A POLICY-DRIVEN THEORY OF STATE INSTITUTIONAL OPINION LEADERSHIP:

THE CASE OF GAY RIGHTS IN THE AMERICAN STATES

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A POLICY-DRIVEN THEORY OF STATE INSTITUTIONAL OPINION

LEADERSHIP: THE CASE OF GAY RIGHTS IN THE AMERICAN STATES

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This dissertation explores the comparative ability of states – via state judiciaries, state legislatures, and direct democracy – to lead mass public opinion on homosexuality through the adoption of gay rights policies. I consider four potential attitudinal consequences from public policy – legitimation (policy and opinion move in the same direction), backlash (policy and opinion move in opposite directions), polarization (policy splits opinion), and no relationship (policy has no influence on opinion) – proposing that state courts are better suited to lead homosexuality attitudes than state legislatures. I further hypothesize that a number of state characteristics condition the relationship between public policy and public opinion.

My results show that the mere existence of policy, regardless of its source, changes how citizens feel regarding homosexuality. Specific to state institutions, my results indicate that state legislatures lead public opinion, direct democracy does not lead public opinion, and the results with respect to courts are inconclusive, requiring more research before determining their opinion leadership power. In most cases analyzed herein, policy induces public opinion regarding homosexuality to move in the same direction as the policy adoption, serving to legitimize public opinion. This legitimation consequence of policy is a tremendous revelation not noted in the state politics literature heretofore. Citizens may not even need to be aware of a policy's existence; rather, through repeated exposure to the policy and its direct (e.g., banishing discrimination against gay and lesbian citizens) and indirect effects (e.g., gays and lesbians more

willing to "come out" due to greater legal protections), citizen feelings become more positive toward homosexuality.

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PREFACE

It's now been over 12 years since I first set foot on Clemson University's campus as an optimistic, anxious, and terrified freshman. At that point, I was a young and naïve girl from the City of Pittsburgh who'd had an interesting and often tumultuous upbringing. I was the first from my dad's side of the family to attend college and the first on either side of my family to leave the comfortable sanctuary of our beloved hometown for academic pursuit. I had no idea what to expect; the truth is that I didn't know many people who went to college. At some point that first year, I met a political science major. I remember thinking that he seemed *so smart* and that I needed to take a political science course so that I could have "intelligent conversations" about politics with friends and family. It was this desire that brought me to Laura Olson, my teacher, my role model, and now, my friend. I had no idea what I wanted to do with my life but I knew I wanted to be like Dr. Olson. I am forever indebted to her for her guidance and encouragement.

After many classes and conversations with Laura, I became a political science major and ended up at the University of Pittsburgh thanks in part to her support of me.   Since arriving at Pitt in the fall of 2005, I've been incredibly fortunate to meet amazing scholars who have become friends. I'd like to thank the Department of Political Science at the University of Pittsburgh for the ongoing support of me and my academic endeavours. I would like to thank

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At numerous points over the years, the dissertation seemed so big and I felt so inadequate. I'd like to thank the following people for providing support in a variety of ways including revising my chapters, listening to me vent, and providing emotional support: Kathleen Morouse, Jeff Morouse, Aaron Abbarno, Galina Zapryanova, LJ Zigerell, Caitlin Dwyer Jewitt, Heather Elko McKibben, Logan Dancey, Heather Frederick, Dave Kershaw, Amy Erica Smith, and Traci Nelson.

Finally, I would like to thank my person and my love, Chris W. Bonneau. You believed in me when I didn't believe in myself, constantly reminding me to keep my eye on the prize and look for the light at the end of the tunnel, no matter how faint it appears. Through it all, you have been my constant source of strength, peace, and happiness. Thank you for helping me through the good days, the bad days, and all the ones in between.

1.0   INTRODUCTION

President Dwight Eisenhower routinely cautioned against changing "people's hearts merely by laws" (Parmet 1998, 510) when talking about the possible effects of integration on the political attitudes of racists. While this may be true in the strictest sense, government can, however, legislate the conditions under which attitudes exist. Changing the political environment in which attitudes are formed, maintained, and altered can have long lasting impacts on political attitudes. The mere exposure theory, rooted in social psychology, argues that individuals are influenced by the world around them – both explicitly and implicitly – and develop a preference for the stimuli to which they have been repeatedly exposed. Simply by living and working in their communities, citizens are repeatedly exposed to policies and, therefore, the priorities and preferences of their state government, a mechanism through which the government can lead public opinion.

Political science research indicates that some institutions of government may be better suited to lead public opinion than others (Hoekstra 1995; Gibson, Caldeira, and Spence 2003; Bartels and Mutz 2009). Scholarship on the institutional opinion leadership ability of the federal institutions finds that the Supreme Court can lead public opinion (Baas and Thomas 1984; Hoekstra 1995; Gibson, Caldeira, and Spence 2003) and Congress may be able to lead public opinion (Bartels and Mutz 2009). For example, Bartels and Mutz (2009) find that the Supreme Court's ability to lead mass opinion is "potent" and "based on multiple processes of persuasive

influence" (249). Specifically, they find that the Supreme Court can move public opinion "regardless of people's sophistication levels, levels of issue relevant thinking, or the presence of issue relevant arguments" (259). Bartels and Mutz (2009) further find that Congress can lead the public opinion of the less sophisticated segment of society by inducing them to think of arguments that support Congress' position. The authors note that while Congress' ability to lead public opinion is conditional, the relationship is "surprisingly more potent" than previously believed (249). While most scholars find that Congress is a poor institutional leader (e.g., Hoekstra 1995), Bartels and Mutz find support for Congress' persuasive ability.

Existing studies of institutional persuasion focus almost solely on the United States Supreme Court (e.g., Baas and Thomas 1984; Hoekstra and Segal 1996; Mondak 1990), with very little existing work on the other federal institutions (e.g., Bartels and Mutz 2009; Hoekstra 1995) and no existing work on state institutions. That is, few studies – with the exception of Bartels and Mutz (2009) – have explicitly considered the comparative persuasive capacity of different political institutions, either nationally or sub-nationally. Although most of the scholarship on institutional opinion leadership has focused on the Supreme Court (Brickman and Peterson 2006; Clawson, Kegler, and Waltenburg 2001; Hoekstra 2003; Stoutenborough, Haider-Markel, and Allen 2006; Hoekstra and Segal 1996), there is no reason to assume that the highest court in the United States is the only institution capable of moving the public, especially in light of Bartels and Mutz's (2009) finding that Congress is able to move public opinion. If Congress and the Supreme Court are able to shift public opinion toward their positions, it is possible that state institutions may be better suited to move their residents since most policy that affects the day-to-day lives of Americans is adopted at the state and local level.

How do states lead public opinion? Is each institution of government equally capable of leading opinion? This dissertation attempts to answer these questions by exploring the capacity of state institutions to lead public opinion on the specific issue of gay rights. Since states often serve as laboratories for testing different policies, studying opinion leadership in the states can help scholars determine if, when, and how elites are able to shift public opinion. The topic of gay rights is an optimal case study for researching the policy-opinion linkage because gay rights are considered one of, if not the most, visible policy areas for the public (Mooney and Lee 1995). Since issues of gay rights are so visible, it is widely assumed that politicians must directly follow their constituency opinion when crafting gay rights legislation (Mooney and Schuldt 2008). If institutional adoption of policies can shift mass opinion on gay rights, then institutions might be able to lead mass opinion in other less visible policy areas as well.

Public opinion on gay rights has changed dramatically since 1980. Additionally, state gay rights policies have proliferated in recent years,[1] with some state institutions taking decidedly positive positions, other state institutions taking distinctly negative positions, and yet other states taking no position whatsoever. The variance in policy positions and opinions on gay rights issues is another reason why gay rights is an optimal policy area for researching the comparative capacity of political institutions to lead public opinion.

The rest of this introductory chapter is devoted to setting the foundation for the dissertation by detailing the extant scholarship regarding the basic relationship between public opinion and public policy. In presenting this scholarship, three models of the relationship between opinion and policy are outlined – (1) policy follows opinion, (2) policy leads opinion, and (3) policy and opinion simultaneously influence one another. Since the assumption that

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[1] In 1973, only one state (Maryland) had a gay-specific policy regarding the definition of marriage. As of 2013, every state currently has at least one gay-specific policy regarding a wide range of topics including discrimination protection, hate crime protection, adoption by gay couples, and marriage definitions.

policy should respond to constituent demand is the bedrock of representative democracy, most research has focused on the first and third models of relationship. Much less research has focused on the reverse relationship – policy leads opinion. It is my goal to speak to this second model of the relationship between policy and opinion, and my research demonstrates support for the impact of state policy on opinion.

1.1 MODELS OF PUBLIC POLICY-PUBLIC OPINION LINKAGE

Scholars have long been interested in the relationship between public opinion and policy outputs. Three models of the nature of the relationship exist: (1) a majoritarian model in which public opinion influences the adoption of congruent policies, (2) a legitimacy model in which public policy moves public opinion to be congruent with the policy, allowing institutions to serve as opinion leaders and (3) a reciprocal model in which public opinion and public policy influence one another throughout the course of time and institutions can serve as opinion leaders only some of the time. These three models of public opinion-public policy linkage vary widely in their assumptions about democracy and the ability of Americans to validly dictate the direction of policy as well as institutions' ability to lead public opinion.

1.1.1 Theory 1: Public Opinion Influences Policy Adoption

Miller and Stokes (1963) provide the foundation for the scholarly research on policy responsiveness and a whole body of research exists detailing that institutions and policy respond to the direction and intensity of public opinion at the national level (e.g., Stimson, Mackuen, and

Erikson 1995). Many state politics scholars have affirmed the national-level finding that linkages exist between opinion and policy. For instance, Wright, Erikson, and McIver (1987) find evidence that state ideology is reflected in the general policy liberalism of states. Further, Hill and Leighley (1992) demonstrate a link between public opinion and the overall policy outputs of state legislatures such that the more liberal the public, the more liberal the policy adopted by the legislature. Focusing on policy-specific public opinion on the adoption of gay rights policies in the states, Lax and Phillips (2009) find a high degree of policy responsiveness to public opinion on a range of eight different gay rights policies. That is, opinion about gay marriage influenced the adoption of gay marriage policies.

All of the above studies assume that the United States is a responsive democracy. In a responsive democracy, public opinion should have a positive influence on policy change. That is, public opinion and policy should move in the same direction, ideally with policy responding to demands from the public. While not requiring an exact one-to-one relationship between public opinion and policy, there should be consistency between public opinion and public policy within a range that the public finds acceptable (Sharp 1999). Public opinion, therefore, "serves as a key constraint on governmental action, rather than a causal agent for governing outcomes" (Sharp 1999, 21), with elections serving as the chief connection between the masses and the elites (e.g., Mayhew 1974; Fiorina 1981; Miller and Stokes 1963).

The presence of elections can lead to electoral turnover or political expediency. Electoral turnover occurs when elites deviate from what the majority of the public demands. Voters recognize that their representative is not heeding their demands and votes him or her out of office in favor of someone who will vote in line with their own preferences. Political expediency (or responsiveness) occurs when elected officials learn of changes in public opinion and then match

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their policy positions to their constituents' positions – that is, they pander to public opinion. Both electoral turnover and political expediency help to explain the basic relationship between public opinion and policy (Erikson, MacKuen, and Stimson 2002) when assuming that the ultimate goal of policy is accurate representation of constituencies.

1.1.2   Theory 2: Public Policies Influence Public Opinion

Beginning with Edmund Burke and continued by political science scholars (e.g., Lippman 1922; Zaller 1992; Dye 2001), some have argued that public opinion responds to broad elite cues, allowing politicians and institutions to act as opinion leaders. Elite opinion leadership rests upon the assumption that elites are better able to produce an outcome that benefits society at-large (Dye 2001). Democracy, with its focus on majority rule, can sometimes block out minority viewpoints and so elites step in to protect certain segments of the population.

Jacobs and Shapiro (2000), among others (e.g., Stimson 1991; Zaller 1992), find that public opinion responds to policy through the media and political elites' transmission of the rhetoric and discourse surrounding the policy at hand. Zaller (1992) states that elites can in fact lead mass opinion of the moderately politically aware, but only if the elites are polarized on the issue. Further, scholars have found evidence that newspaper and television exposure influences opinions at both the individual (Bartels 1993; Mutz and Martin 2001) and aggregate levels (MacKuen, Erikson, and Stimson 1992). While the public may not know policy specifics, it is informed enough to comprehend the direction and scope of the change – particularly if the policy at hand involves a politically visible issue (Page and Shapiro 1992; Erikson, Wright, and McIver 2006) – and update their attitudes accordingly.

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Additionally, public opinion responds to policy changes as citizens personally experience the effects of those policy changes. In their long-term study of the relationship between policy and opinion, Page and Shapiro (1983) acknowledge that policy may have affected opinion in almost half of their cases. Dye (2001) argues that public policy in the United States does not result from the will of the people but rather elite consensus. In essence, Dye argues that policy originates from the top and trickles down to the masses. He further argues that elites play the role of opinion leader, telling the masses how to feel about policies. Dye, therefore, maintains that the arrow runs from policy to mass opinion formation or more specifically from elites to media to government officials and the mass public.

A whole body of literature on issue evolution revolves around the basic assumption that elites lead the social-centered opinions of citizens. Pioneered by Carmines and Stimson (1990), the central tenet of the issue evolution framework is that an issue can only be "evolved" if elite opinion first crystallizes and then polarizes on an issue. Then, the masses follow the elites, sorting themselves out based on the issue. Carmines and Stimson (1990) determine that civil rights and race opinions epitomize issue evolution: elites formed opinions, took positions and made policy. Then, the masses followed the elite cues and, on the whole, their attitudes warmed toward African-Americans. Further, Adams (1997) finds that abortion represents another area of issue evolution, with masses following elites – especially the courts. Additionally, Lindaman and Haider-Markel (2002) analyze several culture wars issues to determine whether any of the specific topics under the gay rights umbrella fit the issue evolution framework. Looking at the relationship between policy-specific opinion and policy adoption, they determine that while elites have polarized on policy issues, the masses have not wholly followed suit just yet. In a clear rebuttal of Lindaman and Haider-Markel (2002), Egan and Persily (2009) find that while

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pro-gay court decisions initially led to slightly more hostile public opinion regarding homosexuality and gay rights issues, a legitimizing effect emerged in 2005 and public opinion has grown increasingly favorable toward gays and their civil rights. Egan and Persily (2009) also observe that the citizens in states where pro-gay rulings have been decided have more positive opinions about gay marriage than citizens in states where anti-gay decisions have been handed down. Furthermore, citizens in states whose courts have not decided gay issues have less favorable opinions about gay marriage, on average, by about 10% than citizens in states with either a pro-gay or anti-gay court ruling.

