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THE EVOLUTION OF GAY RIGHTS LEGISLATION IN THE STATES: DOES
MORALITY POLICY MATTER?

KIMBERLY FOERSTER
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Reviewed and approved* by the following:

Michael Berkman
Professor of Political Science
Thesis Supervisor

Gretchen Casper
Associate Professor of Political Science
Honors Adviser

* Signatures are on file in the Schreyer Honors College.

ABSTRACT

In the last twenty years, the issue of gay rights' has become a prominent political issue in the United States. The federal government has issued some rulings on the issue, but has left significant discretion to the states for determining legislation. This study examines laws that expand gay rights' between the years 1990-2013 across all 50 states. In particular, it looks at the political factors within each state that impact the likelihood of a policy passing. Additionally, the factors are considered in relationship to the type of law, either a morality policy, or a regulatory policy. The goal of this research is to find trends over time across the states to provide additional insight into the complex area of gay rights' policy within the United States.

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Chapter 1

Introduction

For many years Americans have debated the extent to which rights should be extended to gays and lesbians. Most of this debate has occurred at the state level, which constitutionally and historically has powers that specifically affect their lives. Due to the wide variety of opinions surrounding the issue, it remains on state political agendas today; however, the scope and salience of individual gay rights' policies have changed and progressed.

The gay rights movement gained national attention following the Stonewall Riots in 1969, and since then the federal government has issued a few significant rulings. It was not until the 2003 case *Lawrence v. Texas* that the Supreme Court ruled anti-sodomy laws unconstitutional under the Due Process Clause. More recently in the 2013 case *Windsor v. United States*, the Supreme Court ruled Section 3 of the Defense of Marriage Act unconstitutional, which denied same-sex married couples eligibility for federal protections and responsibilities extended to married couples. Still, the courts have left the majority of gay rights issues open for regulation by the states, allowing for significant variation throughout the United States.

The blanket term "gay rights policy" encompasses many categories of law, including but not limited to employment, housing, health care, marriage, adoption, anti-discrimination in schools, bullying, and hate crimes. Some states grant equal rights for gays and lesbians for many of these policies, while on the opposite end of the spectrum other states have passed little to no positive gay rights' legislation and have implemented laws against equality. In the past year alone, six states legalized gay marriage, further demonstrating the significant variation and propensity to change laws surrounding the issue.

What explains these different choices, the wide variety of policies affecting LGBT issues across the American States? The answer may be related to the type of policy in question. In regard to gay rights' policy in particular, many laws control individual behavior. For example, anti-sodomy laws are aimed at personal behaviors that do not have a great impact on other members in society. These morality policies are associated with deeply held values, making it likely that changes in public opinion leads to changes in this type of policy (Mooney 1999). However, not all gay rights' legislation aims to regulate personal behavior. There is another type of law to consider: regulatory policies that control the behavior of companies and firms. For example, anti-discrimination housing policies impact not only individuals, but also the business of companies involved in housing. The goals of regulatory policies vary from those concerned with individual behavior, which may cause the divergent interests they attract to produce different outcomes. In particular, economic-based interests are likely to utilize interest groups to achieve their policy goals (Mooney 1999). It may be that the same political force, such as an interest group, may easily succeed in passing a housing law, but fail at passing gay marriage legislation. Furthermore, it is plausible that the inherently moral nature of gay rights' causes all laws to fall under the personal behavior type. If so, public opinion could produce the most significant impact, regardless of the strength of other factors. In either case, studying the effect of political forces on these two policy types gives insight into the probability of policy adoption.

Over the last few decades, both types of issues have found their place on state political agendas, although there is no systematic research on whether some have been more prominent than others over time. Do the majority of states pass policy types in the same order? Furthermore, does passing one law lead to the passage of another within a state? It is possible, for example, that regulatory policies pass before personal behavior policies in the majority of states, or vice versa. Also, the point at which any policy type passes may be an important indicator of future legislative outcomes. By analyzing the passage of gay rights' law over time, patterns may emerge that

explain the likelihood of a state to enact policy. In addition to changes over time, the variation in across states is significant.

The wide range of gay rights issues in conjunction with 50 diverse states creates an interesting political picture in the US. While the most liberal states provide equal rights for the gay population on both morality and economic policies, and the most conservative states have not passed legislation in either policy category, many have unique combinations of gay rights legislation. For example, states such as Oregon passed regulatory policies relating to employment discrimination, but have yet to legalize gay marriage. In New York, gay marriage was legalized before any employment discrimination policies. These differences across states present a puzzling question: What political factors cause legislation to pass? Do these variables vary based on the policy type and time frame?

The factors at work in passing gay rights policy and the time sensitivity of these variables provides important implications for the gay rights struggle. In the context of American society an understanding of how to increase chances of affecting legislation is relevant information, in this case especially for gay rights activists. The knowledge acquired through this research has the potential to bring the United States closer to universal recognition of equal rights for the gay community.

Chapter 2

Literature Review

In a study examining the factors that influence policy, Christopher Mooney calls gay rights' policy a morality issue. He defines morality policies as statements about what a polity holds fundamentally right and wrong, and also as arguments that are used by at least one major advocacy coalition as issues that are absolutely right or wrong (Mooney 2000). In other words, different types of policy spawn different types of political activity, especially in regards to morality versus non-morality policies (Mooney 1999). For example, regulatory policy is thought to be affected by socioeconomic and political factors and power of interest groups (Mooney 1999). On the other hand, morality policies tend to be simpler, can be more salient to general public, and evoke higher than normal citizen participation (Mooney 1999). What accounts for these differences? The conflicts surrounding morality policy stems from debate over principles, moral arguments, and concepts of sin (Mooney 1999), and generate more predictable, distinctive patterns of political behavior (Mooney 2000). Furthermore, policymakers are highly responsive to citizen values on morality policy, making these policies more likely to shift into an active policy making phase than non-morality policies (Mooney 2000).

