's Rank Correlation Coefficient between Generic News Frames and specific issue frames.

	Appellant Frame	Kirby Frame	Government Frame
Attribution of Res.	0.4158	0.299	0.2461
Human Interest	0.1735	0.2351	0.0758
Conflict	0.3438	-0.0397	0.3606
Morality	0.1625	-0.1423	0.0993
Economic Con.	0.08	0.0281	0.1231

General Discussion

Summary of Findings

At the outset of this paper, I indicated that I wanted to answer two general questions. First, in light of an ongoing debate, I wanted to gain a better understanding of how the *Chaoulli* case was presented to the public. Without a doubt, this study has produced some interesting findings on that subject.

First it has found that during the Supreme Court hearing, three distinct perspectives were presented on the case. The parties who presented these perspectives fundamentally disagreed

about how the case could affect Canada's health care system, the *Canadian Charter of Rights and Freedoms*, and the role of the courts in Canada's political system.

One group presented a specific issue frame (labeled the Appellant Frame) that blamed the public system monopoly for the long wait-times in Canada's health care systems. As a result, this group called on the court to strike down the challenged laws. They argued that doing so would lead to the creation of a parallel private system that would ultimately reduce wait times and protect the rights of Canadians.

A second group presented another specific issue frame labeled the Kirby Frame. This frame blamed lack of government support and accountability for the long-waits in Canada's health care systems. As a result, this group called on the court to strike down the challenged laws. This, they argued, would not lead to the creation of a private health care system, but would force the government to bring in wait time guarantees. Ultimately, it was argued that this would lead to shortened wait times and would protect the rights of Canadians.

A third group presented another specific issue frame, labeled the Government Frame. This group argued that the wait times in Canada's health care systems were not excessive and did not violate the rights of Canadians. As a result, they argued that the court should not strike down the laws. They argued that if the court did so, it would intrude on the legislative branch's jurisdiction, drastically alter the meaning of Section 7 of the *Canadian Charter*, and create a two-tiered political system that would increase wait times.

A study of the media's coverage of the case found that all perspectives presented at the hearing were represented but the Appellant Frame was the most pervasive. It was by far the most pervasive frame in the *National Post*'s coverage and the *Globe and Mail*'s coverage. In the *Ottawa Citizen*, it tied with the Government Frame.

The study also found that the Appellant Frame became more dominant as time passed. At no point, however, was it dominant in all sources. That is because the government frame remained the dominant frame in the *Toronto Star*, followed by the Kirby Frame.

Despite this variation on the presence of specific issue frames, that study found that there was little deviation between papers on the use of generic news frames. All newspapers predominantly used the Conflict Frame to cover the *Chaoulli v. Quebec* case and most used the Morality Frame and the Attribution of Responsibility Frame the second and third most often. While the heavy reliance on the Conflict Frame was expected, the fact that the Economic Consequences Frame was not used more was surprising.

As noted earlier, the second reason this study was conducted was to fill a gap in the framing literature. Specifically, the study was conducted to get a better understanding of the factors that may shape how and why the media frame issues and events the way they do.

In terms of the influence of sourcing practices, unfortunately, the study did not produce any conclusive results. Political actors from the *Chaoulli* case were rarely quoted directly in coverage of the case, making it difficult to gauge the influence of sourcing practices. It does seem logical, however, to assume that sourcing practices did not have a great influence on coverage of the case. That is because it is generally accepted that sourcing practices do not vary greatly across the major media outlets in Canada and coverage of the case did. If sourcing practices were a major influence, one would expect them to skew all coverage in a particular manner.

The second factor this study examined was if the use of generic news frames influenced coverage of the *Chaoulli* case. The evidence in this case was more conclusive. The evidence clearly does not support the claim that the use of generic news frames by media workers has an

influence on the presence of specific issue frames in media content. Statistical tests indicated that the use of generic news frames did not have a statistically significant influence on the number of specific issue frames presented. They also indicated that the use of generic news frames was not significantly correlated with the presence of any specific issue frames.