1.1.3 Theory 3: Reciprocal Relationship

Another set of scholars suggests that a dynamic relationship likely exists between policy and public opinion (e.g., Stimson, MacKuen, and Erikson 1995; Wlezien 1995; Soroka and Wlezien 2005) such that public opinion and public policy influence each other. Johnson, Brace, and Arceneaux (2005) argue that a reciprocal relationship exists between policy and opinion such that individual opinions on the environment are influenced by the environmental conditions in which the respondent lives, while those opinions are also responsive to policy outputs and the respondents' perception of improved environmental conditions. Further, Pacheco (2009) analyzes the relationship between attitudes and education and welfare spending, finding that state attitudes towards education spending are positively related to per pupil spending in the short run and state attitudes towards welfare spending are positively related to AFDC benefits in both the short- and long-run. She concludes that, "public opinion and policy exhibit a significant reactive relationship over time at the sub-national level" (22). Additionally, Norrander (2000) cites the existence of an historical chain model of capital punishment policies such that "past opinion and

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past policy in some way shape current opinion and current policy" (777). Using a path dependency model, she finds a "causal chain of interrelationships between opinion and policy" (786) such that opinion has an effect on policy in the short term but that prior policies affect opinion in the long run, indicating a reciprocal relationship that is constantly in flux.

Specific to gay rights policies, Brewer (2008, 4) seeks to explain "how the politics of gay rights has shaped public opinion and how public opinion has shaped the politics of gay rights" in the book *Value War: Public Opinion and the Politics of Gay Rights*. He argues that during the period of 1990-2006 the public debate over gay rights by elites – policymakers, mass media, religious authorities, and interest group leaders – led public opinion on homosexuality and gay rights by supplying so-called "opinion recipe" frames (Kinder and Sanders 1996) to the mass public. These frames give the public recommendations for how a topic should be understood which, in turn, the masses use when evaluating questions of homosexuality and gay rights. In this way, he argues elites lead mass opinion on gay rights. Moreover, Brewer argues that once public opinion shifted to the left on (in support of) gay rights, elites were then forced to alter their message in order to comply more closely with what the public demanded. In this way, the politics of gay rights simultaneously shaped public opinion and was shaped by public opinion.

1.1.4 Limitations of Existing Literature

Scholars have long been interested in the relationship between public policy and public opinion, largely with an eye toward explaining the extent to which the relationship embodies the ideals of representative democracy. While valuable information was gleaned from all of the studies discussed in the previous sections, they suffer from several shortcomings that severely limit the conclusions to be drawn from them. The first drawback is that these studies on the public policy-

public opinion linkage overlook the fact that policy specialists target institutions based on the expected policy outcome (policy adopted or defeated). Policy can be initiated in multiple state institutional venues – the legislature, the judiciary, or with interest groups and the electorate through the ballot initiative process – and each of these venues could have significant consequences for their impact on public opinion.

Second, with the exception of Lax and Phillips (2009; 2012) and Pacheco (2009), these studies cannot, and do not, make causal claims about the relationship between public policy and public opinion due to methodological restrictions. Their overwhelming reliance on cross-sectional data, which includes only one data point for every respondent in a single year or a short time series, does not allow for conclusive evidence regarding the nature of the relationship between public opinion and public policy. In order to draw such conclusions, researchers need to have multiple data points for each respondent at different periods of time, often spanning many years so as to pick up any meaningful change in opinion and the corresponding change in policy. Instead, many of these studies assume that the causal arrow runs from public opinion to public policy because of their reliance on the responsive democracy and representation literature. While Lax and Phillips (2009, 2012) and Pacheco (2009) are the exception in that they use advanced methodological techniques such as hierarchical linear modeling and detailed analyses of variance to draw their causal claims, neither explicitly test for reverse causation.

The third shortcoming of the existing literature is that many of the studies mentioned above analyze data at the national level while the debate over most of these policies is waged at the state level. Especially in the area of gay rights, most policies originate in (and vary by) states. The recent U.S. Supreme Court case invalidating the Defense of Marriage Act (DOMA) illustrates this: while the federal law was struck down, the Court did nothing to invalidate

decisions by individual states regarding same-sex marriage. State that limited marriage to a man and a woman still have their policies in place, despite the face that a national policy was invalidated. This error in analysis may mask any changes that occurred sub-nationally, particularly when dealing with institutional opinion leadership. We know that Congress and the Supreme Court are capable of leading opinion at the federal level. State institutions may be better able to lead opinion because the bulk of policy affecting the day-to-day lives of Americans are made at the state level and citizens are constantly exposed to the policies. Citizen exposure to state policies is continual and therefore, the impact of policy on opinion may prove large.

This dissertation represents a step forward in the political science literature because it accounts for policy origination points, uses multilevel modeling to more accurately reflect how policies are made in the U.S., and explores the public opinion-public policy linkage at the proper level of government – the state.

1.2   GAY RIGHTS AND STATE POLITICS

In this dissertation, I test my policy-driven theory of institutional opinion leading using the case of gay rights. The case of gay rights is worthy of examination for a number of reasons. First, gay rights policies vary widely across states and regions. While states in the American South tend to have zero policies in place to protect gay citizens, states in New England tend to have many policies in place that protect gay citizens. For example, Alabama, Florida, and Virginia do not have any policies protecting gay citizens from discrimination, or recognizing any variety of gay family (either through a marital union or adoption). At the other end of the spectrum, Vermont, Massachusetts, and Connecticut protect gay citizens from hate crimes and

discrimination, allow gay families to adopt, and same-sex couples to marry.[2] Clearly, there is great variation among the 50 states, which still exists despite recent court rulings.

Second, while the bulk of state-level policies originate in the state legislature, gay rights policies can, and often do, originate with a number of state-level institutions: either from a case that rises through the state court system, from the public through a ballot initiative process, or from the state legislature through traditional policymaking. The most traditional route for policies is through the policymaking body within states, the legislature. Typically consisting of an upper and lower chamber, the policy must first be introduced into one of the chambers, voted on and passed by a majority in both chambers, then be presented and signed by the state executive, the governor. A second route for gay rights policy adoption is through the state judiciary. Citizens may bring disputes to the court system. Some of these cases are appealed all the way to the state court of last resort, depending on the importance of the issue under consideration, and it is at this highest state court where gay rights policy is frequently "made." For example, gay marriage was first established in the United States through the court system when the Supreme Judicial Court of Massachusetts ruled in the 2003 *Goodridge v. Department of Health* case that the state may not deny the protections, benefits and obligations conferred by civil marriage to two individuals of the same sex who wish to marry.

The third point-of-origin for many gay rights policies is from the public through the ballot initiative process of direct democracy. A ballot initiative is the proposal of either a new law or constitutional amendment that is placed on the electoral ballot and put to a vote by the people of that state. Ballot initiatives and referendums are utilized by 27 states. Each initiative item reaches the ballot by a petition signed by a specified number of citizens as dictated by each

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[2] See Table 4.1 for more explicit detail on state-level gay rights policies.

individual state's constitution. The voters in ballot initiatives and referendums are not typically representative of the public as a whole.

It is through these varieties of policy venues that states serve as policy laboratories, testing out different policies on the same topic, oftentimes from different institutions. The influence of the policy origination point and state institutions' ability to lead opinion is the focus of this dissertation.

1.3   SCHOLARLY CONTRIBUTION

This research is situated among multiple literatures: mass politics, policy studies, and state politics. Regarding mass politics, my dissertation adds a public policy dimension to the sources of attitude change. Antecedents to attitude change are largely believed to originate from social and demographic factors, such as familial income level and education levels, but my results show that state political context also has an important influence on citizens' homosexuality attitudes.

Regarding policy studies, my dissertation shows that it is important to take the policy point of origin and its differing impact on attitudes into account. That is, it is important to note whether a policy originates from the state legislature, state judiciary, or the ballot initiative process, as each of these origins has differing implications for attitude formation and leadership ability. Additionally, I show that policy has very clear consequences for attitudes and public opinion. Many policy analyses have focused on different types of policy and the cultural consequences of those policies. For example, it is universally understood that certain policies are meant to curb crime, increase the welfare of society, and regulate economic conditions.

However, much less scholarship has focused on a secondary impact of policy: an attitudinal outcome of policy, which is one of the goals of this dissertation.

Regarding state politics, this research advocates a sub-national approach to analyzing the policy-opinion relationship when policy varies at the state-level. Since policies about gay rights, abortion, the death penalty, and education, for example, are determined at the state level, research focusing on public opinion surrounding these policies and their target groups in society should also be studied at the state level. Furthermore, due to their centrality to American democracy, the relationship between public policy and public opinion has been intensely debated and studied in American political science research. This dissertation's contribution is the examination of state political structures and, specifically, the various routes by which public policy is adopted within the states.

1.4   PLAN OF THE DISSERTATION

The rest of my dissertation proceeds as follows. The second chapter details the gay rights movement in the United States, the evolution of public opinion toward the gay community and their rights, and the existing explanations for the positive trajectory of public opinion. Chapter 3 fully details my theory of policy-driven state institutional opinion leadership that state-level policymaking influences the way in which citizens of the several states evaluate both homosexuality and gay rights. Chapter 4 describes my research design and chapter 5 empirically evaluates the hypotheses laid out in Chapter 3. Chapter 6 outlines conclusions to be drawn from the dissertation and suggestions for future avenues of research.

The results suggest that the mere existence of policy, regardless of its source, changes how citizens feel regarding homosexuality. In most cases analyzed herein, policy induces public opinion regarding homosexuality to move in the same direction as the policy adoption, serving as a legitimizing agent. This legitimation means that states can, in fact, change what is in the hearts of their citizens.

2.0   THE GAY RIGHTS MOVEMENT AND PUBLIC OPINION

Gays and lesbians have long contributed to American politics as individuals. Unlike other minority groups, they have never been legally denied the right to vote, to run for elective office, or to hold political office – a relative egalitarianism not extended to blacks and women in the United States and other minority groups around the world. This egalitarianism is largely due to the fact that the gay and lesbian community is an invisible minority that cannot be distinguished with the naked eye, unlike females and African Americans, whose minority status is usually obvious.

Then, roughly forty years ago, gays and lesbians began to mobilize as a political *group*, resulting in an explosion of political participation by, and on behalf of, gays over the last several decades. This development has resulted in a remarkable change in the American political landscape with some states embracing the gay rights movement and others shunning it. Several states, such as many of those in New England, have advanced civil rights for gay citizens by passing a variety of anti-discrimination policies, while other states have heavily resisted embedding civil rights for gay citizens within the fabric of the legal protections of the state, including many states found in the American South.

Parsing out the relationship between public opinion and public policy is a key component of evaluating the nature of representation, tolerance, and democracy in America. In examining this relationship, I use the case of gay rights. As detailed in the last chapter, the case of gay

rights is both unique and important for a number of reasons: issues of homosexuality and gay rights are typically thought of as emotionally charged visible public issues, gay rights policies vary widely across states and regions and public opinion on gay rights has changed dramatically in recent decades. While the bulk of state-level policies originate in the state legislature, gay rights policies can, and often do, originate with a number of state-level institutions – the state court system, the ballot initiative process, or from the state legislature through traditional policymaking. This chapter provides detailed background information on the history of the gay rights movement and the reactions of the public to that movement.

2.1   HISTORY OF THE GAY RIGHTS MOVEMENT

In ancient times, overwhelming evidence indicates that a wide variety of cultures—including that of Greece, Rome, Asia, and Native America—accepted homosexual behavior as part of the normal range of human activity (Aldrich 2006). The anti-gay sentiment prevalent in the modern Western world has its roots in the Levitican laws of Judaism and it was not until the fifth century that the Catholic Church began to establish doctrine that deemed all non-procreative sexual acts, including homosexual sex, as heretical and sinful (Bull and Gallagher 1996). By the late medieval period, 'sodomites' – as gays became known – had become the targets of widespread, organized persecution. As Western Christian influence spread, so did the persecution of gays, into Africa, Asia, and ultimately to the Americas (Bull and Gallagher 1996).

The world's first gay rights organization, the Scientific Humanitarian Committee, was founded in Berlin, Germany in 1897. Shortly thereafter, however, thousands of gay men died or were murdered in Nazi concentration camps during the Nazi reign in Germany (Aldrich 2006).

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Prior to this point in time, few gays were willing to publicly fight for gay rights, but after the atrocities committed in Nazi Germany, gays all over the world mobilized, and multiple gay rights groups came into existence across the Western World, including in Great Britain, France, Germany, and the United States (Aldrich 2006).

The active social movements of the 1960s around the globe, such as the anti-Vietnam war movement in the United States, the May 1968 insurrection in France which brought the French economy to a standstill, and the Women's Liberation Movement throughout the Western world, inspired some gay activists to become confrontational. The defining moment for the start of the wholesale gay rights movement in the United States was a three-day riot in New York City during June of 1969. After years of being harassed and incarcerated for being openly homosexual, gay patrons at a gay bar in Greenwich Village resisted the authority of the New York Police Department. This event, known as the Stonewall Inn riot, proved to be a catalyst for organizational efforts of gay and lesbian people across the country and the world, most of whom kept in line with the left-wing counter culture of the 1960s (Marcus 2002).

The 1970s were dominated by a radical movement of protest for "gay liberation," with gay and lesbian leaders abruptly demanding equal rights and equal protection for all homosexuals. Although these demands were not fully achieved, 1973 proved to be a defining moment in the gay political movement when the American Psychiatric Association's Board of Trustees voted to remove homosexuality as a mental disorder from the *Diagnostic and Statistical Manual of Mental Disorders* (Smith and Haider-Markel 2002). Zaller (1992) claims this was a critical moment in American history since the change in elite discourse regarding homosexuality caused a change in media discourse that eventually served to change public views of homosexuality. Zaller shows that most American media stories regarding homosexuality prior to

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1973 (rare as they were) framed it as deviant and unusual. After 1973, however, elites and media became more sympathetic to the plight of the gay and lesbian population – a sympathy that Zaller argues trickled down from polarized elites, through the media, to the general public. Gays and lesbians were making headway in their plight for equal rights and freedoms during the 1970s.

The gay rights movement of the 1980s was defined by the emergence of a perplexing and fatal disease afflicting many gay men in Los Angeles, New York, and San Francisco. This disease—later to become known as AIDS—first hit the pages of mainstream media in June 1981. As word spread of the rapid transmission of AIDS among gay men and as the number of deaths from the illness drastically increased, the gay rights movement redirected its energies from civil rights to AIDS awareness and prevention programs. Once the fight for AIDS became institutionalized in the latter part of the 1980s, federal funds were devoted to AIDS research, separate foundations were created for AIDS awareness and prevention, and new life-saving drugs were discovered. The gay community then turned its attention back to the broader issues of equal rights and protection (Marcus 2002). Gay Americans, however, were dealt a blow by the Supreme Court when, in 1986, the Court ruled that anti-sodomy laws in the states were constitutional. For the gay community, the brightest spot of the 1980s came in 1989 when Denmark became the first nation to legalize civil unions, providing Danish same-sex couples with most of the legal and fiscal rights granted to married couples.