Another study on gay rights' legislation by Haider-Markel and Meier expands upon the morality policy theory described by Mooney. They build their theory on the concept of issue salience, using the scope of an issue to predict the most influential political factors on a gay rights' policy. Similar to Mooney, they describe morality issues as those portrayed as morally right or wrong. Additionally, they define them as highly salient with little information needed to form an opinion, attracting both citizens and policymakers to the issues. They theorize that in regard to morality policies, interest groups are less influential because they cannot use one of their main strengths, information, to their advantage. They produce the greatest impact when they

can limit the conflict and lobby directly with policymakers. Conversely, they lose strength when the scope of the issues broadens. From these characteristics, they establish two models: one based on interest groups and the other one morality. The interest group model, which is effective when the scope of an issue can be limited, considers the most important variables interest group resources, values of political elites, and an incremental political process. On the other hand, the morality model of politics relies on the wide scope of an issue, with the most significant factors being partisanship, non-incremental policy passage, reliance on values, and competitive political parties. Ultimately, their findings support the theory that when issues are more salient morality politics are effective, whereas interest group politics find more success when the scope of the issue is limited.

Numerous studies utilize public opinion as a key variable in determining the likelihood policy, and gay rights' policy in particular, will pass within a state. According to Mooney, "variation in morality policy across states is closely and strongly related to variation in citizen and elite preference and values" (Mooney 2000). Others that did not separate morality policy from others also found that public opinion was significant, regardless of the strength of other factors. Lewis and Oh found that public support for same-sex marriage is a stronger predictor of state legislative bans than elite attitudes, interest group strength, and state innovativeness (Lewis and Oh 2008). Similarly, Lax and Philips found that conservative interest groups affect policy adoption, but the impact of public opinion is larger (Lax and Philips 2009). State liberalism is also considered, with findings showing higher liberalism having a significant and negative influence on restrictive policies (Scheitle and Hahn 2009), and that, "state political structures appear to do a good job in delivering more liberal policies to more liberal states and more conservative policies to more conservative states" (Lax and Philips 2009). Interestingly, strong public opinion on the same side of an issue may have a negative impact on public opinion strength. Lax and Philips found that lack of disagreement can cause incongruence between

majority opinion and policy (Lax and Philips 2009); however, relating directly to morality policies, they hold that gay rights legislation relating to gay marriage and adoption policies are most in line with public support (Lax and Philips 2009). Another factor to consider, specifically outlined as a measure to determine likelihood of morality policy adoption by Mooney, is religious affiliation.

The strength of religious communities, specifically Protestants and Catholics, impacts other political factors and therefore may affect gay rights' legislation. In contrast to public opinion, fewer concrete theories exist regarding the importance of religious affiliation in the legislative environment, specifically in regard to positive gay rights'. The research of Lewis and Oh suggests the size of evangelical communities in states proves a strong factor in why states have amended their constitutions to support anti-gay policies (Lewis and Oh 2008); however, they do not come to any conclusions regarding positive policies. Furthermore, uncertainty surrounds the impact of non-Evangelical Protestantism versus other congregations, as studies have found the level of adherence to non-Evangelical Protestantism does not have a significant direct effect on sexual orientation policies (Scheitle and Hahn 2011). Another factor to consider is issue salience.

Issue salience relates to the differences between morality and economic policies, as morality policies generally evoke more attention from the population within a state. Therefore, it remains important to consider in regards to the different varieties of gay rights' legislation. Some researchers state significant findings pertaining to issue salience, whereas others are less convincing. In the case of highly salient issues, such as most morality policies, the gay rights community has the greatest chance of passing legislation if they focus on policy specific opinion and increase attention to the policy debate (Lax and Philips 2009). For economic policies such as housing and employment, which can be less salient, they are more likely to pass with majority support (Lax and Philips 2009). On the other hand, Scheitle finds that in particular the salience of

restrictive policies does not have a significant direct effect on policy (Scheitle and Hahn 2011), pointing to the importance of other factors. To fully apply Mooney's theory to the gay rights' policy environment, the factors associated with economic policy must also be assessed.

While public opinion remains the most significant factor in determining the status of morality policy, interest groups may be more important for economic policy. Furthermore, studies show that the impact of interest groups is present for gay rights' legislation, on both sides of the issue. In the area of gay rights in particular, research supports that conservative religious interest groups affect gay rights policy at the expense of majoritarian congruence (Lax and Philips 2009). Also in regard to interest groups, the resources of a group do not appear to affect the ideology of state politicians, but financial contribution and size have a significant association with hostile policies (Scheitle and Hahn 2011). Interestingly, the particular viewpoints of the interest group may not matter, but instead simply the interest group environment within a state. Soule's findings suggest that active interest organizations on both sides of the debate increase the likelihood of state bans (Soule 2004). Therefore, interest groups produce an effect on legislation and are key political factors when considering gay rights' policy.

Finally, and perhaps most important, multiple studies find inconclusive evidence regarding the impact of public opinion versus interest groups. Scheitle and Hahn ultimately conclude that social movement organizations and special interest groups play a significant role in shaping policy, but so do popular opinion and political structures (Scheitle and Hahn 2009). Others highlight the relationship between factors and policy variety, finding that interest group politics (interest group resources, elite values, and past policy actions) prevail when gay and lesbian rights are not salient, but if the conflict expands morality politics (influence of religious groups, party competition, and partisanship) come into play (Haider-Markel and Meier 1996). This research demonstrates that the relationship between political factors and legislative outcomes is complex. The goal of this study is to uncover patterns in light of morality policy

theory to further explain the differences across states, over time for passing gay rights' legislation.

Chapter 3

Hypotheses

My theory involves a multi-layered approach to explain the differences among states in gay rights' legislation, accounting for the evolution of specific issue prominence over time. The time period will include 1990-2013, as very few gay rights' policies were passed before this interval. A wide range of positive gay rights policies are included, looking at legislation that is "gay friendly", or on the tolerant side of a given gay rights issue, versus the absence of such laws. In order to analyze the complex political environment surrounding this theory, the policies considered will be sorted into morality policies and economic-based policies, to better assess the importance of the independent variables. Consequently, the hypotheses surround the ideas that gay rights legislative outcomes in states are determined by policy category, strength of political influences, and time. My hypotheses are as follows: 1) interest groups will have more of an effect on regulatory policies; 2) in regard to morality policies, public opinion will have a greater impact than interest group strength; 3) morality policies will correspond with higher levels of issue salience compared to regulatory policies; 4) states will pass regulatory policies before morality policies; and 5) states that passed any gay rights legislation early will have the widest range of policy, regardless of type.