Factors Influencing Coverage of Chaoulli

In light of these findings, it is worth exploring why the *Chaoulli v. Quebec* may have been presented by the media in the way it was. After reviewing the media coverage of the case, it certainly does appear that Russell's concerns were justified. Much of the coverage of the *Chaoulli* decision did exaggerate the meaning of the case, giving it a political life quite distinct from its legal one. Why this occurred, unfortunately, is still uncertain. Some observation can be made, however.

First and foremost, the study suggests that sourcing practices and the use of generic news frames probably did not strongly influence coverage of the *Chaoulli* case (see above for reason).

The study does, however, suggest that another factor outlined by Wicks (2005) may have played a role. Certainly, it appears that the political orientation of the media outlet covering the case influenced how it was covered. While it cannot be said objectively that the *Toronto Star* is a left-wing newspaper and the *National Post* is a right-wing paper, it is probably safe to say that their political orientations differ, at least in the context of Canadian politics. Looking at the way the two papers covered the case, it is also probably safe to say that their political orientations shaped the way they covered the case. As was noted earlier, the two papers covered the case in drastically different ways. In the *Toronto Star*'s coverage, the Government Frame was most influential specific issue frame and the Appellant Frame was the least influential. In the *National Post*, this hierarchy was inverted. In many ways, the fact that the *Chaoulli* case was presented to

the public in different ways by papers with different political philosophies, should not be surprising. As was noted at the beginning of this paper, the *Chaoulli* case was a highly controversial case and it centered on one of the most contentious issues in Canadian politics: health care reform. It is not surprising that journalists, columnists, and editorial boards at different Canadian newspapers would interpret the meaning of the case in different ways. Having said that, it should be noted that there were specific features of the *Chaoulli* case that left it more open to interpretation, factors which likely contributed to the exaggerated meaning given to it.

First and foremost, the fact that three specific issue frames were presented at the hearing was a factor. It appears the presence of the three frames skewed the media's interpretation in a couple of ways. First, it allowed some journalists to overlook disagreements between the political actors at the hearing, leading them to assume there was consensus on some controversial matter. This occurred centrally with the debate over the effect that the ruling could have on Canada's health care systems. Both the lawyers representing the appellants and the lawyers representing the governments assumed that parallel private health care systems would develop across Canada if the two challenged Quebec laws were struck down. It is true that they disagreed about how the emergence of those private systems would impact the public systems, but there was agreement that a private system would emerge if the Supreme Court struck the laws down. This agreement between the two major parties likely naturalized the view in journalists covering the case and led them to overlook the fact that supporters of the Kirby Frame questioned this causal interpretation. That may explain why so many journalists covering the case assumed that when the laws were struck down that it naturally meant that parallel private health care systems were about to emerge in Canada.

The second way the presence of three specific issue frames complicated the matter was in interpreting the meaning of the ruling. After examining coverage of the case, it appears that many journalists treated the Supreme Court ruling as an endorsement of the Appellant Frame and ignored the possibility that it endorsed the Kirby Frame. Many journalists assumed that the ruling meant that a private health care system would develop in Quebec and that citizens in Quebec now had a right to access that system for all treatments. This interpretation would have most likely been appealing to journalists and newspapers with a right-of-centre political orientation. It should be noted, however, that the Supreme Court's ruling in the *Chaoulli v. Quebec* case was probably more of an endorsement of the Kirby Frame than the Appellant Frame. I make this admittedly contentious claim because the court did not rule that citizens in Quebec should be given the right to access private care for all treatments. It also stayed its ruling, given the Quebec government the opportunity to shorten wait times.

The second factor that left the *Chaoulli* case susceptible to exaggeration was the nature of the ruling itself. It should be noted that by striking down the challenged laws using the *Quebec Charter* and not the *Canadian Charter*, the ruling deviated from all specific issue frames presented at the hearing. At the hearing, all parties had assumed that the case would be decided based on the legal standing of the law under the *Canadian Charter*. As a result, they had also assumed that the ruling would have implications nationwide. When the ruling was made using the *Quebec Charter*, it appears many journalists failed to recognize what a significant difference that made. Mainly, they failed to recognize that the ruling now only applied in Quebec. This oversight undoubtedly led some journalists and papers to overstate the meaning of the ruling.