The 1990s ushered in a decade of prominence for the gay and lesbian community. In 1992, Democratic candidates for the presidency of the United States made gay rights a theme in the campaign (Marcus 2002). The eventual winner, Bill Clinton, pledged to lift the ban on gays and lesbians in the military. Although falling short of the ultimate goal, Democratic President

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Clinton reached a compromise with congressional Republicans that became known as "Don't Ask, Don't Tell." This policy, while allowing for gays and lesbians to serve in the military, forced them to remain silent regarding their homosexuality (Don't Tell) or else be discharged from service. Additionally, superiors could not discuss or investigate military member's sexual orientation, without first witnessing disallowed behaviors (Don't Ask).[3] While the adoption of "Don't Ask, Don't Tell" was neither a step forward nor a step back for the gay rights movement, gay persons once again made headway during the latter portion of the decade and into the 2000s when many states decriminalized homosexuality, equalized ages of consent for hetero- and homosexual young adults, and adopted laws protecting gays from discrimination on the job, in the housing market, and in life in general through hate crime legislation.

In the 1990s, issues of discrimination protection and gays in the military took a backseat to more controversial issues revolving around the meaning of family. In 1993, Hawaii's state supreme court ruled that the state had failed to prove a compelling interest for banning same-sex marriage.[4] Three years later, in 1996, Congress passed the Defense of Marriage Act, defining marriage under federal law as a union between one man and one woman and declaring that no state needs to recognize a marriage performed in another state.[5] Three years after the passage of the Defense of Marriage Act, in 1999, Vermont became the first state to legally recognize civil unions between same-sex couples.

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[3] "Don't Ask, Don't Tell" was the United States military's official position on gays in the military from 1993 until 2011, when it was repealed.

[4] While the supreme court ruled Hawaii's policy discriminatory, they demanded further review at the lower court level. After a long-fought legal battle and the Hawaii voters' adoption of a constitutional ban on gay marriage, same-sex marriages were never granted in the state. See *Baehr v. Lewin*: 74 Haw. 645, 852 P.2d 44 (1993) and *Baehr v. Miike*, 20371, Supreme Court of Hawaii (1999).

[5] Part of this law was struck down by the U.S. Supreme Court in 2013 in the *Windsor v. US* case. The Court held that the federal government could not refuse to recognize same-sex marriages validly granted in the states that allow for them, but the Court did not rule on the section regarding whether states that refuse to recognize gay marriage have to recognize gay marriages that occur in other states. For example, if a gay couple that legally wed in Vermont moved to Texas, Texas would not have to recognize that marriage. However, if the couple stayed in Vermont, the federal government would have to recognize the marriage as legally valid.

2003 was a watershed year for the gay rights movement. First, the Supreme Court struck down all sodomy laws across the country in the case of *Lawrence v. Texas*, overruling a 1986 decision (*Bowers v. Hardwick*) legitimizing these laws. This Supreme Court decision legalized and decriminalized homosexual intimacy, protecting it as personal freedom and privacy. Then, three months later, the Massachusetts Supreme Judicial Court legalized gay marriage, giving same-sex couples in Massachusetts exactly the same rights as opposite-sex couples. These two events set off a fire-storm across the country, with battles over the status of homosexuality and gay couples on the floor of the Senate, the ballot boxes of various states, and over the airwaves of the media (Chauncey 2004). The decade following the watershed year of 2003 has witnessed several successes for the gay and lesbian community. For instance, six states plus the District of Columbia have legalized gay marriage. Several other states have allowed for civil unions and/or domestic partnerships, giving gay couples most of the same rights and benefits as straight couples. Much like the rest of the history of the gay rights movement, successes have been met with setbacks over the past decade with 31 states adopting constitutional amendments that ban marriage between two members of the same sex, but the variation in the level of protection of gays and lesbians across the states is tremendous. In some states, gays and lesbians enjoy greater protection under the law now than at any other point in history.[6]

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[6] See *Gay Life and Culture: A World History* by Robert Aldrich for a more precise timeline of the gay rights movement.

2.2 PUBLIC OPINION AND ATTITUDES TOWARD HOMOSEXUALITY AND GAY RIGHTS

Early empirical studies of individual attitudes toward the gay community used public opinion polling data to assess the political tolerance of gays and lesbians in society and perceptions regarding the morality of homosexuality. As such, a large body of literature exists in identifying predictors of homonegative attitudes. The most commonly cited correlates to antigay attitudes include the belief that homosexuality is something a person can control (Haider-Markel and Joslyn 2008), not having contact with gay persons (Herek and Glunt 1993), gender (Herek 1988; Kite 1984), age (Herek 1988; Kite 1984), sexual conservatism (Ficarrotto 1990), authoritarianism (Greendlinger 1985), discrimination and prejudice toward other groups (Ficarrotto 1990), and religiosity (Johnson, Brems, and Alford-Keating 1997).

While these are the most likely correlates of anti-gay attitudes, a general trend exists showing that, over time, American attitudes have become more favorable toward homosexuality and the gay population. Indeed, data from the General Social Survey (GSS) shows that disapproval of homosexuality has moderated significantly over the past two decades: there has been a steady and dramatic drop in the number of Americans indicating that sex between two members of the same sex is always wrong, falling from 72% in 1973 to roughly 50% in 2008, a remarkable 22% decrease. Further, this dramatic decline in disapproval has been coupled with greater numbers of Americans indicating an increased willingness to grant gays equal or similar rights on a number of issues (Wald and Calhoun-Brown 2007). Many states have, in fact, enacted policies that protect individual rights for gays and lesbians. Trends in public opinion toward both homosexuality and specific gay rights are outlined below.

2.2.1 Attitudes toward Homosexuality

As the gay rights movement gained steam and gay rights issues became visible to the American public, public opinion regarding homosexuality and gay rights issues crystallized. Much like attitudes about women's liberation and race relations, Americans' stance on rights for gay men and lesbians have, on average, grown more positive over the course of the last half-century (Yang 1999). Figure 2.1 displays average responses to the feeling thermometer question included on the American National Election Study since 1984: "How would you rate (0-100) gays and lesbians, that is, homosexuals?" The average feeling thermometer score for gays and lesbians has increased by 20 points, rising from 30 in 1984 to 52 in 2012. Interestingly, the biggest jump occurred during the 1990s when federal government passed policies that were not gay friendly (Don't Ask, Don't Tell; Defense of Marriage Act), but when states began recognizing civil unions and the U.S. Supreme Court protected gay rights in *Romer v. Evans*. In fact, as shown in Figure 2.2, the uptick in feeling thermometer ratings of the gay community represents the largest change of all groups queried in the ANES since 1988, including Jews, blacks, Hispanics, welfare recipients, and feminists. While the uptick has been quite large in terms of gross positive change, gays are still rated lower than all other groups in the survey, even ranking below welfare recipients, though the gap is narrower now.
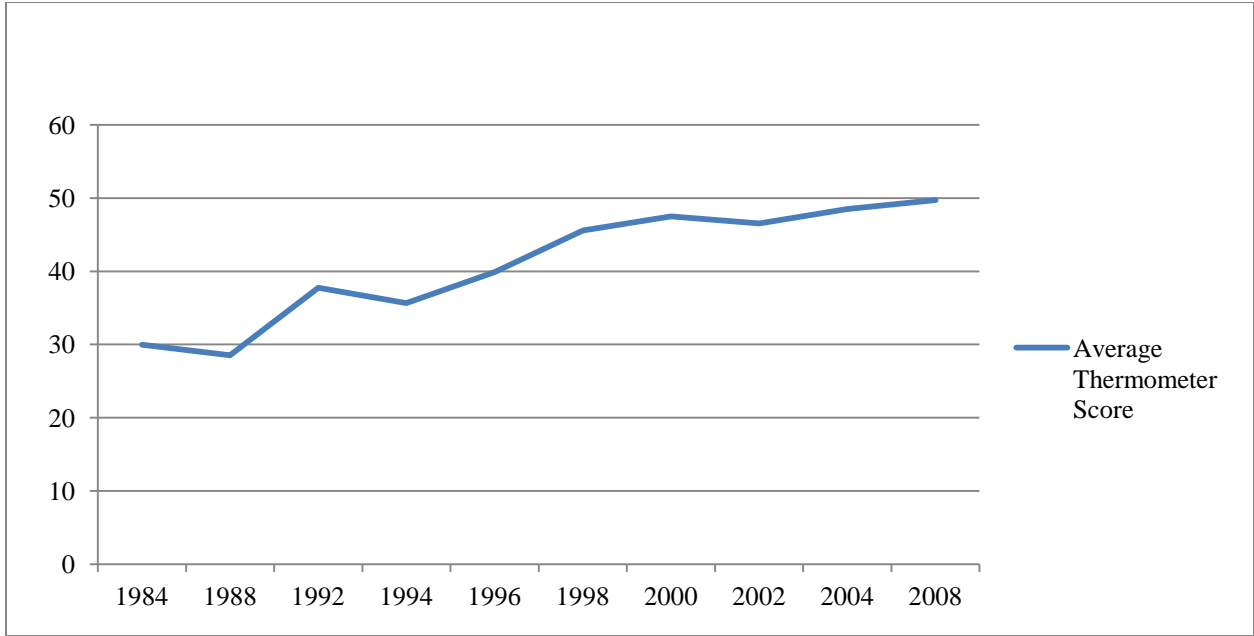
Figure 2.1: Average ANES Gay Feeling Thermometer Score, by Year
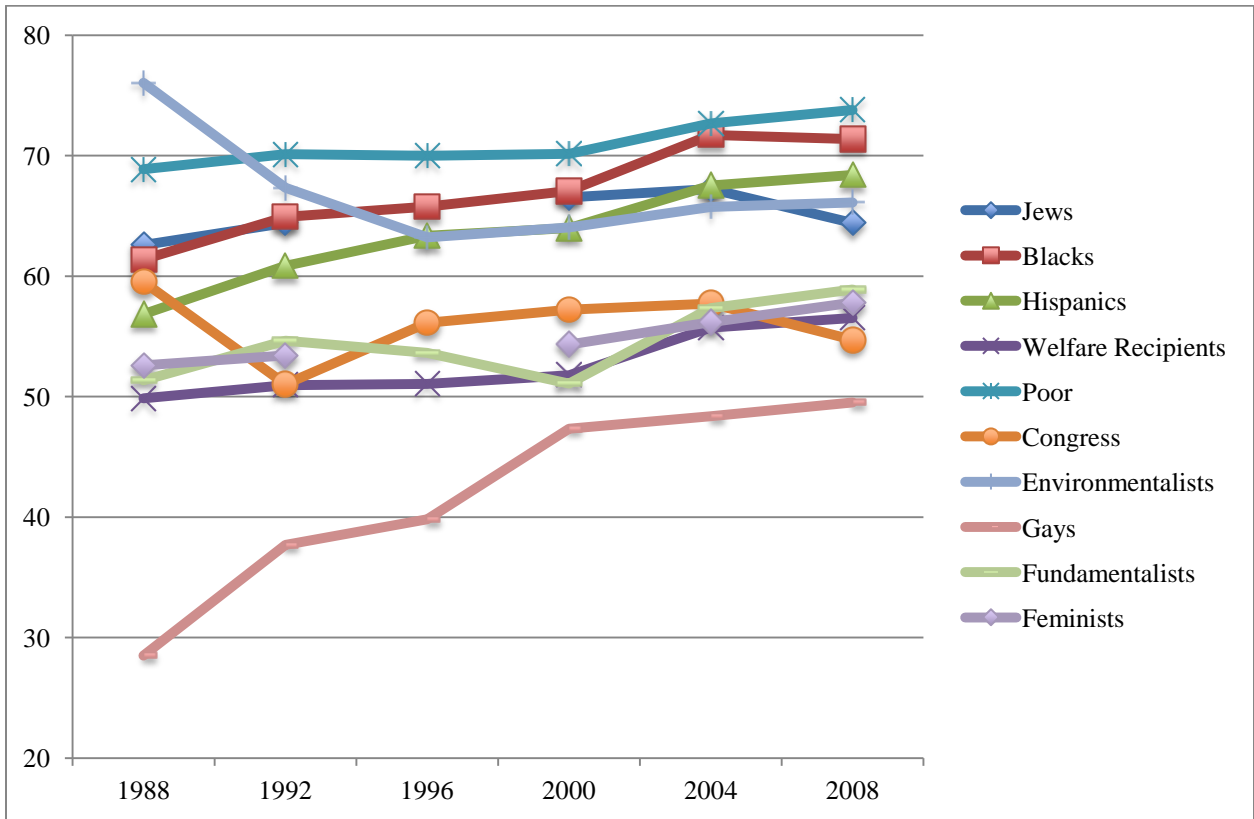
Figure 2.2: Average Feeling Thermometer Group Scores, 1988-2008

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Figure 2.3 displays more detailed information regarding the feeling thermometer for gays. The number of people rating gays very coldly (0-10) has steadily declined since 1984, from 37% to only 12% in 2008. Further, the number of people rating gays warmly, that is, above 50, has steadily increased from only 12% in 1984 to 36% in 2008. These changes represent positive changes in favorability of gays and lesbians of nearly 25 percentage points. While the majority of respondents still rate gays coolly (50 and under), the modal category shifted from strong dislike (0-10 rating) to relatively neutral (41-50 rating) in 1996. Additionally, roughly the same percent of respondents rate gays above and below this modal category, showing a decidedly more moderate feeling toward the group than in the recent past.
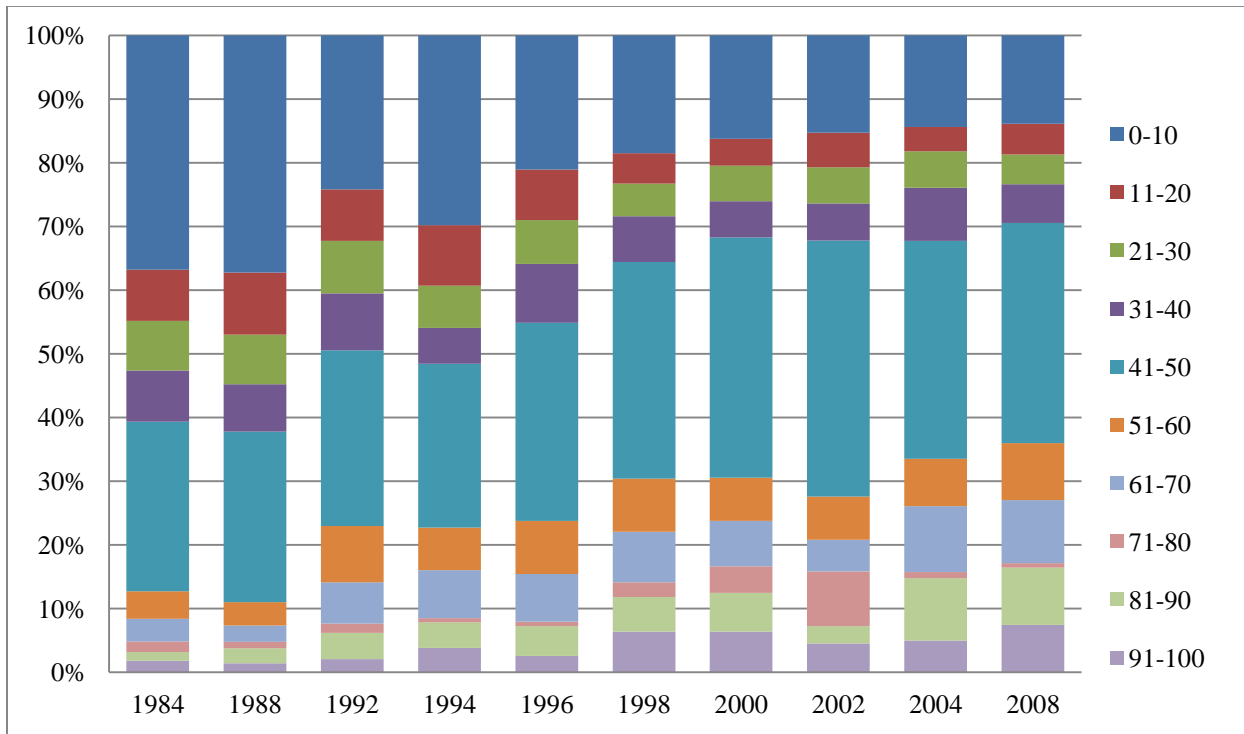
Figure 2.3: History of ANES Gay Feeling Thermometer Responses, by Deciles