1) Interest Groups Produce A Greater Effect On Regulatory Policies

The first hypothesis that interest groups produce more influence on regulatory policies comes from the concepts outlined by Christopher Mooney (1999) and Haider-Markel and Meier (1996). This argument holds that regulatory policies, such as housing and employment, do not relate directly to individuals' perception of right versus wrong, or immoral versus immoral.

Instead, these laws tend to be more complex, and people may require background information to develop an opinion on the specific law at hand. Interest groups possess the knowledge that the general public lacks, and therefore are more inclined to devote time, energy, and money to regulatory policies. Furthermore, lawmakers may be more likely to consider interest groups when the public does not have a strong opinion on a topic; if this is the case, they may perceive choosing one side over another will not affect their popularity among constituents. For these reasons, I expect interest group strength to produce a greater effect on regulatory policies than on morality policies.

2) Public Opinion Will Have A Greater Impact On Morality Policies Than Interest Group Strength

The second hypothesis that public opinion will have a greater impact on morality policies compliments the theory behind the first hypothesis. Morality policies tend to be simpler than regulatory policies, prompting the general public to develop strong opinions on issues such as gay marriage, adoption, and hate crimes. When public opinion is strong, policy makers will be more likely to consider it because they want to maintain a good relationship with their constituency. Interest group strength may still produce some impact, but public opinion will have a greater influence for morality policies.

3) Issue Salience Will Be Higher For Morality Policies Than Regulatory Policies

The importance of issue salience to gay rights' legislation discussed by Haider-Markel and Meier (1996) may be a major predictor of the likelihood a policy will pass. Since morality policies are easier for the general public to understand, it is logical that these issues will involve wider political discourse than regulatory policies. Similarly, the regulatory policies that require special knowledge will spark less media attention and depend more upon political actors interacting directly with policy makers. People will be more interested in policy they have strong

opinions about and fully understand, causing morality policies to correspond with greater salience.

4) States Will Pass Regulatory Policies Prior To Passing Morality Policies

I hypothesize that states passed regulatory policies prior to passing morality policies because gay rights' issues have become more salient over time. As previously discussed, it may be that morality policies correspond with higher levels of issue salience in comparison to regulatory policies because individuals possess stronger opinions on issue of morality. From this theory, I propose that gay rights' have become more salient since the 1990s, and consequently morality policies proceed the passage of regulatory policies.

5) States That Started Passing Gay Rights Legislation Early Will Have The Widest Range of Policy, Regardless of Categorization

This concept follows the idea that the states that initially supported gay rights maintained their position and continued to pass expansive legislation. On the other hand, I expect the states that waited longer to pass legislation will have fewer laws enacted.

Chapter 4

Data and Analysis

This study focuses on the *dependent variable* of gay rights' legislation. In particular, it considers those laws that expand rights for the gay and lesbian community. The specific laws included are hate crime, gay marriage, civil union, domestic partnership, adoption, employment discrimination, school discrimination, housing discrimination, and hospital visitation. I selected these laws based on those used in previous studies and frequent appearance on LGBT rights websites. This legislation is considered for the years 1990-2013 for all 50 states. Data for the laws is from the Human Rights Campaign website and 50yearsofchange.org, which collected from Freedom to Marry, Human Rights Campaign, Lexis Nexis, Movement Advancement Project, National Conference of State Legislatures, Pew Research Center, and West Law. Each law was then coded as a dummy variable, with 1=law passed and 0=no law/prohibiting law.

The various laws are analyzed according to type, as morality policy or regulatory policy. The morality variable contains all laws that impact personal behavior and are framed as morally right or wrong. These include hate crime policies, gay marriage, civil union, domestic partnership, adoption, and school anti-discrimination. The regulatory policy variable contains those that relate to the behavior of companies and firms, including employment discrimination, housing discrimination, and hospital visitation policies.

The *independent variables* considered include public opinion, interest group strength, issue salience, and religious share.

Public opinion is a key element to consider when determining the likelihood of policy to pass within a state. For gay rights' issues, public opinion is especially important in relationship to morality policies. Public opinion is measured using estimates used by Gelman, Lax, and Phillips (2010) for the years 1994-1996 and 2010. They estimated public opinion on

same sex marriage by state by averaging small demographic categories within each state with census information. For 2010, they took 2008 state level estimates and aggregate national support for gay marriage to determine the 2008 rate. The 2003 rate is the average of the 1996 and 2008 rate. This study utilizes their rates of public opinion on same sex marriage by state for the year 2010 and the 2003 (used for the year 2000) in the regression analysis.

Another key variable is interest group strength. In opposition to public opinion, interest group strength is more important in determining the outcome of regulatory policies. Interest group strength is measured using the number of active interest groups in each state for the years 1997 and 2007. Data was gathered from Lowery, Gray, and Cluverius (2013) by determining the LGBT civil rights groups and small business groups active during each year. Then, the groups were added together, calculating the total number of each type for the given years by state, coded as 1=LGBT group and 2=small business group. In the regression analysis, 1997 data was used for the year 2000, and 2007 data was used for the year 2010.

The salience of an issue also has been shown to have a significant impact on the passage of gay rights' legislation. Its influence is measured by the number of articles on gays and lesbians per 100,000 population of each state, a measurement utilized by Haider-Markel and Meier in their 1996 study. The data for number of articles is collected from *NewsLibrary.com*, an affiliate of the Newsbank, Inc., for the years 1990-2010. By state and year, the term "gay and lesbian" was searched and the number of articles for each year recorded.

Previous studies have also included religious share when determining the impact of political factors on gay rights legislation (Lewis and Oh, 2008; Scheitle and Hahn, 2011). In particular, adherence to Evangelical Protestantism may influence policy adoption. Religious share data was gathered from the Association of Religion Data Archives for the years of 2000 and 2010. For these years, the rate of Evangelical Protestant adherence per 100,000 of population was

used for each state. Although included in the final analysis, this measure is not considered independently because its effect was found to operate through public opinion.

The variable of region is included to determine if a state's geographical location determines their likelihood of passing legislation. For this measure, each state was assigned a number 1-4 based on the groupings of the US Census for Northeast, Midwest, South, and West.

