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Cover Page Footnote

We are grateful to Jarett Sterling Lopez for his assistance with collecting data from Ohio for this project.

Introduction

To what extent has ballot language effected the use of direct democracy in Kentucky, Indiana, and Ohio? This article examines the use and quality of ballot measure elections in Kentucky, Indiana, and Ohio and the repercussions of this ballot language on participation rates. Looking at a 20-year dataset, we evaluate ballot language, topics, frequency, and passage and the historical norms associated with direct democracy in these states. Mechanisms for the measure to be placed upon the ballot rise as an important difference among the states. These findings may be useful in shaping future attempts in Kentucky, Indiana, and Ohio at ballot initiatives, measures, and referendum.

The focus on ballot measures is hardly new in the academic literature, particularly looking at the impact of language and passage rates. However, this study focuses on three interconnected states that have a long history of policy diffusion and similar socioeconomic, political and geographic landscapes that set the stage for an apt comparison of their usage of ballot measures.

Literature

The literature on ballot roll-off¹ suggests that the complexity of the language used in ballot measures can be a barrier to participation. This lack of participation creates a phenomenon called roll-off. This is the difference in participation between the top of the ballot, whether that be governor, president, or a congressional race, and the measure itself (Reilly and Richey, 2011; Reilly 2010; Magleby 1984). Due to the complexity of ballot language, voters may be more inclined to vote “no” on an issue that is difficult to comprehend. The literature also suggests that voters can be influenced to vote a certain way by campaigns or endorsements by special interest groups (Burnett and Kogan, 2015; Hastings and Cann 2014; Hessami and Resnjanskij 2019).

Ballot roll-off is a concern for democratic scholars because it creates a democratic deficit, meaning that voters are only participating in some of the elections on the ballot. Most of the literature studying ballot roll-off focuses on judicial elections because of the traditionally low placement of judicial elections on ballots. (Dubois 1979; Taebel 1975). The analysis of roll-off can also be applied to ballot propositions, as these elections are typically located at the bottom of the ballot. Other explanations such as information environment (Nicholson 2003, 2005), topic (Nicholson 2005), media coverage (Bowler and Donovan 1994), race (Magleby 1985; Darcy and Schneider 1989; Vanderleeuw and Engstrom 1987; Branton 2003), ballot length (Walker 1966; Taebel 1975; Brockington 2003), framing (Hastings and Cann 2014); and electronic counting machines (Nichols and Strizek 1998; Nichols 1998) have been explored as reasons for ballot roll-off. This project adds to these explanations by developing a model focusing on readability of the measure on the ballot.

Research indicates that accessibility (as measured through grade level) is a significant indicator of participation (Magleby 1984, Reilly 2010, Reilly and Richey 2011; Hessami and Resnjanskij 2019). The higher the grade level of a particular ballot measure, the less likely citizens are to participate. This is further nuanced by citizens’ ability to vote consistently with their policy preferences when confronted with complex ballot measures (Reilly 2010).

The impact of language on public opinion polls or survey questions and how they influence response rates and vote choice has historically been a significant focus of political science literature (Rasinski 1989; Kalton, Collins and Brook 1978; Bishop, Tuchfarber and Oldendick 1978; Bishop,

¹ Ballot roll-off refers to the decrease in participation from the top of the ballot to elections down ballot. Typically those are direct democracy measures or judicial elections.

Oldendick and Tuchfarber 1978; Gallup 1941). It is easy to translate this research to direct democracy, as voters often have mixed or unknown opinions on the issue presented in the ballot proposition. This means that language on the ballot (particularly for ballot measures) is important for uninformed, undecided or hurried voters. Ballot language can complicate the ballot, as this is often the first time voters are confronted with the issue before them. Confusing or misunderstanding ballot questions can lead to different responses than those consistent with policy preferences or lack of participation, which has significant consequences for the overarching electoral system. One only needs to look at Florida's 2000 butterfly ballot to see how important language, layout and instructions are for voters.

Different presentation of ballot measures results in different responses (Reilly 2010; Rasinksi 1989; Kalton, Collins and Brook 1978; Bishop, Oldendick and Tuchfarber 1978; Gallup 1941). Essentially the way a question is written can affect participation rates; therefore, ballot measure grade level (complexity) and its complications require significant attention by state policy makers.