Future Research

Reflecting on the findings of this study, it is clear that there are a number of areas in which future research would be justified.

Firstly, I would encourage other researchers to explore how the Canadian media covers Supreme Court rulings. This study has made it clear that many journalists did portray the *Chaoulli v. Quebec* ruling in a way that exaggerated its significance. The journalists implied that the ruling gave all Canadians the right to access private health care and that it opened the door for private health care systems to open across the country. As has already been noted in this paper, these exaggerations may have occurred because of unique features of the case. Specifically, the presence of three specific issue frames at the hearing and the delivery of an unexpected ruling may have been contributing factors. Having said that, it is worth exploring if the meaning of other Supreme Court cases, cases that do not include these features, are altered in similar ways. If they are, it may be an indication that the Canadian media have a general tendency to exaggerate the meaning of rulings and it will highlight a serious problem in Canada's political and legal systems.

A second area of research I would encourage other theorists to explore is the relationship between generic news frames and specific issue frames. While the findings of this study clearly suggest that the use of generic news frames do not influence the number or type of specific issue frames present in media content, I still believe more research is necessary. It still seems logical to believe that certain generic news frames will allow more perspectives to be included than others. It also seems logical to believe that certain specific issue frames will appear more often when certain types of generic news frames are used. That is because the perspectives put forth in some specific issue frames naturally compliment certain generic news frames (e.g. the Human Interest Frame) more than others.

As I said though, the findings of this study do not lend support to such a theory. Still, I would encourage other theorists working in the frame building wing of framing theory to continue to explore this question further. It may be the case that the use of generic news frames never influences which or how many specific issue frames are presented. It may, however, be the case that it depends a great deal on which issues are being discussed. In light of this, I would encourage other theorists to explore this relationship while looking at other issues. In the same way that this paper could never definitively prove that there was a relationship between the two types of frames, it cannot be seen as definitive proof that there is not a relationship.

Works Cited

- Bennett, W. L. (1990). Toward a theory of press-state relations in the United States. *Journal of Communication*, 40, 103-125.
- Beuson, R., & Saguy, A. (2005). Constructing social problems in an age of globalization: A French –American comparison. *American Sociological Review*, 70(2), 233-259.
- Cappella, J. N., & Jamieson, K. H. (1997). *Spiral of cynicism: The press and the public good*. New York: Oxford University Press.
- Carragee, M., & Roefs, W. (2004). The neglect of power in recent framing research. *Journal of Communication*, 54, 214–233.
- Chaoulli v. Quebec (2004a) [29272]. Factum of appellant Jacques Chaoulli. Retrieved August 1, 2008 from http://www.law.utoronto.ca/healthlaw/docs/chaoulli/Factum_Chauulli.pdf
- Chaoulli v. Quebec (2004b) [29272]. Factum of Attorney General of British Columbia. Retrieved August 1, 2008 from http://www.law.utoronto.ca/healthlaw/docs/chaoulli/Factum_AB_BC.pdf
- Chaoulli v. Quebec (2004c) [29272]. Factum of Attorney General of Canada. Retrieved August 1, 2008 from http://www.law.utoronto.ca/healthlaw/docs/chaoulli/AGCanada_Factum_English.doc
- Chaoulli v. Quebec (2004d) [29272]. Factum of Attorney General of Ontario. Retrieved August 1, 2008 from http://www.law.utoronto.ca/healthlaw/docs/chaoulli/Factum_AG_Ontario.pdf

Chaoulli v. Quebec (2004e) [29272]. Factum of Attorney General of Quebec. Retrieved August 1, 2008 from

http://www.law.utoronto.ca/healthlaw/docs/chaoulli/Factum_AGQuebec_eng.pdf

Chaoulli v. Quebec (2004f) [29272]. Factum of Attorney General of Saskatchewan. Retrieved August 1, 2008 from

http://www.law.utoronto.ca/healthlaw/docs/chaoulli/Factum_AB_BC.pdf

Chaoulli v. Quebec (2004g) [29272]. Factum of Cambie Surgeries Corp. et al. Retrieved August 1, 2008 from

http://www.law.utoronto.ca/healthlaw/docs/chaoulli/Factum_CambieSurgeries_etal.pdf