This study seeks to understand the pattern of gay rights legislation across time and states, and therefore utilizes multiple means of analysis to interpret the data. Sums were used to find the total number of individual laws across all states, total number of regulatory versus morality laws across all states, and the average level of issue saliency across all states. Means were then utilized to determine the percentage of total possible laws (used in this study) passed within each state and the percentage of total laws passed by region. Multivariate regression analysis was introduced to test the influence of issue saliency, public opinion, interest group strength, and religion on the dependent variable.

Chapter 5

Findings and Discussion

The results of the analysis show that overall the American States are expanding gay rights through legislation. Since 1990, the total number of laws passed by all the states has increased significantly (Figure 1.1). In 1990, out of all the states only three expansive gay rights policies existed, all of which were regulatory laws. The first morality policies were passed in 1993, and from that point both types of law appear to increase at approximately the same rate. Between the years of 2000-2002, the passage of morality policies increases more dramatically. In 2000, Vermont became the first state to legalize civil unions, and it is possible their acceptance of this policy prompted other states to grant more rights to the gay community.

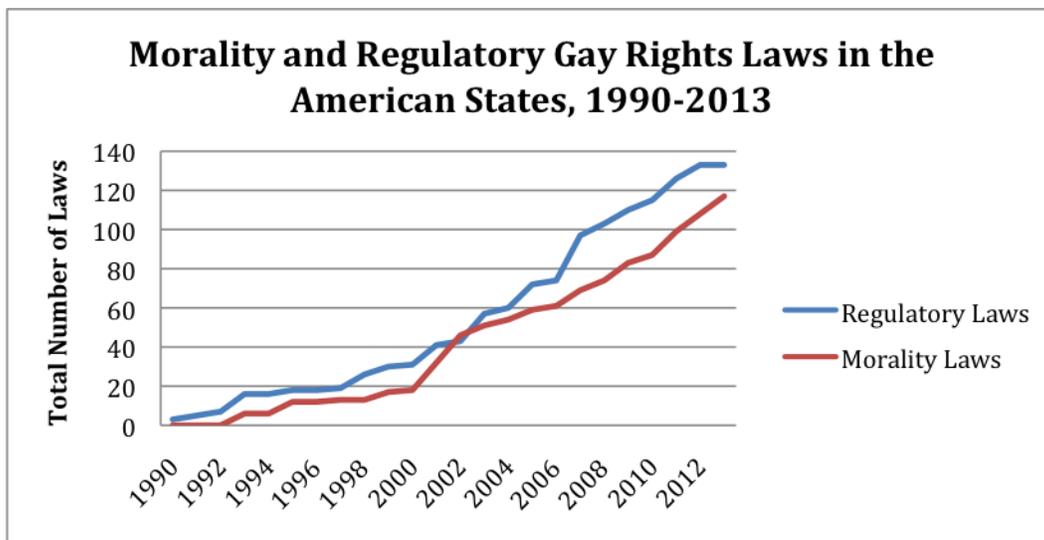


Figure 1.1

Additionally, it is clear that regulatory policies consistently appear in states more than morality policies. The only exception is the year 2002; however, between 2012-2013 regulatory

policies leveled, whereas morality policies continued to increase. This recent trend may point to changes in the future regarding the frequency of each category of law.

The states follow the same pattern of regulatory policy versus morality policy frequency when separated by region. For these graphs, the amount of legislation passed was calculated as a percentage of the total number of laws used in the study. In all four cases, regulatory policies remain more common than morality policies. The regions vary significantly, however, in regard to the percentage of total laws they have passed.

The Northeast appears to be the most supportive of gay rights legislation, regardless of policy category. The region surpasses the others in percentage of total laws passed, both in 2013 at 91% and 1990 at 4% (Figure 1.2). At first, they appear to have been passing both categories of policy at the same rate, but in recent years the rate of regulatory policy passage seems to have increased.

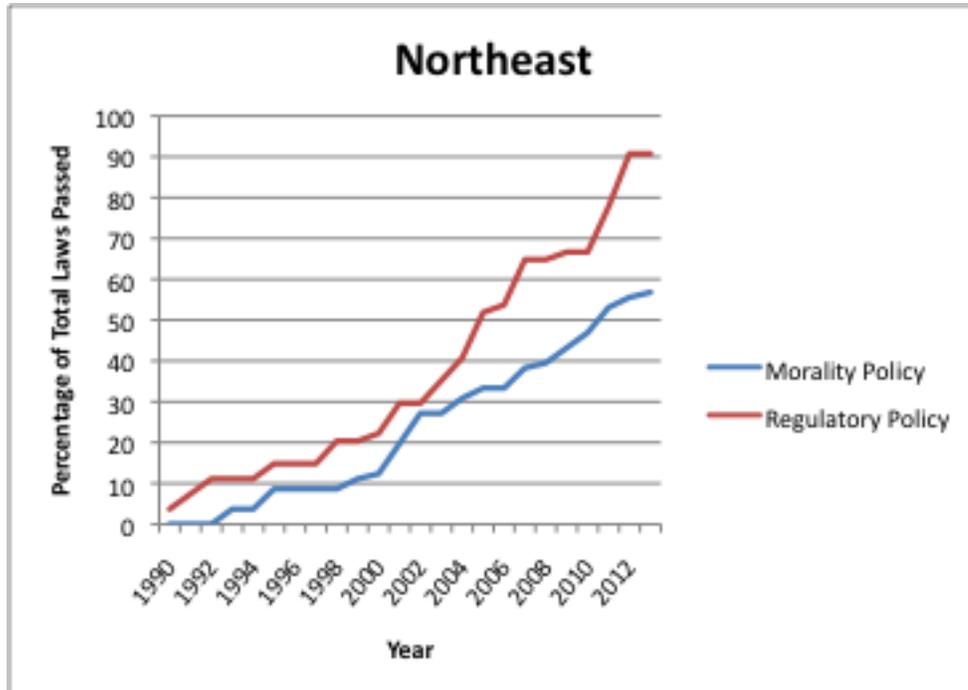


Figure 1.2

In comparison to the Northeast, it is immediately clear the Midwest has passed fewer expansive policies, reaching just over 35% of regulatory laws and just under 20% for morality laws as of 2013 (Figure 1.3). Similar to the Northeast, the Midwest states have passed regulatory policies at a faster rate in more recent years; however, since 1990 there have been longer periods of time where no legislation came into effect. This indicates that as a region they may enact gay rights policy in increments, as opposed to a gradually increasing rate.