Figure 2.4 displays responses to the following question, first asked on the General Social Survey in 1973: "What about sexual relations between two adults of the same sex – do you think it is always wrong, almost always wrong, sometimes wrong, or not wrong at all?"[7] As the figure shows, the percentage of American indicating that homosexual conduct is always wrong decreased from 72% to 52% – a 20-point change.   Further, the percentage of Americans indicating homosexual conduct is not wrong at all increased from 10% to 38% – a 28 percent change. These trends in approval of homosexual conduct indicate that while Americans still do not fully condone homosexual conduct, attitudes have been steadily moderating since at least 1991.
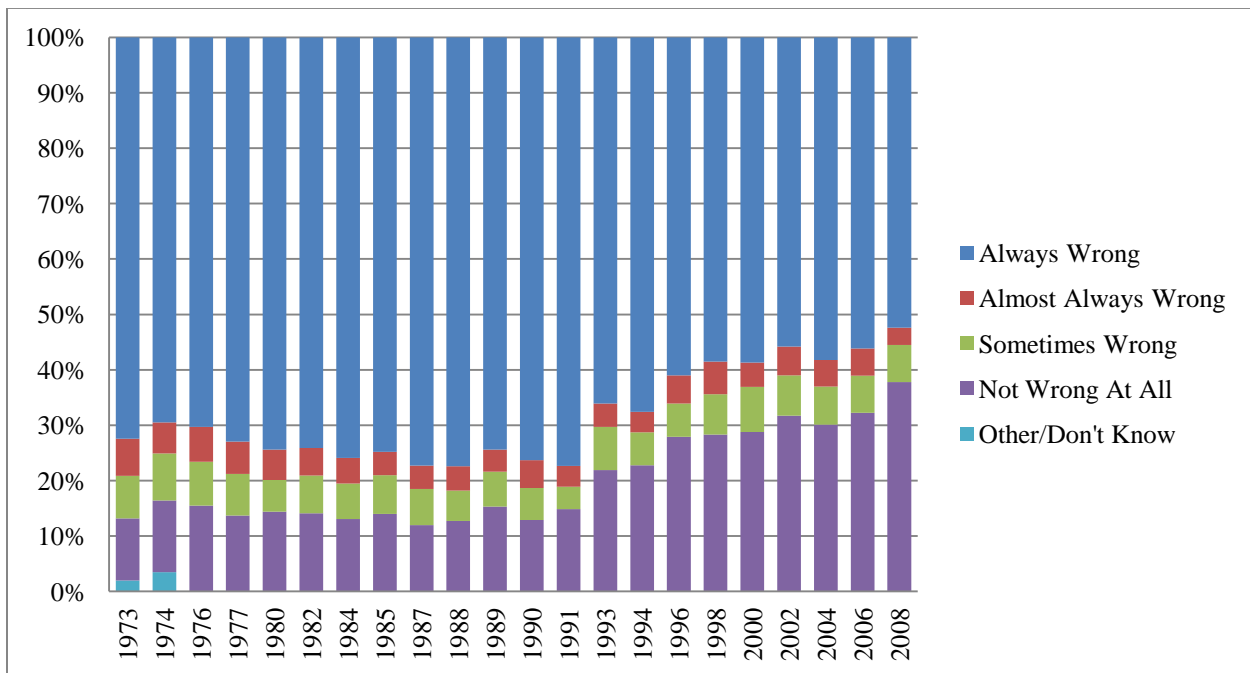
Figure 2.4: GSS Homosexual Conduct Responses, by Year

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[7] 'Don't know' or 'other' was an option only in 1973 and 1974.

2.2.2 Attitudes toward Specific Gay Rights

While early empirical studies focused on the morality of homosexuality, when the gay political movement began to mobilize in the 1970s, researchers began to focus on attitudes toward civil rights for gays and lesbians. Regarding specific political issues, the clearest area of public support for lesbian and gay rights is on the issues of discrimination protection in employment and housing. As early as 1978, polls reported two-to-one support for the view that homosexuals should be guaranteed equal treatment under the law in both jobs and housing. Indeed, it is apparent that the most dramatic liberalization of American attitudes occurred in the area of these basic civil rights protections (Avery, Chase, Johansson, Litvak, Montero, and Wydra 2007). Figure 2.5 displays responses from the ANES' question regarding discrimination protection for gays and lesbians. At least 50% of Americans have supported laws protecting gays from discrimination since the question was first asked in 1988. This number rose to 70% in the most recent version of available ANES data. Figure 2.5 shows that the number of Americans who strongly favor laws to protect gays from discrimination more than doubled from 23% in 1988 to 52% in 2008.
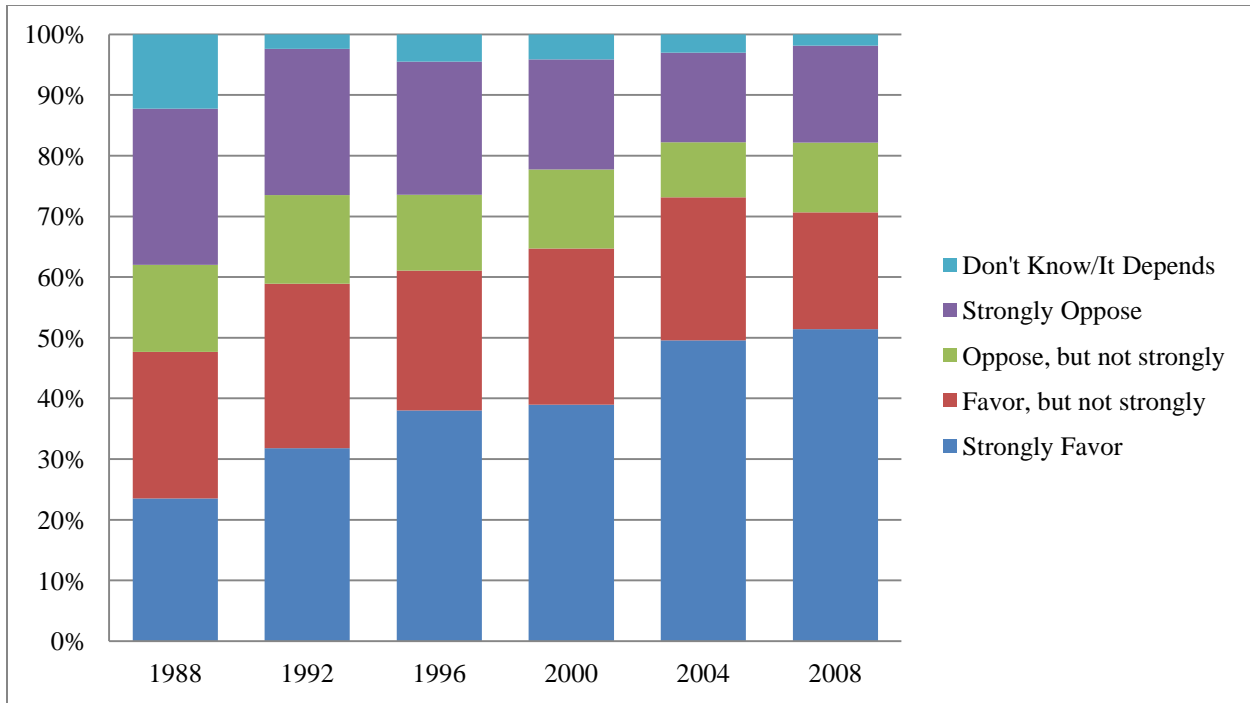
Figure 2.5: Support for Laws to Protect Homosexuals Against Discrimination

Another policy area where Americans have been historically supportive of gay rights is on the issue of gays in the military. Figure 2.6 displays responses to the question "Should gays be able to serve openly in the military?" meaning allowing "out" gay men and women to serve in the military. Since 1992, when the question was first asked by the ANES, a majority of Americans have believed that gays should be allowed to openly serve in the military. Furthermore, the number of people feeling strongly that gays should be permitted to openly serve in the military has increased by 35%, from 30% to 65%. In 2010, Congress passed a bill clearing the way to repeal the controversial "Don't Ask, Don't Tell" policy. On September 20, 2011, it was officially repealed and the military began to accept openly gay citizens into its ranks. Gay members of the military can no longer be punished for choosing to reveal their homosexuality.
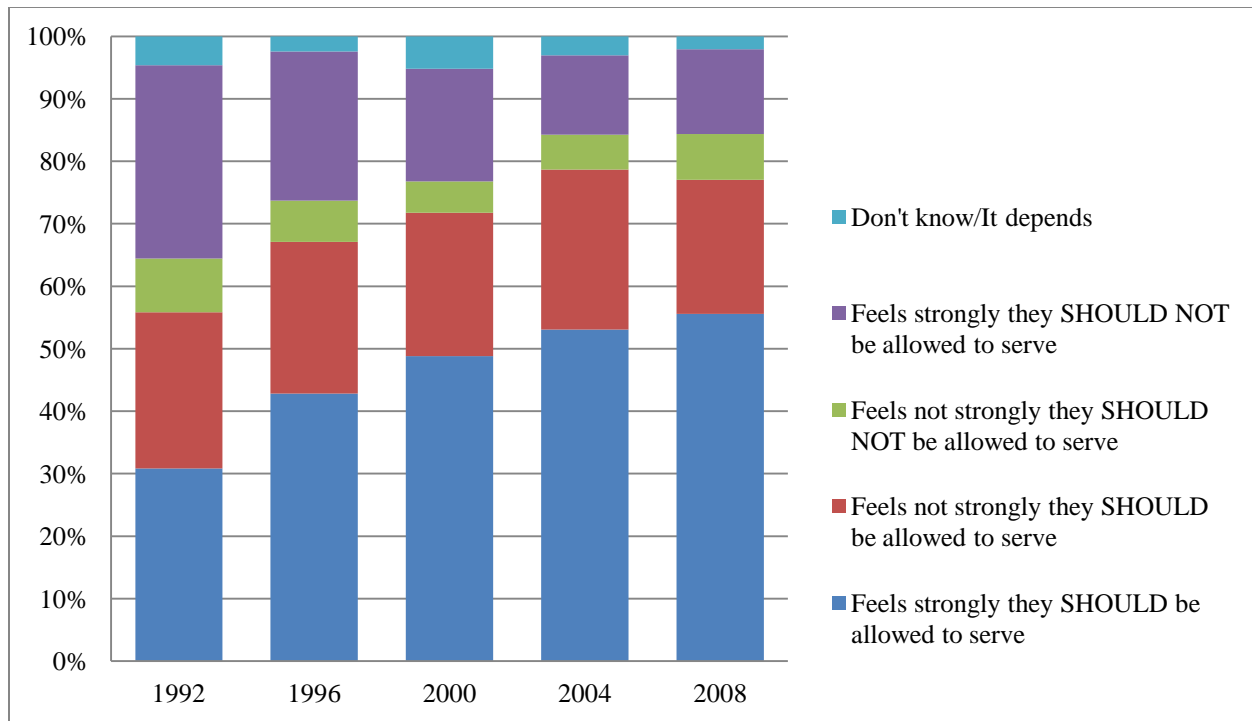
Figure 2.6: Support for Gays Serving Openly in the Military

The most controversial topics with respect to the gay community are issues revolving around family: gay marriage and gay adoption. As Figure 2.7 shows, for much of the last two decades, a full two-thirds of Americans believed that marriage between same-sex couples was/is wrong and that homosexual couples should not have the same rights as heterosexual couples (Walen 1997; Newport 1999). Over the past decade, however, support for civil unions and gay marriage has been on the upswing. In a recent Gallup poll (May 2011), a majority of Americans – for the first time – indicated that gay marriage should be valid, with the same rights and privileges as traditional marriage (Newport 2011). Note that the biggest jumps are between 1996-1999 (when Vermont recognized civil unions and the Supreme Court decided *Romer*) and 2009-2001, when several states legalized gay marriage.
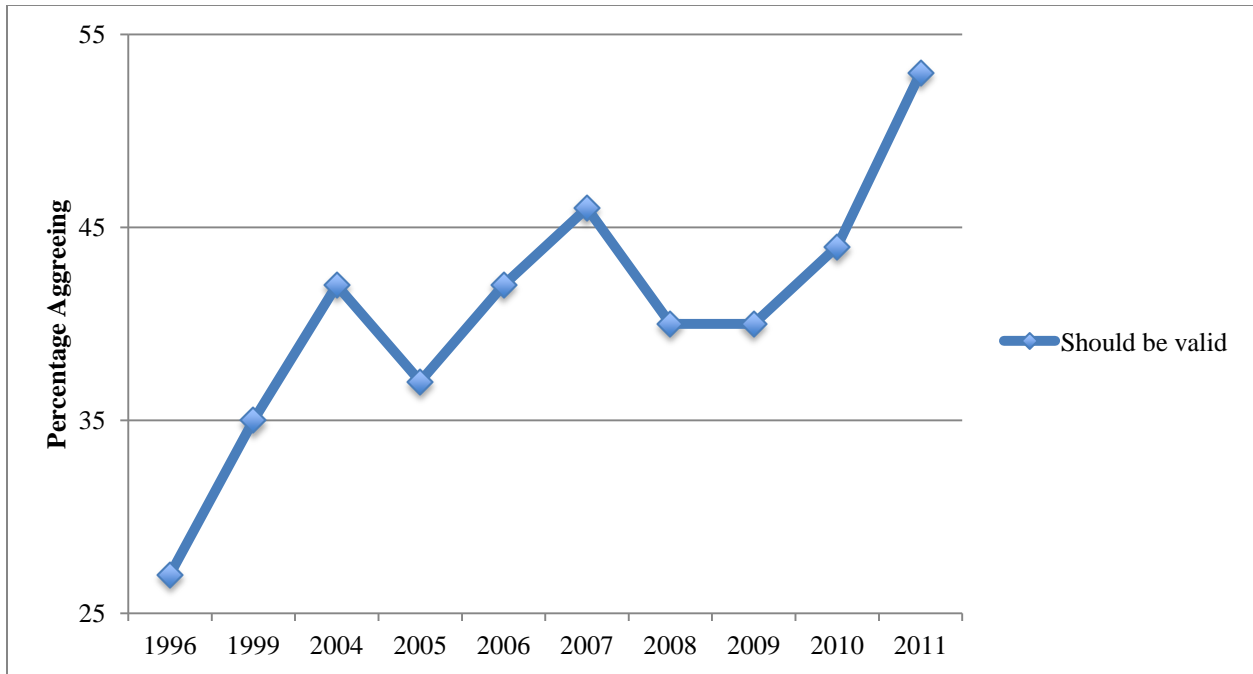
Figure 2.7: Support for the Validity of Same-sex Marriages