Chaoulli v. Quebec (2004h) [29272]. Factum of Canadian Labour Congress. Retrieved August 1, 2008 from

http://www.law.utoronto.ca/healthlaw/docs/chaoulli/Factum_CanadianLabourCongres.pdf

Chaoulli v. Quebec (2004i) [29272]. Factum of Canadian Medical Association and Canadian Orthopaedic Association. Retrieved August 1, 2008 from

http://www.law.utoronto.ca/healthlaw/docs/chaoulli/Factum_CMA.pdf

Chaoulli v. Quebec (2004j) [29272]. Factum of Charter Committee on Poverty Issues and the Canadian Health Coalition. Retrieved August 1, 2008 from

http://www.law.utoronto.ca/healthlaw/docs/chaoulli/FactumCharterCommittee_CHC.pdf

Chaoulli v. Quebec (2004k) [29272]. Factum of Senate Committee. Retrieved August 1, 2008 from http://www.law.utoronto.ca/healthlaw/docs/chaoulli/Factum_Senate.pdf

Chaoulli v. Quebec (2004l) [29272]. Transcript of the proceedings. Retrieved August 1, 2008 from <http://www.law.utoronto.ca/healthlaw/docs/chaoulli/Chaoulli-SCC-transcript-English.pdf>

Chaoulli v. Quebec (2005) [29272]. 1 S.C.R. 791. Retrieved August 1, 2008 from <http://www.canlii.org/en/ca/scc/doc/2005/2005scc35/2005scc35.html>

Editorial. (2005, July 6). Quebec ducks the high court. *National Post*, p.14.

Entman, R. M. (1993). Framing: Towards clarification of a fractured paradigm. *Journal of Communication*, 43(4), 51–58.

Fisher, K. (1997) 'Locating Frames in the Discursive Universe' *Sociological Research Online*, 2 (3).

Frey, L., Botan, C, & Kreps, G. (2000). *Investigating communication: An introduction to research methods* (2nd ed.) Boston: Allyn & Bacon.

Gamson, W. A. (1992). *Talking politics*. Cambridge, U.K.: Cambridge University Press.

Gamson, W. A., & Modigliani, A. (1987). The changing culture of affirmative action. *Research in Political Sociology*, 3, 137–177.

Gamson, W. A., & Modigliani, A. (1989). Media discourse and public opinion on nuclear power: A constructionist approach. *American Journal of Sociology*, 95(1), 1–37

Gans, H. (1979). *Deciding what's news*. New York: Pantheon Books

- Gitlin, T. (1980). *The whole world is watching: Mass media in the making & unmaking of the new left*. Berkeley: University of California Press.
- Goffman, E. (1974). *Frame analysis: An essay on the organization of experience*. New York: Harper & Row.
- Ibbitson, J. (2005, Nov. 22). Klein's non-partisan health-care warnings. *The Globe and Mail*, p.A1.
- Iyengar, S. (1991). *Is anyone responsible? How television frames political issues*. Chicago: University of Chicago Press.
- Kahneman, D., & Tversky, A. (1979). Prospect theory—Analysis of decision under risk. *Econometrica*, 47, 263–291.
- Lakoff, G. (2004). *Don't think of an elephant! Know your values and frame the debate*. White River Junction, VT: Chelsea Green.
- Lawrence, R. (2004). Framing obesity: The evolution of news discourse on a public health issue." *The Harvard International Journal of Press/Politics*, 9(3), 56-75.
- Makin, K. (2005, June 10). The new face of medicine. *The Globe and Mail*, p. A1.
- Miller, M., & Riechert, B. (2001) The spiral of opportunity and frame resonance: Mapping the issue cycle in news and public discourse. In S. D. Reese, O. H. Gandy, & A. E. Grant (Eds.), *Framing public life: Perspectives on media and our understanding of the social world* (pp. 107–122). Mahwah, NJ: Erlbaum.