Magleby was one of the first to attempt to answer questions about ballot complexity and participation in these elections by utilizing public opinion polls to establish trends in voting behavior in four states (California, Florida, Massachusetts and Washington). He compared this data with results from ballot propositions from 1977-78 and 1982-83 to examine comprehension and participation on ballot propositions. His study contributed to a larger argument for direct democracy by offering insight into the understanding of ballot question language (1984). Magleby collected data on individual questions: the number of words, the average number of words per sentence and readability indexes (including grade level). He concludes that higher levels of education result in better understanding and participation consistent with research of traditional electoral behavior (Rosenstone and Hansen 1993). This has also been reproduced using data from 1997-2008 (Reilly 2010; Reilly and Richey 2011), where these scholars demonstrate the profound impact that readability has on participation with higher grade levels resulting on decreased participation. Hassami and Resnjanskij (2019) look beyond the US experience and find that increasing complexity in Swiss measures decreases approval up to 12%.

The Tristate and Direct Democracy

These three states are linked through policy as well as a shared political culture. These states are also quite different: population size/growth, poverty/income and GDP levels, diversity, and population density. While some might argue that there are some unfair comparisons given the relative size of Ohio versus the other two states, their common border as well as a long history of policy diffusion, which makes them excellent candidates for comparison on direct democracy. Most recently, these three states coordinated in their most recent policy responses to COVID-19. Policy diffusion is quite common among close proximity states and is clear in the adoption of some direct democracy measures as well. All three states utilize referendums, two states utilize initiatives but none of these states utilize recalls. Further, all three states utilize these mechanisms sparingly. Ohio does utilize the mechanisms more but that can be accounted for based on their more nuanced political history and importance in swinging presidential elections.

Ohio

Ohio is the first state to be analyzed in this paper because of their role in the National Direct Legislation League in 1896, which met to spread direct democracy across the states. Ohio's embrace of direct democracy was established in 1912 when referendums and initiatives were added to their constitutions (Initiative and Referendum Institute 2020). However, Ohio's embrace of this

opportunity has been mixed. First, when looking at initiatives only 28% have passed whereas with referendums the passage rate is higher at 68%. For the most part, between 1913-1977, Ohioans voted to reject all but a handful of initiatives put before them.

A full detailed explanation of the initiative process in Ohio can be found on the Ohio Attorney General page. General initiatives in Ohio are drafted by petitioners with 1000 signatures. They are then submitted to the Attorney General's office for evaluation within 10 business days. After verification, they are sent out for additional signatures. Constitutional Amendments require signatures of 10% of the votes cast for governor in the previous election; referendums 6% and initiated statutes 3%. All require that the signatures be obtained from at least 44 of Ohio's 88 counties (Ohio Attorney General 2020).

Indiana

One of the reasons for studying the Tristate region in conjunction has been the policy diffusion within these states. Once Ohio voters established initiatives and referendums in 1912, state leaders offered support to their neighboring states through the National Direct Legislation League – particularly in Indiana. While Indiana established municipal initiatives in 1913 as a result of this diffusion, the battle of establishing such initiatives statewide was championed by State Senator John Bushemi in the late 1970s and 1980s (Initiative and Referendum Institute 2020). One reason that Indiana has far less usage of direct democracy is their most recent adoption of the mechanisms. Indiana serves as a middle between Ohio and Kentucky in their usage of direct democracy.

Kentucky

The passage of statewide initiatives and referendums in Kentucky were attempted in 1900 successfully in the Senate but ultimately failed in the House. However, at a local level initiatives were adopted for most Kentucky cities in 1910, although abolished in the 1980s by the legislature (Initiative and Referendum Institute 2020). Kentucky does have statewide referendums (adopted in the 1940s) that can be referred by the state legislature or constitutional amendment and have utilized these referendums very limitedly. Kentucky does not allow for any citizen initiated direct democracy, either initiatives or recall elections.

Theoretical Development

When a citizen enters a polling location with the intention to vote, they are influenced by voting cues. Political ads, partisan identification on the ballot, who may have knocked on their door, are all cues that can influence vote choice. These cues are plentiful in large, mainstream elections including those for mayor, governor, senate, etc. With ballot measures, however, there tends to be fewer voting cues. With fewer voting cues, citizens are spurred to read the ballot measure as it appears, making a judgement based on it. The complexity of the ballot question then becomes an issue and a barrier to participation. A citizen then has three options: they can vote no, yes, or they can abstain from voting on the measure at all. Lack of participation on ballot measures then defeats the intention of activists and legislatures alike. So, it then becomes necessary to examine ballot frequency, ballot language, and roll-off to determine influences. Ballot measures are more likely to be subject to roll-off, as voters are less likely to vote on these measures than others as well as an increase in no votes on items that voters are less likely to understand (Reilly 2010; Reilly and Richey 2011). We examine the variation in the Tristate area of ballot language to explore the usage and manipulation that can occur through these measures in the local area. In this examination, we explore two related hypotheses:

Hypothesis 1: If there is an increase in ballot language complexity, there will be an increase in roll-off.