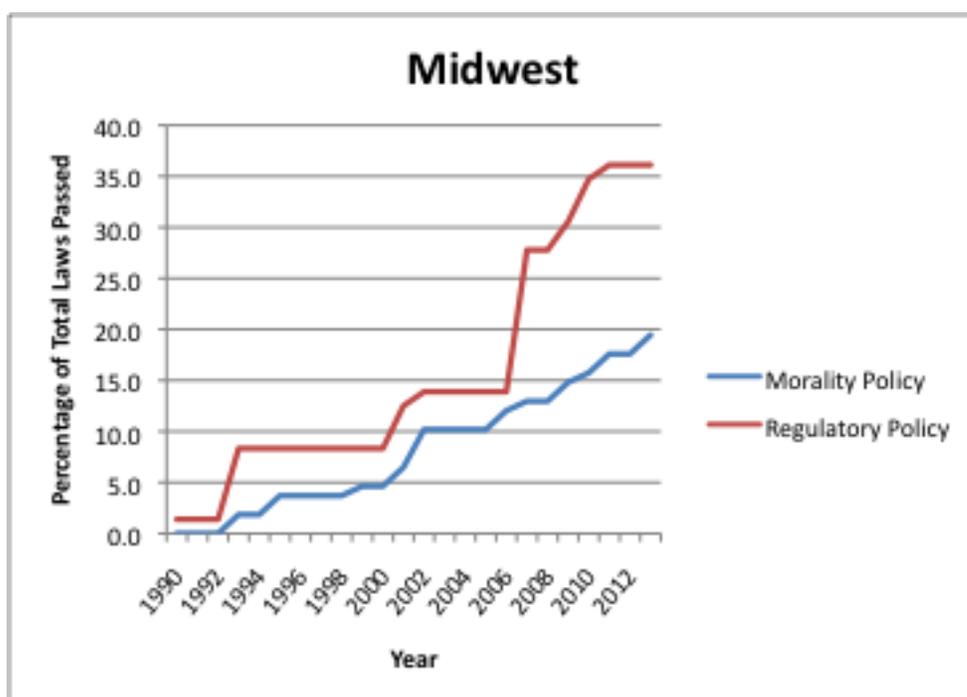


Figure 1.3

Out of all the regions, the South began passing gay rights legislation at the latest point in time and has the lowest percentage of laws passed as of 2013 (Figure 1.4). After 2000, though, they began enacting laws at a higher rate, especially for regulatory policies. Following 2002, the pattern in the South follows that of the previously discussed regions, with regulatory laws enacted more than morality laws. In contrast, the percentage passed in each category was relatively the same between the years of 2000-2002, an occurrence not shown in any of the other regions. The lower number of laws passed is not surprising, as the historically conservative South has been

slower to advance civil rights. However, the results show a recent increase in both policies, pointing to potential movement toward more tolerant laws.

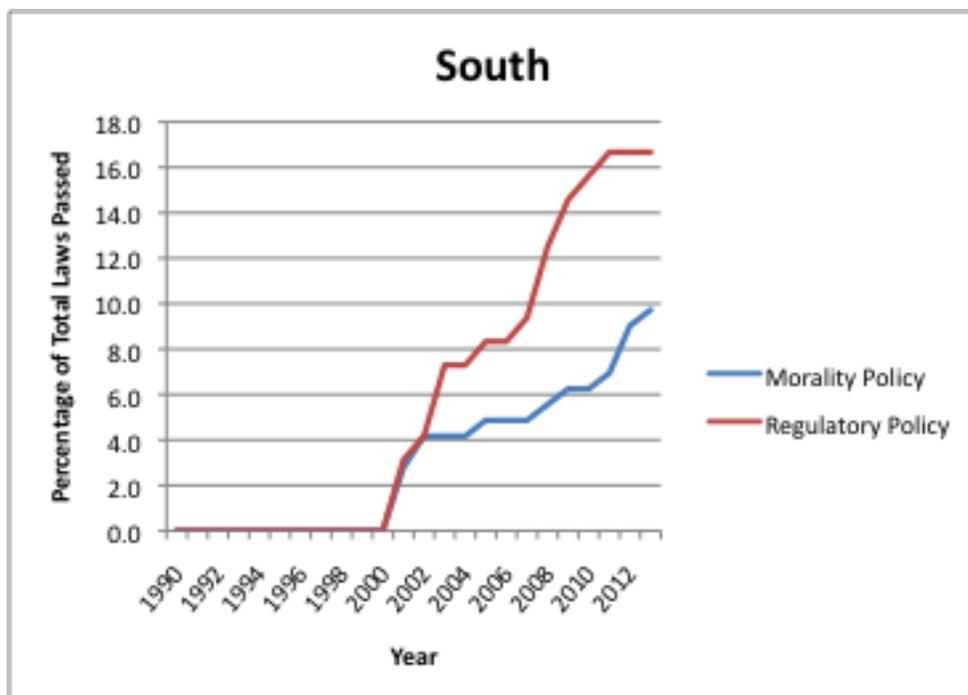


Figure 1.4

The final region, the West, follows the same pattern as the other regions in regard to percentage of policy passed in each category. As of 2013, they passed the second highest percentage of total possible laws, even though the Midwest began enacting legislation before the West. This trend indicates the West passes policy at a faster rate, and in the future may be more likely to enact policy than the Midwest.

As shown through the graphs, the results do not support the hypothesis that states pass regulatory policies prior to morality policies when grouped according to region. The states in the Northeast and Midwest acted in accordance with this theory, but the South and West both initially enacted morality policy and regulatory policy in the same year. Additionally, the gap in time between initial passage of each policy category does not exceed three years. This observation further points to no significant trend in enacting regulatory policy first across regions.