- Mills, A., & Gordon, D. (2005, June 10). Quebec ruling sparks renewed debate over 2-tier system. *The Toronto Star*, p. A01.
- Minsky, M. (1975). A framework for representing knowledge. In P. H. Winston (Ed.), *The psychology of computer vision* (pp. 211–277). New York: McGraw-Hill.
- Neuendorf, K. (2002). *The Content Analysis Guidebook*. Thousand Oaks, CA: Sage Publications.
- Pan, Z., & Kosicki, G.M. (1993). Framing analysis: An approach to news discourse. *Political Communication*, 10, 55-75.
- Patterson, T. E. (1993). *Out of order*. New York: Alfred A. Knopf.
- Peritz, I. (2005, June 10). Praise, censure for MD's crusade. *The Globe and Mail*, p.A9.
- Quesnel-Vallee, A., M. Bourque, C. Fedick, A. Maioni. (2006). In the aftermath of Chaoulli v. Quebec: Whose opinion prevailed? *Canadian Medical Association Journal*, 175(9), 1051-1052.
- Reese, S. D. (2001). Introduction. In S. D. Reese, O. H. Gandy, & A. E. Grant (Eds.), *Framing public life: Perspectives on media and our understanding of the social world* (pp. 1–31). Mahwah, NJ
- Russell, P.H. (2005). Chaoulli: The political versus the legal life of a judicial decision. In M. Flood, K. Roach, and L. Sossin (Eds.), *Access to care, access to justice*. (pp.5-17). Toronto: University of Toronto Press.
- Scheufele, D.A. (1999). Framing as a theory of media effects. *Journal of*

Communication, 49(1), 103-122

Schön, D. A., & Rein, M. (1994). *Frame reflection: Towards the resolution of intractable policy controversies*. New York: Basic Books.

Semetko, H. A., & Valkenburg, P. M. (2000). Framing European politics: A content analysis of press and television news. *Journal of Communication*, 50(2), 93–109

Shoemaker, P. J., & Reese, S. D. (1996). *Mediating the message: Theories of influences on mass media content (2nd ed.)*. White Plains, NY: Longman.

Snow, D., & Benford, R. (1988). Ideology, frame resonance, and participant mobilization.

International Social Movement Research, 1, 197–217

Tuchman, G. (1978). *Making news: A study in the construction of reality*. New York: Free Press.

Tyler, T. (2005, Sept. 17). Romanow fears 'end of medicare'. *The Toronto Star*, p. A01.

Valkenburg, P.M., H.A. Semetko and C.H. de Vreese (1999) 'The Effects of News Frames on Readers' Thoughts and Recall', *Communication Research* 26: 550–69.

de Vreese, C. H., Peter, J., & Semetko, H. A. (2001). Framing politics at the launch of the euro: A cross-national comparative study of frames in the news. *Political Communication*, 18 (2), 107-122

Wicks, R. (2005). Message Framing and Constructing Meaning: An Emerging Paradigm in Mass Communication Research. *Communication Yearbook*, 29, 333-361

Zhou, X. (2008) Cultural dimensions and framing the internet in China. *International Communication Gazette* 70(2), 117-136.

Appendix one

Attribution of responsibility

1. Does the story suggest that some level of government has the ability to alleviate the problem?
2. Does the story suggest that some level of the government is responsible for the issue/problem?
3. Does the story suggest solutions to the problem/issue?
4. Does the story suggest that an individual or group of people in society is responsible for the issue-problem?
5. Does the story suggest that the problem requires urgent action?

Human interest

6. Does the story provide a human example or “human face” on the issue?
7. Does the story employ adjectives or personal vignettes that generate feelings of outrage, empathy, caring, sympathy, or compassion?
8. Does the story emphasize how individuals and groups are affected by the issue/problem?
9. Does the story go into the private or personal lives of the actors?

Conflict

10. Does the story reflect disagreement between parties, individuals, groups, or countries?
11. Does one party, individual, group, or country reproach another?
12. Does the story refer to two sides or to more than two sides of the problem or issue?
13. Does the story refer to winners and losers?