Much less visible in the public debate over gay rights is the issue of adoption by gay individuals and couples. Figure 2.8 displays responses to the ANES question regarding whether gays should be able to adopt children: "Do you think gay or lesbian couples, in other words, homosexual couples, should be legally permitted to adopt children?" While the question has several drawbacks – it was first asked only in 1992 and is quite ambiguous – some trends can be seen. The percentage of Americans who oppose adoption by gays has decreased by 20% over sixteen years, from 70% to 50%. Further, the number of Americans who think gays should be able to adopt doubled in number from 25 to 50% in 2008. In its last iteration, the number of Americans indicating that gays should be able to adopt became roughly equal to the number of Americans indicating that gays should not be able to adopt.
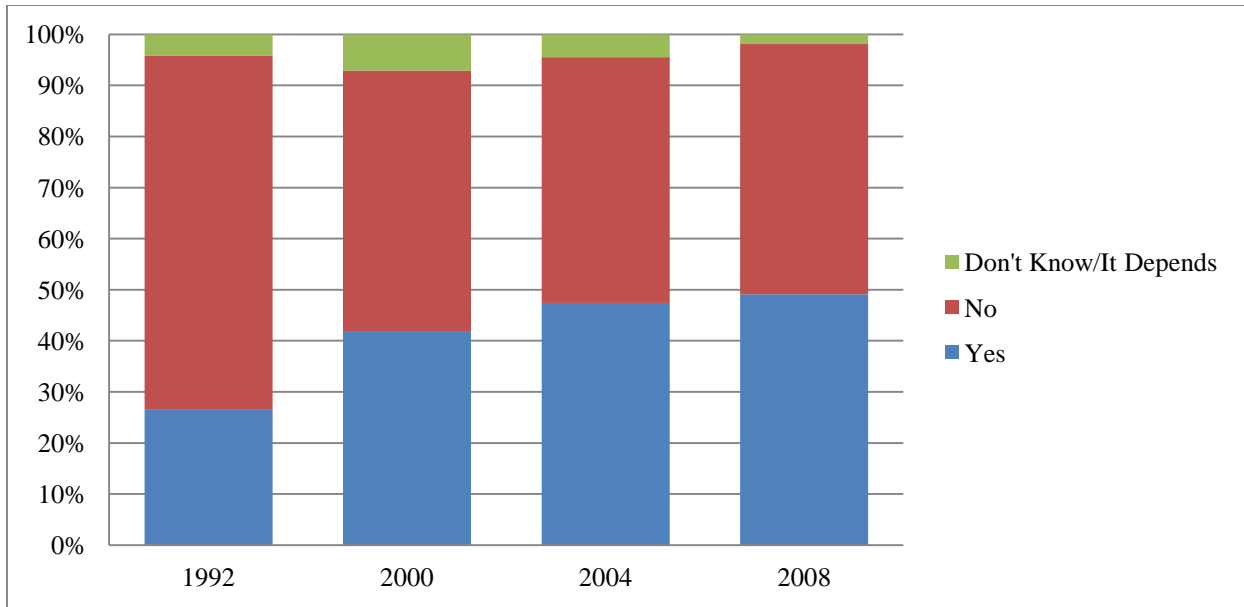
Figure 2.8: Support for Adoption by Same-sex Couples

While gays have made great strides in public opinion on the issues of a number of basic civil rights, the public is still deeply divided on the more controversial issues surrounding the family. But, in general, gays are seen in a far more positive light today than twenty or even ten years ago.

2.2.3   Explanations for Change in Gay Rights Attitudes

What has caused the liberalization of public opinion toward gays and gay rights issues? A number of explanations have been set forth as the reason for the attitude change associated with gays and lesbians. First, homosexuality was removed from the American Psychiatric Association's (APA) *Diagnostic and Statistical Manual of Mental Disorders* (DSM-II, 7th printing) in 1974. The weight of empirical data derived from research being conducted at the time indicated that homosexuality was not a disease or a mental disorder. These developments

led the APA's Board of Directors' to remove homosexuality as a mental disorder from the *Manual* (Bayer 1987).

Second, more and more gay and lesbian Americans have been "coming out of the closet," leading most Americans to realize that they know at least one person who identifies as gay or lesbian. While the exact size of the gay population in America is hard to establish due to a number of reasons, the best estimates indicate that between 5 and 15% of the American population identifies as gay, lesbian, or transgendered (Sax 2010). Studies have consistently shown that having personal contact with a gay or lesbian individual attenuates disapproval of the homosexual lifestyle (e.g., Herek and Glunt 1993; Herek and Capitanio 1999).

Third, the media have changed their portrayal and treatment of gays. News coverage of gays in the 1980s and into the 1990s was dominated by stories about AIDS and the Religious Right's opposition to homosexuality. Now, however, news coverage of the gay community has become more favorable, with the media focusing on concerns of the gay community (including bullying, which has figured heavily into media's attention over the past year) and positive aspects of the gay rights movement. Additionally, gay characters have been appearing on television with increased frequency over the past few decades. In 1972, the first recurring gay character, Peter Panama, appeared on ABC's sitcom *The Corner Bar*. The first gay couple on television, known simply as George and Gordon, appeared on ABC's *Hot l Baltimore* in 1975. The first sitcom centering around an openly-gay character was ABC's *Ellen* and it ran for five seasons in the 1990s[8] and featured lesbian comedienne Ellen DeGeneres, who later found success in daytime talk television. *Will & Grace*, *Queer as Folk*, and *Queer Eye for the Straight Guy* were all popular television shows during the late-1990s, early-2000s and some of the most

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[8] The "coming out" or "puppy episode" aired in the 4th season of the show's run and created much controversy, prompting ABC to run a parental advisory warning before every episode.

popular current shows such as *Modern Family* and *Glee* prominently feature gay characters. Also, many real-life public figures have also "come out of the closet," such as Barney Frank and Ken Mehlman (political figures), Elton John (musician), and Martina Navratilova (athlete). This increase in the appearance of openly-gay characters and real-life gays and lesbians has given the American public more pseudo-contact with gays and lesbians and has contributed to increased favorable attitudes toward gays and lesbians.

Additionally, three sociodemographic factors are linked to the increase in support for the gay community: education level, age, and religious tendencies. First, the educational attainment of Americans has increased over the past twenty years (U.S. Census Bureau 2004). Educational attainment has been consistently related to higher levels of tolerance of minority groups (Ohlander, Batalovab, and Treas 2005). Those who are more educated also come in contact with more diverse populations, are exposed to more diverse ideas, and are generally more open to new experiences. Second, older generations are being replaced by younger generations, who are more likely to support the homosexual lifestyle and extending rights to the gay community (Herek and Capitanio 1999). Therefore, it is certainly possible that the increasing educational attainment and generational replacement of the American public are contributing to the more liberal attitudes regarding the morality of homosexuality. Third, the religious makeup of the country is shifting dramatically. The number of Americans who identify as secular has increased throughout the 1990s and 2000s (Hansen 2011). This increase is most likely underestimated, because during the same time period, more and more religious identifiers were simultaneously noting that they were attending religious services less often than their counterparts in earlier decades (Harms 2009). Since the most religiously devout are the most anti-gay (e.g., Olson,

Cadge, and Harrison 2006), the rise in secularism and decrease in religiosity has led to the moderation of negative attitudes regarding the gay community.

Lastly, change in the public discourse about gay rights has been set forth as the cause of the liberal trajectory of public opinion. Brewer (2008) argues that elite-level public debate over gay rights by policymakers, mass media, religious authorities, and interest group leaders steered public opinion on homosexuality and gay rights. Brewer further argues that once public opinion shifted on gay rights, elites were forced to alter their message in order to comply more closely with what the public demanded. In this way, the politics of gay rights simultaneously shaped public opinion and was shaped by public opinion.

2.3   CONCLUSION

In this chapter, I have discussed the history of gay rights in the United States. On a variety of issues and using a variety of measures, it is clear that support for homosexuals is on the rise and people are becoming more supportive of protections for gays and for gay rights. That said, a significant number of people still are not supportive of gay rights and are even openly hostile to them. Figure 2.2 is quite sobering, with people feeling "warmer" toward the poor, fundamentalists, welfare recipients, and even Congress than they feel toward gays. Despite this, the trend is clear: public opinion is shifting toward supporting more protections and more rights for homosexuals, especially among those under thirty.

While there are many explanations for the shift in public opinion, the most interesting aspect, from a state politics standpoint, is whether institutions may have influenced this shift. Are institutions simply following public opinion or are state opinion leaders able to shape the

public opinion in their state on this issue? The next chapter outlines my policy-driven theory of state institutional opinion leadership, and makes predictions about when and how institutions can influence the public opinion of state constituencies.

3.0   A POLICY-DRIVEN THEORY OF STATE INSTITUTIONAL OPINION

LEADERSHIP

On November 18, 2003, the Supreme Judicial Court of Massachusetts ruled 4-3 that the State of Massachusetts may not "deny the protections, benefits and obligations conferred by civil marriage to two individuals of the same sex who wish to marry."[9] This decision effectively legalized gay marriage within the state. At the time the decision was handed down, public opinion regarding the decision was mixed, with 50% of Massachusetts' citizens in favor of the ruling and 38% opposed to it (Phillips and Klein 2003). Regardless of the public's mixed feelings, on May 17, 2004, 180 days after the ruling, Republican Gov. Mitt Romney ordered the state to begin issuing marriage licenses to same-sex couples. The first same-sex marriage license was granted that very same morning.

In November of 2004 – the same year that same-sex marriages were first issued in Massachusetts – the citizens of Georgia voted overwhelmingly (76% of those voting) to amend the Georgia state constitution to restrict marriage to be between one man and one woman. Unsurprisingly, residents of Georgia at the time were squarely opposed to any recognition of same-sex relationships, with only 17% saying same-sex marriage should be legal and only 25% stating that gay couples should be allowed to form civil unions, but not marry (National Gay and Lesbian Task Force 2005). The citizens of thirteen other states passed similar ballot initiatives

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[9] *Goodridge v. Department of Public Health*, 798 N.E.2d 941 (Massachusetts, 2003)

during the 2004 election cycle[10] – a move often thought to be a backlash against the legalization of gay marriage in Massachusetts.

On April 13, 2005, the Connecticut State House passed a bill granting civil unions to gay and lesbian couples and on April 20, the Connecticut State Senate passed the same bill. Governor Jodi Rell – a moderate Republican – signed the civil union bill into law the same day it passed the Senate and the first civil unions in Connecticut were issued on October 1, 2005.[11] In a Quinnipiac poll released at this time, 56% of Connecticut residents supported civil unions, while 37% opposed civil unions. Additionally, Connecticut citizens opposed full gay marriage by a margin of 53-42.

While all three of the cases detailed above are similar in that they involve state-level policy regarding gay citizens, they are also very different on a number of dimensions. First, each of the three policies originated through different routes: the Massachusetts policy originated in the state court system, the Georgia policy originated with the people of Georgia, and the Connecticut policy originated in the state legislature. Second, each of the policies are, on a continuum from pro-gay to anti-gay, of different directions and strengths: the Massachusetts policy is very pro-gay; the Connecticut policy is pro-gay; and the Georgia policy is anti-gay. Third, public opinion toward homosexuality is variable across the three states. Citizens in Massachusetts and Connecticut are favorable toward gay rights issues, while citizens in Georgia generally hold unfavorable views on issues of gay rights. These three factors (policy origination variability, policy variability, and public opinion variability) provide an excellent opportunity to

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[10] The thirteen states are Arkansas, Georgia, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, North Dakota, Ohio, Oklahoma, Oregon, and Utah.
[11] On October 1, 2010, all existing civil unions were automatically transformed into marriages following the Connecticut state supreme court's 2008 ruling in *Kerrigan v. Commissioner of Public Health,* (957 A.2d 407) holding that denying same-sex couples the full rights, responsibilities, and name of marriage violated the Connecticut state constitution's equal protection clause.

analyze the linkage between public policy and public opinion in the American states and the comparative capacity of state institutions to lead mass opinion, the focus of this dissertation.

While the relationship between public opinion and public policy is interesting in and of itself, whether or not policy influences opinion or vice versa is only part of the story. Oftentimes, the most interesting aspect is not simply *whether* something happens, but rather when, why, and how it occurs. That is, the most intriguing aspect of the connection between public opinion and public policy is identifying the times when policy is able to induce a change in the American public.

Armed with the knowledge that elites in certain institutions are more or less favorable to their position and that certain institutions are in a better or worse position to influence public opinion in their interested policy area, policy specialists target the most beneficial institution of government to introduce their policy so as to obtain the optimal outcome for their policy (Baumgartner and Jones 1993). While we know that policy shopping occurs across institutional venues, prior to adoption, (Baumgartner and Jones 1993; Holyoke, Brown, and Henig 2012), we do not know the effect of those state institutions on the mass public. Are all venues equally able to influence the public, or do certain institutions have a greater capacity to lead the mass opinions of state citizens? My theory, detailed below, speaks to this question.

3.1   A POLICY-DRIVEN THEORY OF ELITE OPINION LEADING

The war over gay rights is primarily waged at the state level. The prolonged debate over gay rights in the states during the 20th and early 21st centuries has resulted in dramatic policy changes from state to state regarding protections for gays. While the federal government has made only

eight policy decisions regarding the gay community[12] – all in the late 20th and early 21st century – states have been debating gay rights for decades, often leading to dramatically different policy outcomes in different states.

Until 2003, anti-sodomy laws existed and were occasionally enforced in several of the American states, meaning that homosexual couples were not guaranteed sexual privacy in all of the 50 states. While these anti-sodomy laws were passed in order to criminalize homosexual conduct, the liberalization of sexuality in the 1960s led many states to reexamine and remove their anti-sodomy laws. In 1962, Illinois because the first state to repeal its anti-sodomy law. Between 1962 and 2003, 36 states repealed or overturned their anti-sodomy laws. With the Supreme Court's decision in *Lawrence v. Texas* (2003), anti-sodomy laws in the 14 remaining states were repealed and, by extension, homosexual couples' privacy rights became guaranteed by the Constitution. Furthermore, Massachusetts became the first state to legalize same-sex marriage in 2003.