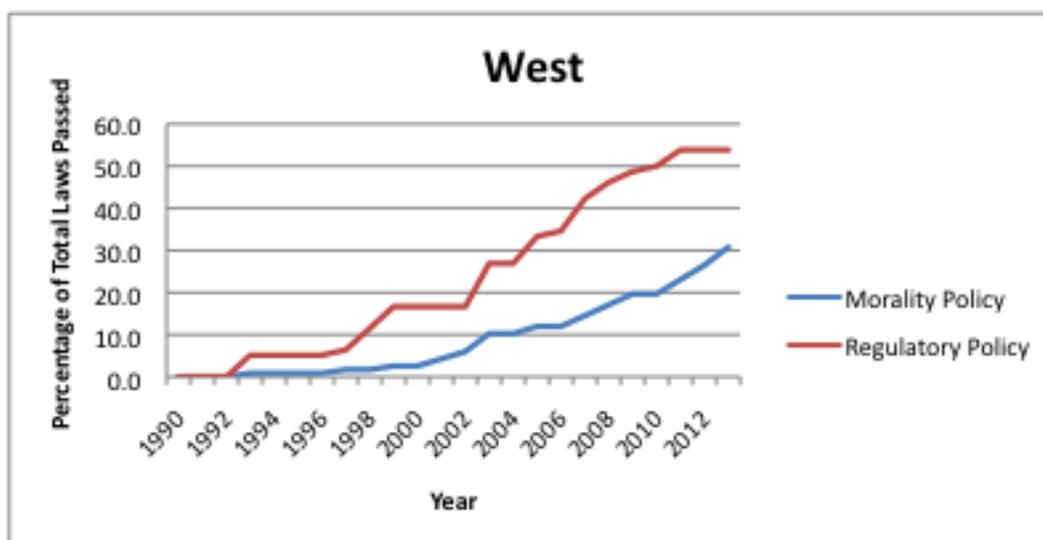


Figure 1.5

Also based on region, the results partially support the hypothesis that states that began passing legislation earliest will have the widest range of gay rights policy, regardless of type. The Northeast and Midwest both had regulatory policy enacted in 1990, and first passed morality policy in 1993. By 2013, however, the Northeast had a significantly higher percentage of policy passed than the Midwest. This difference may result from the initial number of laws passed, as the Northeast had a higher percentage of each category of law passed in 1990 and 1993 compared to the Midwest. In the West, policy first passed only a few years after the aforementioned two regions, but progressed more quickly than the Northeast. The trend in the South supports the hypothesis, since that group of states passed policy at the latest point in time and ultimately had the fewest percentage of possible laws in 2013. Therefore, by region, the results suggest that early point in time *and* higher number of initial laws passed indicates a wider variety of gay rights policy in the future.

By looking at the percentage of total laws passed by individual state, the wide variety of legislative combinations becomes even more apparent. After analyzing the data, there appears to be five patterns present in the states: states that passed regulatory laws first, states that passed

morality laws first, states with low levels of both passed, states with high levels of both passed, and states that have passed no legislation. Connecticut, for example, passed regulatory policy in 1991, but did not follow with morality policy until 2001. On the other hand, Illinois passed morality policy first in 1995, and did not enact regulatory policy until 2007. By 2013, both of these states had passed over 75% of total policies for each category, suggesting that passing one before the other does not determine the ultimate number of laws passed.

Another Midwest state, Indiana, has passed a very low percentage of gay rights legislation. The only year legislative activity occurred was fell under morality policy in 2006; they have passed no morality policies since and have yet to pass any regulatory policies. In contrast, Massachusetts passed both types of policy early and in close succession of one another (1990 and 1993). As of 2013, Massachusetts passed 77% of all possible morality laws and 100% of all regulatory policies. Even as states continue to pass additional legislation, some still have not enacted any expansive gay rights policies. North Dakota, Mississippi, and Michigan belong to this group of states, demonstrating the wide variety of patterns present within the United States.

These observed differences remain complex in aggregate measures of the percentage of total laws passed in each state. According to the data, slightly more states passed morality policy prior to regulatory policy. From this smaller subset of 33 states, there were more that passed regulatory policy first and ended up with over 50% of laws enacted in each category by 2013. This calculation supports the concept that states passing regulatory policy first are more likely to have a wider variety of legislation; however, the number of states passing over 50% of each is very low. Similarly, for the states that enacted both policy types in the same year, only 2 passed over 50% of the total policies. Interestingly, 10 states have passed 100% of the regulatory laws, whereas none have passed all of the morality laws. This finding relates to the consistently higher number of regulatory policies across regions and for total number of laws.

These same patterns of legislation passage over time across the states support the hypothesis that the states that passed legislation early have a wider variety of legislation. If a state passed any policy prior to 2000, they were 94% likely to have enacted over 30% of both morality and regulatory policies by 2013. In contrast, the states that passed any policy after 2000 were only 22% likely to have enacted over 30% of total laws in each policy category. These vast differences demonstrate the importance of time to the status of gay rights legislation within each state.

When the variable of time is removed, individual laws still reflect the conclusion that regulatory policies are more prominent. Figure 1.6 shows the total numbers of each individual policy enacted throughout all the states. The 3 most common policies fall under the regulatory category, and the least common, domestic partnership, is a morality policy. Although those individual regulatory policies are most common, it is noticeable that neither type is overwhelmingly more prominent than the other. This observation may point to a rise in morality policy in the future, especially when considered in conjunction with levels of issue salience.