Hypothesis 2: If there is an increase in ballot language complexity, there will be an increase in no votes.

Methodology

We collected ballot data for a period of twenty years between 1999-2019 in each of the three states. Our data included the ballot language, votes for and against, as well as vote for the highest office on the ballot. From this data we calculated the word count, characters, paragraphs, sentences, Flesch-Kincaid reading ease, and grade level equivalency (see next paragraph for more information on these measurements). This was then coupled with for vote, against vote, overall vote, as well as vote for the highest office. The topics of the ballot measures were also coded to provide ancillary insight into the issues that the Tristate deems important enough to have the electorate decide. With the data collected, an analysis was then conducted using the Pearson Correlation coefficient to determine the relationship between grade level of ballot language and roll-off and grade level of ballot language and “yes” votes.

To determine the grade level of ballot measures, each ballot measure is collected exactly as they appeared on the ballot (generally collected from the Secretary of States’ websites). From there, the total words, sentences and syllables for each of the ballot measures was collected. This data was then transformed into a grade level score through the following equation:

$$0.39(\text{Total words}/\text{total sentences}) + 11.8(\text{total syllables}/\text{total words}) - 15.59$$

The Flesch-Kincaid Grade Level score allows us to translate different sentences and passages on the United States’ school grade levels; this means that a score of 8 means that an eighth grader can read and understand the passage. Likewise, it means that if a passage has a grade level of 24, individuals need 24 years of education (essentially a doctorate) to comprehend the passage. Therefore, the higher the grade level score of the measure the more difficult the passage is to understand.²

Once calculated these measures were averaged for each state as well as nationwide to provide some context of the Tri-state’s experience relative to the larger direct democracy community. Particular states and topics have higher average ballot measure grade levels resulting in lower turnout, demonstrating that grade level of the measure itself plays a role in determining participation (Reilly 2010). This means that it is imperative that information on ballot questions (regardless of language or format) provided at the ballot booth or in voter information distributed beforehand be of the same comprehension or grade level to facilitate participation. Increased grade level of one language or another provides another barrier to participation.

As noted in Table 1, there are some differences in the accessibility of ballot measures across the Tristate. The national average of ballot measure grade levels (as measured between 1997-2007 (Reilly and Richey 2011; Reilly 2010)) is 17 with a grade level range of 5 to 95 and the Tristate varies around this average. This means that the Tristate’s accessibility is around the national average. It is important to note, however, that none of the states in the Tristate have the highest or

² The Flesch-Kincaid grade level measure was once truncated at the 12th grade. However, with a growing number of citizens with a post-secondary education in the United States, we can suggest larger nuances by including advanced education scores for grade level.

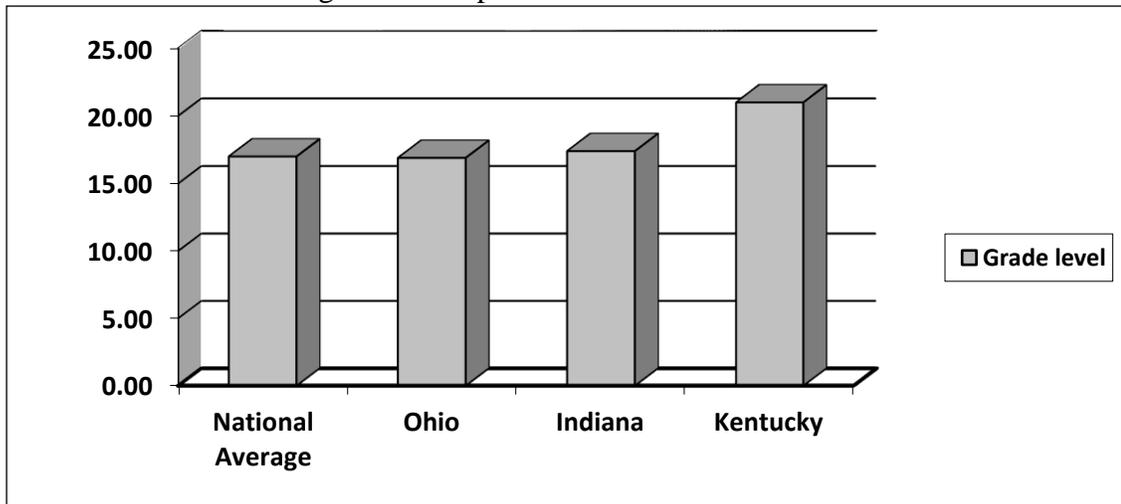
the lowest grade levels for their ballot referenda. Figure 1 provides a graphical view of the variations in grade level by state and nationally.