In the years that followed, fourteen states and the District of Columbia joined Massachusetts in giving same-sex couples identical rights as heterosexual couples.[13] Additional states – including Oregon and New Jersey – recognize civil unions or domestic partnerships for

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[12] The first of these came in 1986 when the Supreme Court upheld the constitutionality of a Georgia state law banning sodomy. The second was in 1993 when the Clinton administration released a defense directive that ordered military applicants to not be asked about their sexual orientation. This became well-known as "Don't Ask, Don't Tell." In 1996, the Defense of Marriage Act took effect, which states that gay marriages granted in one state need not be recognized in another. The fourth also came in 1996 when the Supreme Court overturned an amendment to the Colorado state constitution that prevented any city or county in the state to include gays and lesbians as a protected class of citizens. The fifth federal decision came in 2001 when the Supreme Court declared that consensual sex between two members of the same sex is a legal act in *Lawrence v. Texas*. The sixth decision came in 2009 when President Obama signed the Matthew Sheppard Act into law, redefining hate crimes to include sexual orientation and gender identity. The seventh decision by the federal government came in 2010 when the federal government repealed "Don't Ask, Don't Tell." On June 26, 2013, the Supreme Court of the United States struck down the Defense of Marriage Act in *Windsor v. US* (2013), which gives same-sex couples the right to file federal taxes together and to receive benefits guaranteed by the federal government.

[13] Connecticut legalized same-sex marriage in 2008, Iowa and Vermont did so in 2009, New Hampshire, and the District of Columbia legalized it in 2010, New York legalized same-sex marriage in 2011, Maryland, Maine and Washington did so in 2012, Minnesota, Delaware, Rhode Island, and New Jersey legalized same-sex marriage in 2013, and, after a long court battle begun in 2008, California started grating same-sex marriages in 2013.

same-sex couples. However, at the other end of the spectrum, voters in 30 states have approved ballot initiatives to amend state constitutions to ban same-sex marriage, and other states have statutory bans. Additionally, while 33 states have recorded at least one policy protecting gay citizens from discrimination of some sort, 17 states currently have zero policies that protect their gay citizens from discrimination.

It is clear that states are the relevant unit of analysis when studying gay rights, but most studies of the public opinion-public policy linkage use national-level data to draw conclusions about the nature of the relationship.[14] For example, Brewer (2008) argues that elite-level public debate over gay rights steered public opinion on homosexuality and gay rights, testing his theory on the nation as a whole. With results pointing in the other direction, Stimson, Mackuen, and Erikson (1995) find that "policy responds dynamically to public opinion change" (543) and that the degree of policy responsiveness varies by federal institution. Neither study considers the role of state effects – a crucial omission.

States are the frontier of the gay rights movement, and the political environments of the states vary widely. This variation either facilitates or hampers the acquisition of valuable information for citizens. Debates over the proposals, adoption, or enforcement of new policies alter the political environment in which citizens live. By mere exposure to these policies, citizens become more inclined to support the policies and general ideologies espoused by their state government. The aptly titled "mere exposure" effect in social psychology (Zajonc 1968) details and quantifies the extent to which individuals are influenced by repeated exposure to a given stimuli, even when they are not consciously aware of the stimuli's existence (Monahan, Murphy, and Zajonc 2000; Bornstein, Leone and Galley 1987). In study after study, scholars find that individuals express greater affect for the stimuli to which they have been repeatedly

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[14] See chapter 2 for details.

exposed (Zajonc 1968; Bornstein and D'Agostino 1992; Monahan, Murphy, and Zajonc 2000; Whittlesea and Price 2001; Fang, Singh, and Ahluwalia 2007).

In the context of the present study, policies resulting from the gay rights movement have caused direct exposure to and experience with a policy relating to a specific group of citizens – gays and lesbians. This implies both a direct and indirect effect that can change attitudes toward homosexuality and gay rights. The direct effect relates to repeated exposure to the policy itself. The indirect effect relates to states that adopt progressive gay rights legislation. Once gay and lesbian citizens are protected by their state's policies, they are more likely to "come out" and live their lives in an open and public manner. This secondary effect of progressive policy is quite potent, as one of the leading causes of positive affect toward gays and lesbians, homosexuality, and gay rights policies is knowing at least one person who is gay or lesbian (Herek and Glunt 1993). Therefore, the mere exposure effect – both direct and indirect – helps to explain why there are clear differences in the attitudes of citizens in Massachusetts versus those in Mississippi toward both homosexuality and gay rights.

While the mere existence of and exposure to policies can be enough to change attitudes, certain state-level characteristics such as polarization of state legislatures, cohesion of state judiciary, tone of the policy debate, ease of placing a policy issue on the ballot for a popular vote, and, especially, the institutional origination point have consequences for attitude change (Hoekstra 1995; Bartels and Mutz 2009). Each of these environmental characteristics are both limited and influenced by organized interests including political parties. The two major parties in the United States have staked out polar opposite positions on gay rights. For as long as the Democratic Party has been associated with a liberal and progressive ideology, the Democrats have been associated with a more pro-gay agenda than Republicans. For example, Harvey Milk,

a Democrat on the San Francisco Board of Supervisors, was the first openly gay politician in the United States and President Obama championed a package of policies meant to protect the rights of gay and lesbian American citizens (Marcus 2002). As of 2012, the Democratic Party platform included language that is supportive of gay and lesbian citizens and families, noting that "gay rights are human rights" and thereby endorsing policies as wide-ranging as hate crime protection to hospital visitation to same-sex marriage (Democrats.org 2012). The 2012 Republican Party platform, however, takes the reverse position by noting that, "the union of one man and one woman must be upheld as the national standard" (gop.com 2012). As such, partisanship tempers the extent to which political context influences attitudes. If an individual's partisanship is strong, then that individual should be less receptive to the environmental context.

As detailed in the opening page of this chapter, gay rights policies are adopted via multiple origins. However, most existing studies on the relationship between public policies and public opinion have treated all policy adoptions as one and the same (e.g, Lindaman and Haider-Markel 2002; Lax and Phillips 2009) without differentiating between the multiple points of origin – state legislature, state judiciary, or direct democracy – and the ability of the policy from those institutions to lead public opinion. This is an important oversight because one size does not fit all when describing the procedure through which gay rights policies come to existence. Within states, policy is the outcome of a long process that can be initiated in the state legislature, state court system, or the electorate itself through the ballot initiative process. As detailed below, expectations regarding the policy-opinion relationship vary depending on the point of origin and lumping them all together in empirical analyses hinders the ability to draw conclusions reflective of the realities at play in state political environments.

3.1.1   State Legislature

Constitutionally, the legislative branch is given the duty of crafting and adopting policy. When policy comes from the legislature, the policy should closely match public opinion in the state. Since legislators must face voters at election time, legislators should be reticent to buck popular opinion regardless of their personal or political preferences. Recognizing that legislators are single-minded seekers of reelection (Mayhew 1974), legislators must devote a significant amount of time courting public opinion so as to be reelected. After all, if the legislator is not reelected, then the legislator is unable to pursue all other subservient goals such as good policymaking. Additionally, legislators are consistently rated below other members of government (Hibbing and Theiss-Morse 1995) and so they do not have much political capital to spend. Instead, the theory goes that they must obey the public will. That being said, Bartels and Mutz (2009) find that Congress can act as an opinion leader under some circumstances.

Moreover, polarization and voter awareness are key factors to consider when a gay rights policy is initiated in a state legislature. Per Zaller (1992), elites are capable of leading the opinion of moderately politically aware citizens when political elites are both unified and polarized. If political elites are unified on the issue at hand, their unity removes partisan cues as an available heuristic for the moderately aware, and since the moderately aware presumably do not know who is behind the policy, the unified policy position can further sway public opinion. If, on the other hand, political elites are polarized, they are only able to move the moderately aware toward their partisan positions because the most aware are motivated to retain their own position and the least aware are ignorant of elite positions on any policy. When political elites are polarized, they lead to polarization among the mass public. If the state legislature adopts a liberal gay rights policy, then moderately aware citizens of that state are expected to become

more liberal toward gay rights and homosexuality in general. Conversely, if the state legislature adopts a conservative gay rights policy, then moderately aware citizens of that state are expected to become more conservative toward gay rights and homosexuality in general. If citizens are not knowledgeable, though, they will exhibit no detectable change in their own position on gay rights. That is, the elite position has no bearing on the opinions of the least politically aware.

If the legislative elites are not unified and therefore polarized, then their ability to move mass opinion toward their collective position (which is split, but with one side prevailing) is essentially zero. Instead, due to the contentious public debate that results from fragmented elites, polarization occurs among both the most politically aware and the moderately aware. The very public and very contentious public debate leads politically aware citizens to be motivated to become more steadfast in their position as a result of either validation of their position (if the legislature passed a congruent policy) or repudiation of their position (if the legislature passed a noncongruent policy). Attitudinal polarization is the result.

3.1.2 State Judiciary

As traditionally understood, the policymaking process involves the legislature crafting policy and the executive signing the legislation into law. This traditional conceptualization downplays the importance of the judicial branch in the policymaking process, with the judiciary only making an appearance in the process if constitutionality is in question. However, there are many policy areas where the judiciary has played a large role in policymaking such as gay rights, education reform, and segregation (Rosenberg 2008). In the case of gay adoption, of the thirteen states that have legalized adoption by gay couples, all but one state's policy was initiated in the court system. Multiple scholars argue that there is evidence that American policy is "distinctly court-

centered" (Burke 2002, 171), and policy is often the outcome of litigation initiated by a representative of the public demanding action on a variety of social issues (Kagan 2001). Therefore, the relative insulation of the judicial branch provides an institutional venue that is not subject to the whims of the majority and can provide for large swaths of policy change for minority groups.

A policy originating from the state judiciary should have slightly different effects than policy originating in the state legislature. Courts are consistently rated as the most trusted institution of government (Hibbing and Theiss-Morse 1995). This trust gives them significantly more political capital when bucking public opinion. Furthermore, the public often assumes that courts are insulated from political pressure and the whims of public opinion. This is only partially true of the state level judiciary. While all federal judges are appointed to life-long terms, the vast majority of state judges are not. Instead, a variety of selection mechanisms are employed across the states in order to reach the state court of last resort, including partisan elections, nonpartisan elections, retention elections, and appointment processes. Regardless of the method of selection, state judges are subjected to reappointment or reelection in all but three states (Bonneau and Hall 2009).

If a policy is initiated in the judicial branch of state government rather than the legislative branch, a much different process occurs. When policy comes from state courts, public debate over the issues under the court's consideration has little influence on the decision making of the court. Compared to debate over a policy from the legislature, there is relatively little debate in the public spotlight; the court goes about its decisionmaking behind closed doors, free from political ads and lobbyists. Then, the court makes a ruling and the policy takes effect. While there may be some public debate once the court decides to, or is forced to, hear a case, the public

debate, as compared to traditional policymaking, is truncated and leads to a differential impact on the public. It is in this scenario that the public is most likely to follow elites due to two main reasons. The first is that the state party elites have less time to frame the debate for their members. With less direction from state-level party elites, the public must update on its own, often adjusting toward the institution's position rather than toward their party's position – especially if that institution is highly trusted by the public. The second reason that a policy from the judiciary is most likely to lead to changes among the public toward the institution's position is because the policy goes into effect either immediately or shortly after the decision is handed down. This forces citizens to personally experience the effects of the policy rather than the fear of some unknown effect of that policy.

Furthermore, evidence suggests that opinion regarding courts is steady, regardless of the composition of those serving on the court. Caldeira and Gibson (1992, 658), in reference to the Supreme Court, state "the mass public does not seem to condition its basic loyalty toward the Court as an institution upon the satisfaction of demands for particular policies or ideological positions." Gibson, Caldeira, and Baird (1998) further find that high courts gain legitimacy and benefits from the public for decisions that the public finds pleasing but courts do not get penalized for unpopular or displeasing decisions, even highly controversial decisions such as *Bush v. Gore* (2000) (Gibson, Caldeira, and Spence 2003).

Americans perceive judges to be politically neutral government officials tasked with interpreting the Constitution (Gibson 2012). Therefore, when public policy originates in the court system, an interesting paradox arises within the public's expectations. On the one hand, citizens may be more likely to accept decisions arising from the courts since their decisions are perceived to arise from a reading of the American Constitution. On the other hand, the public

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expectation that courts are neutral in political matters may cause the public to discount the policy altogether. This dismissal has two potential consequences: backlash or polarization. First, backlash refers to public opinion actually moving in the opposite direction as the court-established policy. The public is unhappy with the court's decision and therefore takes a competing position. Second, polarization refers to public opinion splitting over the issue. Some portion of the public moves with the court's position but another portion moves against the court's position, leading to a bimodal distribution of opinion on the issue. Therefore, there are multiple potential public opinion outcomes based on popularly-held views on the role of the court in the political system.

3.1.3 Direct Democracy

The final route that gay rights policy can take is adoption by the electorate itself through direct democracy. Direct democracy was first established in the United States in 1898 (Piott 1992). This democratic procedure allows citizens to directly influence policy without an intermediary such as the legislature or judiciary.

Policy created via direct democracy requires clearing at least two steps before becoming law: proposal and ratification. The specific processes for proposal (by institutions or citizens) and ratification (by citizens) look very different across the states. States vary dramatically in their direct democracy provisions and the level of participation allowed to its citizens. Issues decided through direct democracy have changed throughout American history, with social issues dominating during the New Deal era, civil liberties and civil rights during the 1950-60s, and tax and environmental issues in the 1970-80s. Most recently, the issues of public morality, campaign finance, and criminal rights have gained prominence through direct democracy (Hahn

and Kamieniecki 1987; Bibby and Holbrook 1999; Cann and Wilhelm 2011).

With regard to direct democracy, Cann and Wilhelm (2011) state that "the powers associated with citizen-oriented policy making are one side of the equation; citizen preferences and perceptions of policy need are the other" (1081). They imply that citizens will be moved to use direct democracy either when they prefer policies or when they perceive a particular need for them, given legislative inaction or hostility. Regardless of their reasons for placing a vote, it is important to note that direct democracy voters are not representative of the electorate or the nation as a whole: direct democracy voters tend to be more informed and more partisan than the American electorate due to the strong influence of interest groups and money in these ballot initiative contests (Dyck and Seabrook 2010).

Some states allow for easy access to the ballot (e.g., California) while others make the process an uphill battle (e.g., Pennsylvania). When policy comes from the ballot initiative process, the resultant policy should most closely resemble the desires of the people since the policy is influenced by the people at two separate points – first, when determining whether enough people find the issue worthy of reaching the ballot and, second, when voted on by people in the general election. Furthermore, the mere presence of the ballot initiative option within a state can change the extent to which state elites follow the will of the people. In states where ballot initiatives and referendums are utilized, elites are under more pressure to ensure that policies of all types – including highly visible morality policies – closely match what the citizens want (Mooney and Lee 1995). If not, the legitimacy of state-level governmental institutions are at risk, since citizens can make an end-run around the legislative process by utilizing direct democracy. Therefore, in states that employ ballot initiatives, elites should be less likely to buck popular (and often intolerant) opinion and popular opinion should reign supreme.

When policy comes from the legislature or a ballot referendum, there is significant debate leading up to the policy change itself. This gives elites ample time to debate and polarize on the issue in a very public way that the masses are likely to notice. This, in turn, leads to a polarizing effect on the masses. Regardless of the ease of admission to the ballot initiative process, the key component is whether or not the debate surrounding the issue is polarized. If not, then there is no detectable change among individuals because, absent any information from elites or the media, they will vote their own preferences. If, however, the debate is polarized, citizens will become even more committed to their prior beliefs.