Morality

14. Does the story contain any moral message?

15. Does the story make reference to morality, God, and other religious tenets?

16. Does the story offer specific social prescriptions about how to behave?

Economic consequences

17. Is there a mention of financial losses or gains now or in the future?

18. Is there a mention of the cost/degree of expense involved?

19. Is there a reference to economic consequences of pursuing or not pursuing a course of action?

Appendix Two

Appellant Frame

Problem Definition

1. Suggests excessive wait times in Canada's health care system have been caused by the public system's monopoly (i.e. suggest the structure of the system is the problem).

Desired Action

2. Suggests the Supreme Court should or ought to have struck down the challenged Quebec laws and repealed them immediately.
 - a. Note: must be a normative statement

Consequence: Healthcare

3. Suggests that striking down the challenged Quebec laws will allow a parallel private system to develop **and/or** that the introduction of a private system will improve the quality of care available to Canadians in the public system.

Consequence: Legal

4. Suggests that by striking down the laws, the Supreme Court would/did recognize Canadians have a right to access or buy private health care.
 - a. Note: Do not code "yes" if qualified by statement such as: "if wait times do not improve"

Consequence: Political

5. Suggests that the Supreme Court wouldn't/didn't alter the relationship between the legislative and judicial branches of government by striking down the challenged Quebec laws, (i.e. suggests that by striking down the challenged Quebec laws the justices wouldn't/didn't indirectly set social policy)

Moral Appeal

6. Suggests the state does not have the right to bar individuals from using their own resources to access medically necessary treatments.
 - a. Note: must be a normative statement.

Kirby Frame

Problem Definition

1. Suggests excessive wait times in Canada's health care system have been caused by inadequate support from Canadian governments (i.e. lack of resources the problem).

Desired Action

2. Suggests the Supreme Court should or ought to have struck down the challenged Quebec laws but suspended its order for a short period of time.
 - a. Note: must be a normative statement.

Consequence: Healthcare

3. Suggests that striking down of the challenged Quebec laws will not lead to the establishment of a parallel private health care system.
4. Suggests that striking down the challenged Quebec laws will pressure Canadian governments to bring in "wait time guarantees."

Consequence: Legal

5. Suggests that by striking down the laws, the Supreme Court would/did recognize Canadians have a right to access health care in a timely fashion.

Consequence: Political

6. Suggests the Supreme Court wouldn't alter the relationship between the legislative and judicial branches of government by striking down the challenged Quebec law and staying its ruling for a period of time. However, suggests the Supreme Court would alter the relationship between the two branches if it struck down the challenged Quebec laws and immediately repealed them. (i.e. suggests that by immediately repealing the challenged laws, the justices would indirectly set social policy).

Moral Appeal

7. Suggests the state has a responsibility to provide adequate resources to the public health care system if wishes to block individuals from accessing private health care.
 - a. Note: must be a normative statement.

Government Frame

Problem Definition

1. Suggests the wait times in Canada's public health care system are not excessive *and/or* argues they are necessary (i.e. wait times are not a problem).

Desired Action

2. Suggests the Supreme Court should or ought to have upheld the challenged Quebec laws.
 - a. Note: must be a normative statement.

Consequence: Healthcare

3. Suggests that striking down the challenged Quebec laws will allow a parallel private system to develop *and/or* that the introduction of a private system will undermine the quality of care available to Canadians in the public system.

Consequence: Legal

4. Suggests that by striking down the challenged Quebec laws, the Supreme Court would/did introduce the concept of economic rights into the Charter *and/or* expand the meaning of section 7 of the Charter.

Consequence: Political

5. Suggests that the Supreme Court would/did alter the relationship between the legislative and judicial branches of government by striking down the challenged Quebec laws, (i.e. suggests that by striking down the challenged Quebec laws the justices would/did indirectly set social policy).

Moral Appeal

6. Suggests citizens should be treated equally in the health care system *and/or* that wealthy citizens should not receive preferential treatment.