Table 1: Use and Grade Level

State	Frequency	Mean Grade level	Standard Deviation
Ohio	39	16.89	4.92
Indiana	9	17.42	5.28
Kentucky	9	20.97	5.73
	57	18.01	5.34

Correlation between roll-off and grade level $-.046$
 Correlation between yes vote and grade level $-.377^{**}$

Figure 1. Comparison of Grade Level



(Source: Reilly 2010; Reilly and Richey 2011 – national average grade level; Tristate data provided by the author)

Discussion

The State of Ohio, among the three states analyzed, had the most ballot measures with 39 out of the 57 total measures in 1999-2019. It also had the lowest mean grade level of the measure, with 16.9 and a standard deviation of 4.9. In real terms, this means that to properly comprehend the text of the ballot close to 17 years of schooling are needed. This is equivalent to a junior at a post-secondary institution. The Commonwealth of Kentucky fared the worst by far. The mean for Kentucky was 20.9 with a standard deviation of 5.7. This is equivalent to requiring close to 21 years of schooling to properly comprehend the measure on the ballot. It is worth noting that all referenda in Kentucky are legislatively referred constitutional amendments. This means that legislators in the House and Senate are referring measures to voters that are difficult to understand. The State of Indiana is somewhere in the middle. The mean grade level for the state’s referenda is 17.4 with a standard deviation of 5.2. Like Ohio, the average level of education needed to properly comprehend the measure is a junior in college.

Based on the correlation coefficients, the more complex a ballot measure’s language is, the less people vote yes on it (a decrease of 37%) and the less people vote on the measure as a whole (4.6% fewer for every one year increase in the readability). If these states want to improve

participation in ballot measures, they must consider making the language more accessible. These findings are in line with assertions previously made in the literature.

Why does this matter? This leads to one of the most important questions when it comes to direct democracy, can the voters make good decisions? Voters' ability to make good decisions comes from their ability to understand and participate in the process. Kentucky has one of the lowest literacy rates in the United State, with 12.2% of their adults lacking basic literacy skills (Indiana follows at 8% and Ohio at 9.1%) (Comen 2018). If we were to translate 20 years of education into educational attainment, this means the average grade level is above a Master's degree (18 years) and just short of requiring a Doctorate (24 years). Kentucky's population has an educational attainment much lower than this average, as only 10.3% have a graduate degree (as illustrated in Table 2). While Kentucky has the highest average readability score in the Tristate, the other two states are only a few grade levels lower.

Table 2: Educational Attainment in Tristate Area

EDUCATIONAL ATTAINMENT	Ohio	Indiana	Kentucky	Tristate average
Population 25 years and over				
Less than 9th grade	2.7%	3.7%	5.3%	3.9%
9th to 12th grade, no diploma	6.6%	7.3%	7.9%	7.3%
High school graduate (includes equivalency)	32.7%	33.1%	32.6%	32.8%
Some college, no degree	20.4%	19.9%	20.8%	20.4%
Associate's degree	8.6%	8.9%	8.6%	8.7%
Bachelor's degree	17.8%	17.3%	14.5%	16.5%
Graduate or professional degree	11.1%	9.8%	10.3%	10.4%
Percent high school graduate or higher	90.7%	89%	86.8%	88.8%
Percent bachelor's degree or higher	28.9%	27.1%	24.8%	26.9%

(Source: Selected Social Characteristics in the United States 2018 American Community Survey Estimates)

As illustrated in Table 2, the majority of Tristate residents do not have 16 years of education, which means that many do not have the educative capability to vote on the average ballot measure presented on the ballot. This illustrates a larger issue about the accessibility of these measures in the Tristate as well as in each of these states. Voters, on average, will have problems determining the meaning of the measure and assert their vote choices. This means there may be inconsistent votes and difficulty translating, on behalf of the voter, their opinions into votes. This contradicts the point of direct democracy and significantly limits the role of voters in determining policy.

Conclusions and Policy Potential

Citizens' understanding of ballot measures is paramount for participation in direct democracy. In fact, this understanding is a significant component of why we have direct democracy elections for citizens to assert their policy preferences. If citizens are unable to understand the referenda, it can lead only to a pronounced effect on responses and participation because citizens get discouraged and feel that they do not understand what they are voting for or against. Now there is limited variation within the Tristate and they are consistent with the national average.

However, these measures may be viewed more positively by voters and state officials alike if they were more accessible to the average voter. This could be accomplished through a lower grade level, particularly given the educational attainment in the Tristate. Furthermore, states in the Tristate may want to expand their direct democracy usage once it can be demonstrated that voters are able to comprehend and exercise their policy preferences, thus, making deliberate policy. As a result, voters would be able to influence their government and assist in the law making process more openly.

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