3.2   HYPOTHESES

In light of both the mere exposure theory and Bartels and Mutz's (2009) research finding that both Congress and the Supreme Court can be mass opinion leaders, there is no reason to confine studies on institutional persuasion to the judiciary. Below, I borrow from the judicial politics literature on courts and public opinion – specifically, the works of Persily, Egan, and Wallsten (2008) – to develop four potential outcomes regarding the ability of state institutions to lead public opinion; legitimation, backlash, polarization, and no effect. After discussing each potential outcome, I then hypothesize about the institutional circumstances under which I expect each one.

3.2.1   Legitimation Hypothesis

The first potential outcome is known in the judicial literature as the legitimation hypothesis: public opinion will align itself with the institutional position (Persily, Egan, and Wallsten 2008). That is, under certain circumstances, institutions can act as opinion leaders, influencing the public to move toward their institutional position. This ability to move public opinion is referred to in the literature as legitimation.

The legitimation hypothesis is based on the assumption that political institutions – typically courts – are held in relative high regard and so their pronouncements are given more weight and consideration by the public. That is, if a state supreme court decision establishing policy is unanimous, it carries more weight and influences the political environment and the public much more than if the same decision were split 5-4 (Persily 2008). Therefore, the level of unanimity in the originating institution and the public debate surrounding the policy affects the strength of the capability to move public opinion.

> **Hypothesis 1.1:** Public policy is more likely to cause legitimation when the tone of debate in the public sphere is cohesive and strongly in favor of the institutional policy position.
>
> **Hypothesis 1.2:** Public policy is more likely to cause legitimation when cohesion in the institutional venue of origin is high.
>
> **Hypothesis 1.3:** Legitimation is more likely to occur when policy originates in the state judiciary than when policy originates in the state legislature or via direct democracy.

3.2.2 Backlash Hypothesis

The second potential public opinion outcome from policy is backlash: public opinion moves in the opposite direction as the policy (Persily, Egan, and Wallsten 2008). That is, if the state legislature passes a bill that cuts education funding, public support for more spending on education actually *increases*.

Since policy originating via direct democracy is technically from the public, backlash is unlikely to occur via this policy route. However, backlash could occur when policy originates in either the state legislature or judiciary. Backlash resulting from the legislature could occur because the public does not approve of the policy or because the public does not approve of the institution itself. Or, party leaders mobilize to oppose the policy and the public debate surrounding the issue becomes significantly more negative, causing the public to respond in kind. Or, if the policy has very tangible effects that impact the lives of citizens and they disapprove of those newly created effects, they will respond unfavorably.

Policy originating in the state judiciary can be seen as short-circuiting the legislative process of deliberative democracy since there is no possibility for appeal. Charges of judicial activism are rooted in the concern that judges are supposed to be removed from traditional politics and not policymakers.

> **Hypothesis 2.1:** Public policy is more likely to cause backlash when the tone of debate in the public sphere is strongly opposed to the institutional policy position.

> **Hypothesis 2.2:** Backlash is more likely to occur when policy originates in the state legislature or state judiciary than when policy originates via direct democracy.

3.2.3   Polarization Hypothesis

Polarization is the third potential consequence of policy on public opinion (Persily, Egan, and Wallsten 2008). When polarization occurs, some portion of the public moves toward the institution's position while another segment moves away from the institution's position, usually along partisan lines. The prime example of institutional leadership resulting in polarization is the case of abortion. Immediately following the landmark Supreme Court decision of *Roe v. Wade* (1973), there was little change in public opinion on abortion (Franklin and Kosaki 1989). However, as visibility of the issue increased and as the political parties diverged on their positions, so too did the public. In many ways, gay rights issues resemble abortion in that they both have become prominent features of the public agenda. Therefore, it is conceivable that the outcome of institutional policy positions could be polarization.

> **Hypothesis 3.1:** Public policy is more likely to cause polarization in public opinion when the debate in the public sphere is non-cohesive (partisan).

> **Hypothesis 3.2:** Public policy is more likely to cause polarization in public opinion when the institutional position is non-cohesive (partisan).

> **Hypothesis 3.3:** Polarization is more likely to occur when policy originates in the state legislature or via direct democracy than when policy originates in the state judiciary.

3.2.4   Null Hypothesis

The fourth potential outcome of policy is that public opinion will not change at all in response to policy adoptions by states. Instead, the null hypothesis suggests that mere exposure to policy is not enough to change mass opinion but rather in order for policy to have any influence on the public whatsoever, the public must be aware of that policy's existence. Since the bulk of issues

that political institutions undertake are either overly complex (such as those dealing with the tax code or contract) or below the radar (such as designating state holidays) of state publics, very few policy areas rise to the level of saliency and awareness necessary to move public opinion. Therefore, most of the policy decisions made by institutions go unnoticed as the public either does not have the ability to understand the policies made by institutions or is not aware of those policies. Gay rights, however, is a visible and contentious policy area that can change attitudes through mere existence and exposure, exerting an influence over the public opinion of state citizens.

> **Hypothesis 4.1:** Since public policy originating from direct democracy theoretically comes from the public, it will have little effect on public opinion.

3.3   CONCLUSION

In this chapter, I set up my theory of contingent opinion leadership. I argued that under some circumstances, state opinion leaders will be able to influence public opinion on gay rights. Specifically, legitimation occurs when policy originates from the judiciary and when the judiciary is relatively united in its position, both institutionally and in the public sphere. However, when policy originates from the state legislature, backlash is likely to occur. This could be because of the relatively low levels of approval or because the policy itself is unpopular. Finally, policy that originates from direct democracy (or the state legislature) could result in polarization, with one portion of the public moving toward the policy and another part moving away from it, due to partisan loyalties.

This theory argues that the impact of state institutions or opinion leaders on public opinion depends on (1) the institutional policy source, (2) the cohesiveness of the institution, and (3) the tone of the public debate surrounding the policy. In Chapter 4, I lay out my research design that allows me to test my hypotheses.

4.0   RESEARCH DESIGN, DATA, AND VARIABLES

Gay rights policies in the states have proliferated in recent years, with some states taking decidedly positive positions and other states taking distinctly negative positions. This chapter will document the variance across states in gay rights policies and public opinion and describe the research methods to be used to analyze the causal links between policies and opinions. In the early 1970s, gay rights policies were virtually non-existent, but a slow and precipitous increase began in the late 1970s continuing through the 1980s and into the 1990s. Since the mid-1990s, there has been an explosion in the total number of gay rights policies originating in the states. At that time, a modest amount of gay rights policies were present in the states and the total number of policies dramatically increased through the next decade and a half. Figure 4.1 displays this dramatic increase.
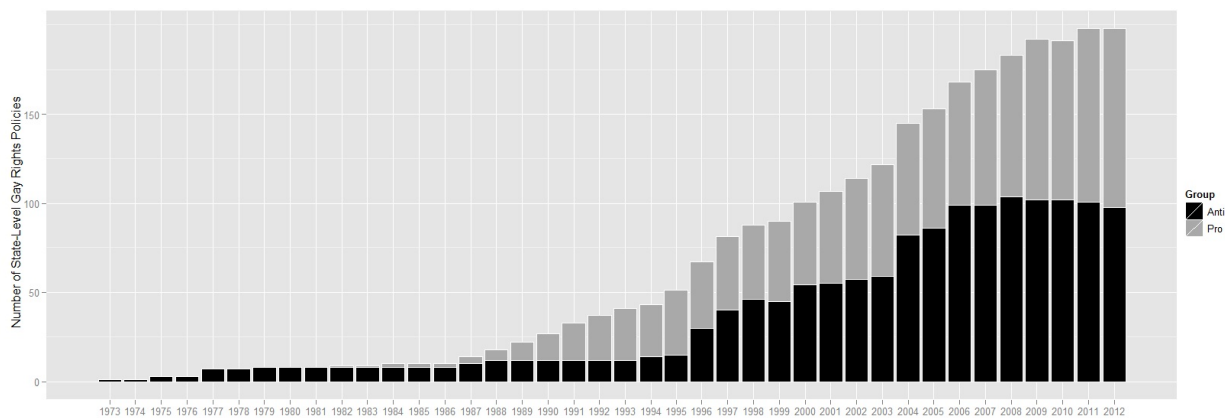
Figure 4.1: Total Number of State-level Gay Rights Policies

Figures 4.2-4.5 display maps of the United States with shading for the different gay rights policy profiles in the states for the years 2000, 2004, 2008, and 2012 – a particularly active time for gay rights policy adoptions. Black shading indicates a state with a strongly traditional gay rights policy profile (5 policies) and white indicates a state with a strongly progressive gay rights policy profile (5 policies). In Figure 4.2, the map of 2000, the United States appears to be a collection of 50 shades of gray: most states had one or two policies, but the absence of black and white indicates that the states had not yet polarized on gay rights. In Figure 4.3, which is the map of gay rights policies in 2004, the states begin to polarize, as a number of states moved in either more traditional or progressive directions, with some states shaded in white and others in black. For example, Massachusetts is absent of any shading, indicating that the state adopted every possible progressive gay rights policy. Utah, on the other hand, is fully shaded in black, indicating that the state adopted every traditionally conservative gay rights policy. This polarizing progression continues in 2008 (Figure 4.4) and 2012 (Figure 4.5). Most of the movement occurred on the issue of marriage rights and protection for same-sex couples. The 2000 and 2004 general elections saw fifteen states' voters ratify constitutional amendments with the clear purpose of forever-banning marriage between two persons of the same sex. [15] Conversely, between 2003 and 2013, many states' political institutions have taken on the task of protecting gay individuals and families, with multiple states adopting marriage protections; thirteen states and the District of Columbia have legalized same-sex marriage as of July 2013.

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[15] These states are Arkansas, Georgia, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, and Utah.
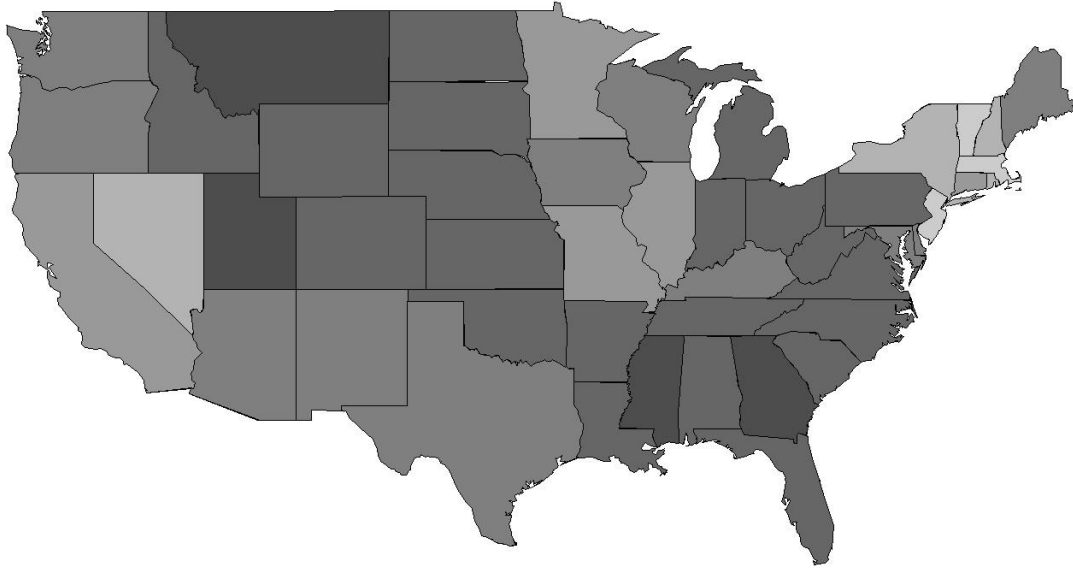
Figure 4.2: State-level Gay Rights Policies in 2000
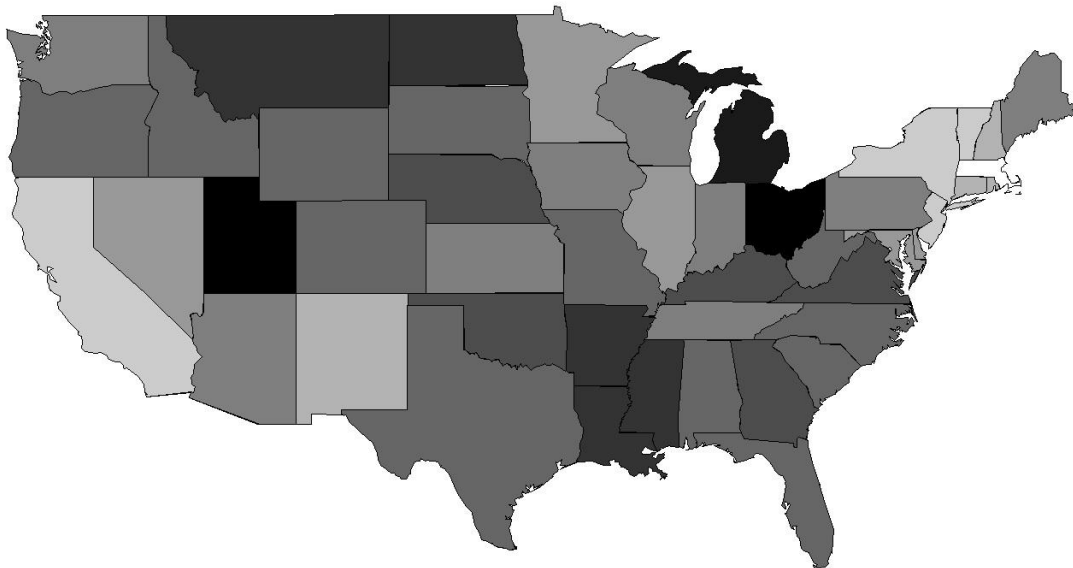
Figure 4.3: State-level Gay Rights Policies in 2004
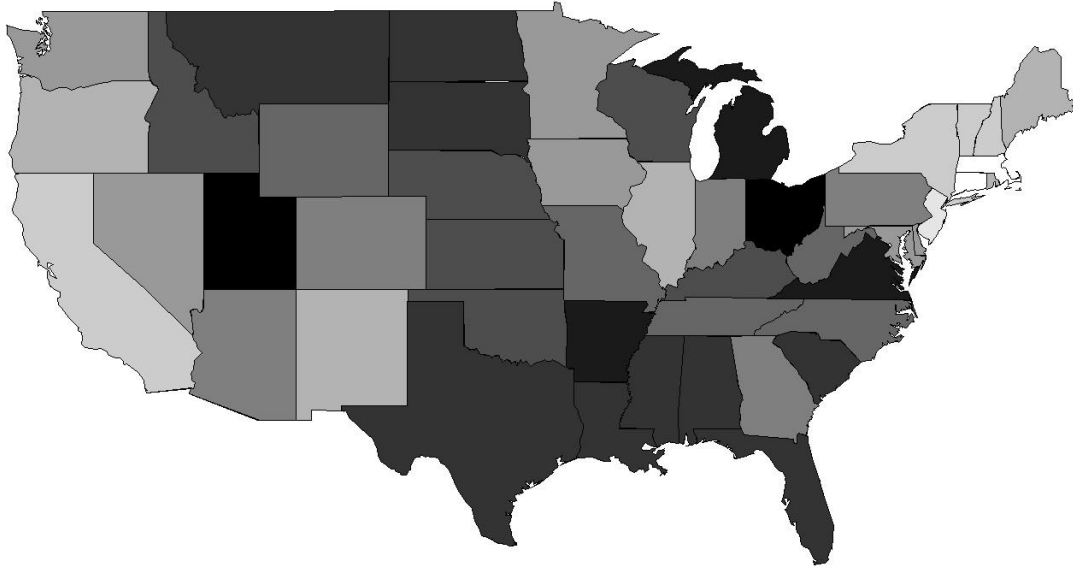
Figure 4.4: State-level Gay Rights Policies in 2008
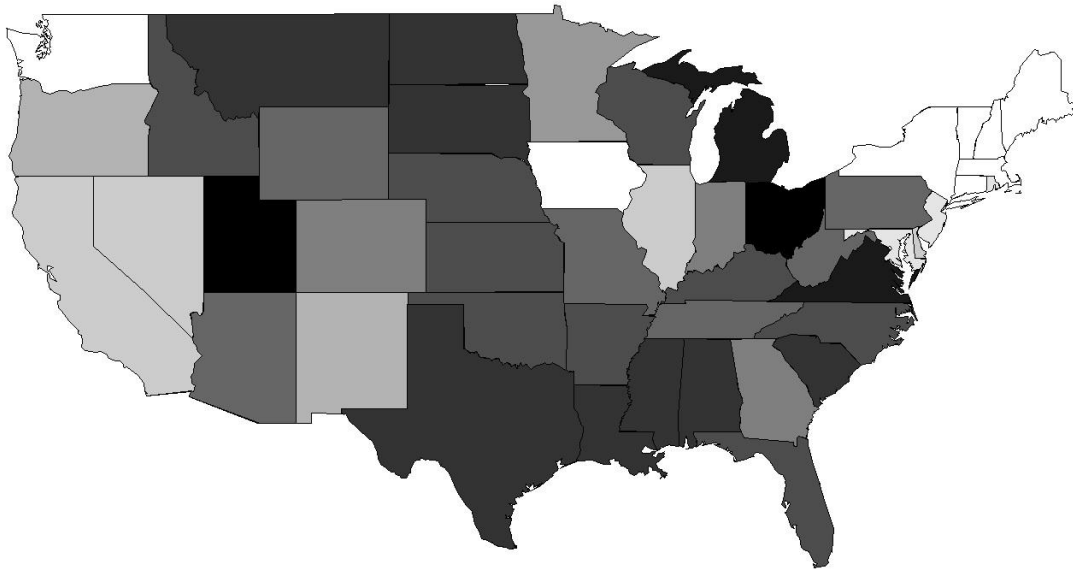
Figure 4.5: State-level Gay Rights Policies in 2012