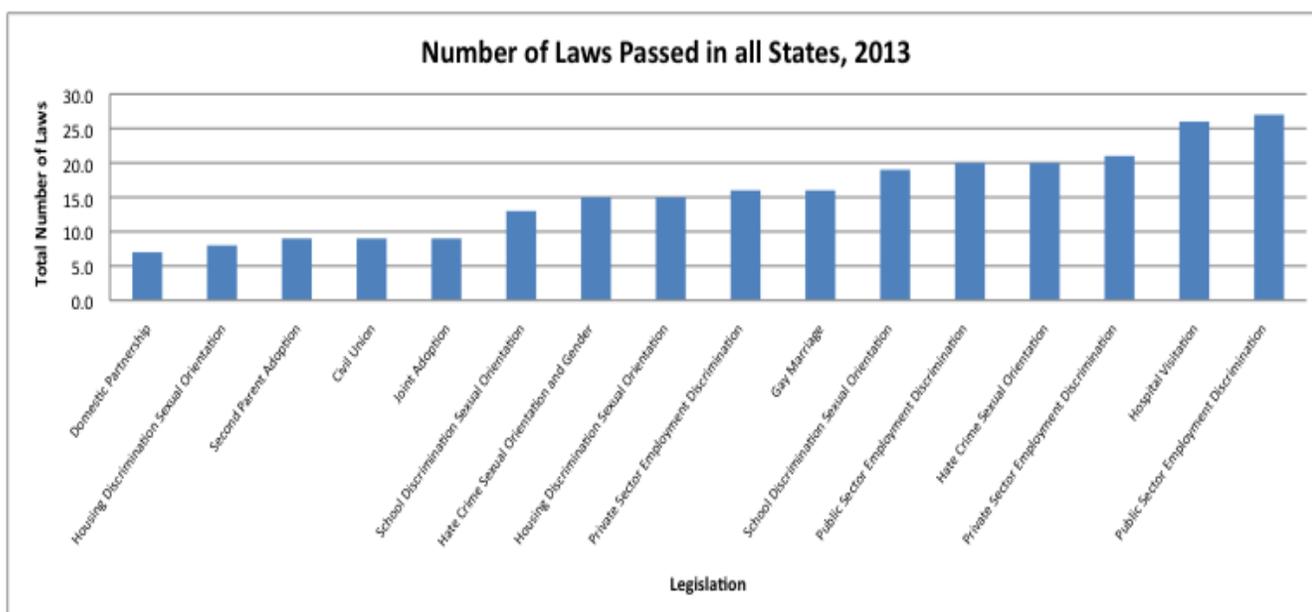


Figure 1.6

Over time, the salience of gay rights issues across the states has increased. Figure 1.7 illustrates this gradual increase in gay rights issue salience since 1990, demonstrating the significant difference in media attention that it now receives. This overall increase in salience is not distinguished by policy category, but based on previous studies still may point to more emphasis on public opinion, especially in regard to morality policy.

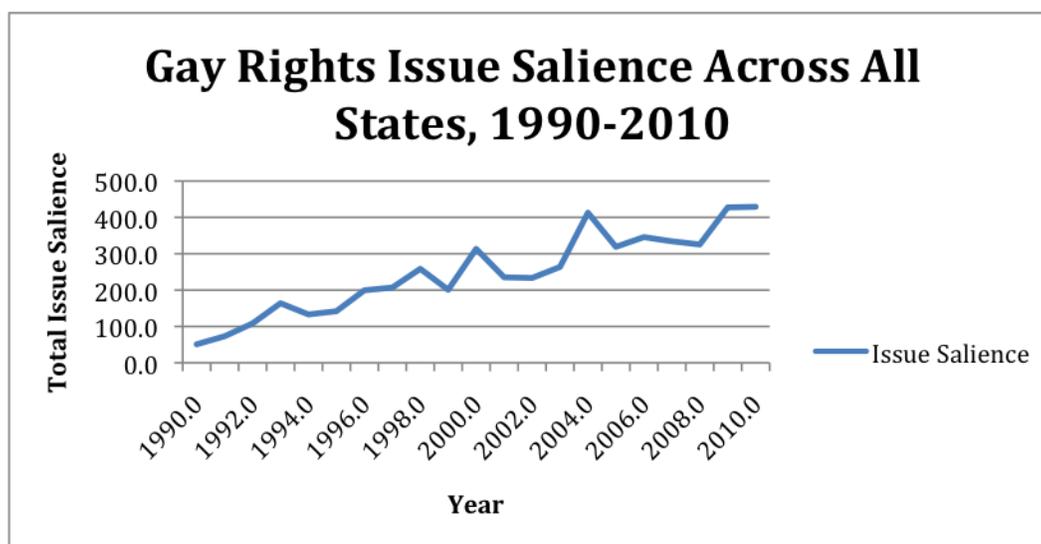


Figure 1.7

Based on a smaller scale regression, results support the hypothesis that issue salience will be higher for morality policies than regulatory policies (Figure 1.8). Using only the states in the South, issue salience was found to positively correspond with morality law, but not with regulatory laws. Morality laws were also statistically significant against the salience variable,

Issue Salience		Unstandardized Coefficient		Standardized t		Sig.
Model		B	Std. Error	Beta		
1	(Constant)	-319.158	57.96		-5.507	0
	Regulatory Laws	-0.193	0.129	-0.055	-1.499	0.134
	Morality Laws	2.148	0.172	0.459	12.466	0
	South	-1.136	0.389	-0.08	-2.922	0.004
	YEAR	0.162	0.029	0.166	5.568	0
a Dependent Variable: SALIENCE						

Figure 1.8

supporting the hypothesis that issue salience matters more for these type of laws in comparison to regulatory policies. The argument for the importance of issue salience relates to its close relationship to public opinion, and therefore was also included in a larger multivariate regression.

The multivariate regressions used to determine the influence of public opinion, interest groups, and issue salience on gay rights policy yields interesting results. For the morality policy model, the behavior of public opinion, small business groups, and issue salience are particularly intriguing (Figure 1.9). Public support for same sex marriage was significant to explaining the passage of morality policies for the years 2000 and 2010, supporting the influence of public opinion on these laws.

MORALITY POLICY						
Coefficients ^a						
YEAR	Model		Unstandardized Coeff	Standardized Coeff	Sig.	
			B	Std. Error	Beta	
2000	1	(Constant)	-1.422	0.653		0.035
		Public Support for Same Sex Marriage	3.97	1.843	0.325	0.037
		Rate of Evangelical Adherence	0	0.001	0.036	0.808
		Small Business Interest Groups	0.007	0.003	0.255	0.032
		Gay/Lesbian Interest Groups	-0.009	0.091	-0.012	0.92
		Issue Salience	0.031	0.007	0.495	0
2010	1	(Constant)	-5.631	1.652		0.001
		Public Support for Same Sex Marriage	13.531	3.076	0.702	0
		Rate of Evangelical Adherence	0.003	0.003	0.154	0.325
		Small Business Interest Groups	0.007	0.006	0.114	0.255
		Gay/Lesbian Interest Groups	0.036	0.129	0.032	0.781
		Issue Salience	0.075	0.035	0.261	0.035
a Dependent Variable: Morality_laws						

Figure 1.9

Additionally, it appears that the importance of public opinion increased between 2000 and 2010. This effect could be a product of more morality laws on state agendas, causing public support to fluctuate. Also, it suggests that state populations have become more supportive of morality policies over time. The variable of issue salience remains significant to these types of policies, supporting the theory that high levels of issue salience correspond with morality policies. In comparison to public opinion, however, its impact has become less important over time. This could result from morality policies becoming more prominent and well known; if the

majority of the population already holds opinions on those issues, the effect of issue salience would decrease. In the year 2000, there also appears to be a small influence from small business groups on morality policies. This effect loses significance for 2010, and therefore does not seem to disprove the theory. For gay and lesbian groups, there are no significant results for their influence. These findings support the second hypothesis, that public opinion has a greater impact than interest group strength for morality policies.

For the second type of policy, the findings suggest a somewhat different conclusion than the proposed hypothesis of interest groups being more influential for regulatory policy passage. In this model, the public opinion variable maintains its importance, even in comparison to interest groups (Figure 2). Similar to the previous model, public opinion is not only significant, but increases in importance over time. Issue salience does not appear to have any profound effect on

REGULATORY POLICY						
Coefficients ^a						
YEAR	Model		Unstandardized Coeff	Standardized Coeff	Sig.	
			B	Std. Error	Beta	
2000	1	(Constant)	-1.884	1.199		0.123
		Public Support for Same Sex Marriage	8.196	3.383	0.439	0.02
		Rate of Evangelical Adherence	-0.001	0.002	-0.059	0.736
		Small Business Interest Groups	0.003	0.006	0.067	0.632
		Gay/Lesbian Interest Groups	-0.111	0.166	-0.092	0.506
		Issue Salience	0.007	0.013	0.075	0.594
2010	1	(Constant)	-7.213	2.027		0.001
		Public Support for Same Sex Marriage	21.045	3.775	0.913	0
		Rate of Evangelical Adherence	0.005	0.003	0.241	0.135
		Small Business Interest Groups	-0.015	0.008	-0.204	0.051
		Gay/Lesbian Interest Groups	-0.123	0.158	-0.091	0.44
		Issue Salience	0.05	0.042	0.144	0.248
a Dependent Variable: Economic_laws						

Figure 2

policy, which compliments the previous findings and supports the theory that this variable is more important for morality laws. Small business interest groups do not show any significance in 2000; however, in 2010 this changes. Their presence appears to negatively influence regulatory laws, suggesting possible concern their business interests would be affected by increased gay rights policy in economic-based areas. Regardless, the influence of public opinion remains much

larger. Furthermore, there is no significant influence from gay rights interest groups, providing additional support against the theory that interest groups will be more influential on gay rights regulatory policy.

Chapter 6

Conclusion

The findings do not fully support my initial hypotheses; however, they provide insight into the factors behind passing gay rights' legislation and intriguing patterns of these policies over time. It appears the morality policy versus regulatory policy theory is only partially correct. Public opinion is the best explanation for state morality policy enactment, but interest group activity does not have great influence over regulatory policies. Despite the small, negative impact small business groups have on regulatory policy, public opinion still seems to be the most important factor in passing all laws. Issue salience is also more significant in regard to morality policy, although this impact appears to be decreasing with time. Therefore, the predicted outcomes are supported for morality policy, public opinion, and issue salience, but not for regulatory policy and interest groups.

Since 1990, it is clear that gay rights legislation across states has become more prominent. Both types of policy have increased overall across states and by region. Although each policy type has increased, regulatory policies remain more common. When grouped by region, the Northeast has the highest level of legislation passed, whereas the South has enacted the least. The year states began passing legislation appears to be an indicator of total laws in 2013, with states that passed policy prior to 2000 ending up with a greater percentage of laws in both categories. It is suggested that more states passed regulatory policy before morality policy; however, there is not strong support for this argument.

This study contributes to the existing literature on gay rights legislation by reinforcing the importance of public opinion, testing morality theory, and expressing the overall increase in

policy. However, the research and analysis implemented may be improved upon. Disparity in the years for the data collected may have skewed results, since not every variable measure was used for every year. Additional measures for the public opinion and interest group variables also would have strengthened results. Finally, the introduction of more variables into the regression would have provided a more complete picture of all the potential factors influencing the passage of gay rights policy.

Numerous possibilities exist for future research on this topic, especially due to its current political prominence and potential for change. Due to the public opinion findings, additional research into its relationship with regulatory policies is intriguing. It is possible that gay rights policies all fall under the morality category, which would make the morality versus regulatory policy theory inapplicable. In order to come to a better understanding of all gay rights legislation, a study over time including negative gay rights policy as part of the dependent variable is crucial to determining significant political factors on both sides of the conflict. Finally, the current shifts occurring in state gay rights legislation make it worthy of continued study. In 2014 alone, five state gay marriage bans were ruled unconstitutional by federal judges. This demonstrates the changing nature of legislation within the states, which prompts further research as new developments occur.

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ACADEMIC VITA

Kimberly Foerster
Klf5276@psu.edu

EDUCATION	The Pennsylvania State University, Schreyer Honors College University Park, PA Bachelor of Arts in Political Science, expected May 2014 University of Amsterdam, Pre-Law Certificate Program Spring 2013 Amsterdam, Netherlands
WORK EXPERIENCE	Clerical and Research Assistant Summer 2009-Present Weisel, Xides, and Foerster, L.L.P. Pittsburgh, PA <ul style="list-style-type: none">•Organize and manage client documents•Communicate with clients via telephone and mail•Perform legal research for cases using LexisNexis and Findlaw Teller Services Representative May 2012-Present First Commonwealth Bank Pittsburgh, PA <ul style="list-style-type: none">•Resolve client service issues and/or refer clients to appropriate staff•Service clients' banking needs by processing a variety of banking transactions
ACTIVITIES	VP of Finance December 2011-2012 Alpha Chi Omega Sorority, Beta Mu Chapter University Park, PA <ul style="list-style-type: none">•Managed chapter budget by allocating funds and tracking expenditures•Strategized to improve the chapter's future financial endeavors Research Assistant September 2011-December 2012 Department of Political Science, The Pennsylvania State University University Park, PA <ul style="list-style-type: none">•Research and collect data on de facto states•Create a data set of the information with the supervisor
HONORS	Dean's List, Member of Pi Sigma Alpha
SKILLS	Proficiency in Microsoft Word, Powerpoint; Findlaw and LexisNexis
ASSOCIATION MEMBERSHIPS	Member, Paterno Fellows Program; Member, Alpha Chi Omega Sorority; Fundraiser, Penn State Dance Marathon; Volunteer, Special Olympics 5K