4.1 GAY RIGHTS POLICIES AND PUBLIC OPINION ON HOMOSEXUALITY

Table 4.1 outlines the history of policy adoptions in all fifty states and the District of Columbia with respect to five distinct gay rights policies: hate crime protection, discrimination protection, joint adoption by same-sex couples, civil unions, and same-sex marriage. These five policies were selected because they are the five most relevant and researched gay-rights policies for both LGBT individuals and families. Hate crime protections are those state-level policies allowing gay persons legal remedies if they are victims of hate crimes. Each state with hate crime policy protections may define hate crimes as they wish, but the states appearing in the chart have specific language relating to gays and lesbians. According to a report from the Federal Bureau of Investigation (FBI), there were 6216 single-bias hate crimes reported in the United States in 2011. Of those, 20.8% resulted from sexual orientation bias (Federal Bureau of Investigation 2012). The following example, provided by The Leadership Conference (2009), illustrates the impact of hate crime legislation: in May 2007, a gay man by the name of Sean Kennedy was fatally beaten in Greenville, South Carolina. His attacker repeatedly shouted gay slurs while beating and forcing him to the ground, causing Mr. Kennedy's head to knock against the sidewalk. The assailant was initially charged with murder, but those charges were later reduced to involuntary manslaughter and the attacker spent only three years in prison. No hate crime was charged since South Carolina does not have a penalty-enhancing hate crime law on the books. Contrast this situation with a similar crime committed in Colorado: In July 2008, a woman by the name of Angie Zapata was fatally beaten by her date after he found out she was transgendered. Her attacker was found guilty of first degree murder and a hate crime, and he was sentenced to life in prison without the possibility of parole (The Leadership Conference 2009). Hate crime

provisions lead to harsher penalties for sexual orientation-based crimes in those states with relevant legislation.

Table 4.1: Gay Rights Policies Adopted by Type

	Hate Crime Protection	Discrimination Protection	Joint Adoption by Same-Sex Couples		Civil Unions		Same-Sex Marriage	
	PROGRESSIVE	**PROGRESSIVE**	**PROGRESSIVE**	**CONSERVATIVE**	**PROGRESSIVE**	**CONSERVATIVE**	**PROGRESSIVE**	**CONSERVATIVE**
Alabama			NO EXPLICIT BAN			2006 (B)		1998 (L) 2006 (B)
Alaska			NO EXPLICIT BAN			1996 (L)		1996 (L) 1998 (B)
Arizona	1995 (L)		NO EXPLICIT BAN					1996 (L) 2008 (B)
Arkansas			2011 (C)	2008-11 (B)		2004 (B)		1997 (L) 2004 (B)
California	1984 (L)	1992 (L)	2003 (C)		2003 (L)		May-Nov 2008 (C)	2000-08 (L) 2008 (B)
Colorado	2005 (L)	2007 (L)	NO EXPLICIT BAN and 2nd parent adoptions allowed 2007 (L)					2000 (L) 2006 (B)
Connecticut	1987 (L)	1991 (L)	2001 (C)		2005 (L)		2008 (C)	2000-07 (L)
Delaware	1995 (L)	2009 (L)	2001 (C)		2011 (L)			1996 (L)
District of Columbia	1989 (L)	1997 (L)	1995 (C)		2002 (L)		2009 (L)	
Florida	1991 (L)			1977-2010 (L)		2008 (B)		1977 (L) 2008 (B)
Georgia			NO EXPLICIT BAN			1996 (L) 2004 (B)		1996 (L) 2004 (B)
Hawaii	2001 (L)	1991 (L)	2011 (WRP)		2011 (L)			1994 (L)
Idaho			NO EXPLICIT BAN					1996 (L) 2006 (B)
Illinois	1990 (L)	2005 (L)	1995 (C)		2011 (L)			1996 (L)

Table 4.1 (continued)

	Hate Crime Protection	Discrimination Protection	Joint Adoption by Same-Sex Couples		Civil Unions		Same-Sex Marriage	
	PROGRESSIVE	**PROGRESSIVE**	**PROGRESSIVE**	**CONSERVATIVE**	**PROGRESSIVE**	**CONSERVATIVE**	**PROGRESSIVE**	**CONSERVATIVE**
Indiana			2003 (C)					1997 (L)
Iowa	1990 (L)	2007 (L)	2009 (WRP)				2009 (C)	1998-2008 (L)
Kansas	2002 (L)		NO EXPLICIT BAN			2005 (B)		1996 (L) 2005 (B)
Kentucky	1998 (L)		NO EXPLICIT BAN but 2nd parent adoptions prohibited – 2008 (C)			2004 (B)		1998 (L) 2004 (B)
Louisiana	1997 (L)		NO EXPLICIT BAN			1988 (L) 2004 (B)		1988 (L) 2004 (B)
Maine	1987 (L)	2005 (L)	2007 (C)				May-Nov 2009 (L) 2012 (B)	1997 (L) 2009-2011 (B)
Maryland	1991 (L)	2001 (L)	2013 (WRP)				2012 (L,B)	1973-2011 (L)
Massachusetts	1996 (L)	1989 (L)	1993 (C)				2003 (C)	
Michigan				2004 (E – attorney gen)		2004 (B)		1996 (L) 2004 (B)
Minnesota	1988 (L)	1993 (L)	NO EXPLICIT BAN					1997 (L)
Mississippi				2000 (L)				1997 (L) 2004 (B)
Missouri	2000 (L)		NO EXPLICIT BAN					1996-98, 2001 (L) 2004 (B)
Montana			NO EXPLICIT BAN			1997 (L)		1997 (L) 2004 (B)
Nebraska	1997 (L)			2002 (C)		2000 (B)		2000 (B)

Table 4.1 (continued)

	Hate Crime Protection	Discrimination Protection	Joint Adoption by Same-Sex Couples		Civil Unions		Same-Sex Marriage	
	PROGRESSIVE	PROGRESSIVE	PROGRESSIVE	CONSERVATIVE	PROGRESSIVE	CONSERVATIVE	PROGRESSIVE	CONSERVATIVE
Nevada	1989 (L)	1999 (L)	2009 (WRP)		2009 (L)			2002 (B)
New Hampshire	1990 (L)	1997 (L)	1999 (L)	1987-1998 (C)	2007 (L)		2009 (L)	1987-2008 (L)
New Jersey	1990 (L)	1992 (L)	1995 (C)		2006 (C)			
New Mexico	2003 (L)	2003 (L)	NO EXPLICIT BAN					
New York	2000 (L)	2002 (L)	1995 (C)				2011 (L)	
North Carolina			NO EXPLICIT BAN					1995 (L) 2012 (B)
North Dakota			NO EXPLICIT BAN but 2003 (L) law allows agencies to discriminate for moral reasons			2004 (B)		1997 (L) 2004 (B)
Ohio				1998 (C)		2004 (L) 2004 (B)		2004 (L) 2004 (B)
Oklahoma			NO EXPLICIT BAN					1975 (L) 2004 (B)
Oregon	1989 (L)	2007 (L)	2008 (WRP)		2007 (L)			1975 (L) 2004 (B)
Pennsylvania	2002-08 (L)		NO EXPLICIT BAN but 2nd parent adoptions are routinely granted 2002 (C)					1996 (L)
Rhode Island	1991 (L)	1995 (L)	2011 (WRP) but adoptions were routinely granted by family courts		2011 (L)			

Table 4.1 (continued)

	Hate Crime Protection	Discrimination Protection	Joint Adoption by Same-Sex Couples		Civil Unions		Same-Sex Marriage	
	PROGRESSIVE	PROGRESSIVE	PROGRESSIVE	CONSERVATIVE	PROGRESSIVE	CONSERVATIVE	PROGRESSIVE	CONSERVATIVE
South Carolina			NO EXPLICIT BAN			2006 (B)		1996 (L) 2006 (B)
South Dakota			NO EXPLICIT BAN			2006 (B)		1996 (L) 2006 (B)
Tennessee	2001 (L)		NO EXPLICIT BAN					1996 (L) 2006 (B)
Texas	1991 (L)		NO EXPLICIT BAN			2003 (L) 2005 (B)		1997 (L) 2005 (B)
Utah				2000 (L)		2004 (L) 2004 (B)		1977 (L) 2004 (B)
Vermont	1990 (L)	1992 (L)	1993 (C)		1999 (C)		2009 (L)	2000-08 (L)
Virginia			NO EXPLICIT BAN			2004 (L) 2006 (B)		1997 (L) 2006 (B)
Washington	1993 (L)	2006 (L)	2009 (WRP)		2009 (L)		2012 (L,B)	1998-2011 (L)
West Virginia			NO EXPLICIT BAN					2000 (L)
Wisconsin	1988 (L)	1982 (L)		1994 (C)		2006 (B)		1979 (L) 2006 (B)
Wyoming			NO EXPLICIT BAN					1977 (L)

NOTES:

(L) indicates that the policy originated in the state legislature, (J) indicates that the policy originated in the state judiciary, (B) indicates that the policy originated through direct democracy, and (WRP) indicates that the policy was adopted when relationship protection became binding on the states.

Adoption policy is noted only when explicit authorization exists such that both partners in a same-sex relationship may petition to adopt a child.

Civil unions are noted when the policy grants same-sex couples the same benefits and legal protections as opposite-sex couples, except where noted.

Sources: Human Rights Campaign (2013), National Gay and Lesbian Task Force (2013), and Francis, Mialon, and Peng (2012).

Discrimination protections are those state-level policies allowing gay persons legal remedies if they have been discriminated against at work or in housing. Massachusetts was the second state to adopt comprehensive discrimination protection for gays and lesbians, a policy that is routinely enforced. For example, from 1997-99 a gay male corrections officer by the name of Michael Salvi faced persistent rumors and slurs regarding his sexual orientation. Further, he received undesirable work assignments and unsatisfactory organizational remedies for his concerns. After filing suit in court, a jury awarded Mr. Salvi $623,600 plus interest and attorney's fees as the result of the harassment and discrimination he faced (Labor Relations Information System 2013). In states that do not include sexual orientation in their discrimination protection legislation, citizens in Mr. Salvi's position have no legal remedy against their employer.

The final three policies all speak to familial issues. Joint-adoptions by gay families are those policies allowing gay couples the right to adopt a child. Civil unions are legal relationships for gay persons that are similar to marriage. I have included in Table 4.1 only those states with near-exact rights as marriage for gay couples rather than very limited unions, typically referred to as domestic partnerships. Same-sex marriage is exactly as it sounds: equal marriage laws for same-sex and opposite-sex couples. These family-centered policies are the most high profile frontier in the gay rights movement.

Table 4.1 presents the years when policies were adopted, whether those policies were progressive or traditional, and the source of the policy adoption (either state judiciary, state legislature, or ballot initiative). The table shows that all hate crime and discrimination protection laws originated in state legislatures. Further, the table shows that the earliest laws protecting

same-sex families (through adoption and/or civil union/marriage) originated with state courts,[16] but the most recent legal protections for same-sex families originated with the state legislatures (as was the case in New York's legalization of same-sex marriage in 2011) and/or the voters (as was the case in the legalization of same-sex marriage in both Maryland and Washington in 2012). Maryland was the first state to adopt a restrictive policy with respect to the gay community in 1973 when the Maryland legislature passed legislation defining marriage as existing between one man and one woman. Wisconsin was the first state to adopt an inclusive gay rights policy in 1982 when its legislature passed a policy including sexual orientation as a protected category with regard to discrimination. Some surprising situations arise, such as the fact that two of the most traditional states in the union with respect to gay rights are Michigan and Ohio, states which typically are more liberal in terms of their elected officials.[17]

As the table and maps make clear, gays and lesbians enjoy greater protection under the law now than at any other point in history. But states differ greatly in terms of their policy positions toward gay rights. Some states, such as many of those in the southeastern United States, have taken a broadly traditional approach (not recognizing gay rights and even passing laws prohibiting recognition of gay rights) while other states, such as those in the northeastern United States, have taken a generally progressive approach (recognizing and protecting gay rights). For instance, Massachusetts has enacted a broad range of gay rights policies, including protections guaranteeing same-sex families the exact same protections as opposite-sex families.

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[16] While the traditional role of the judiciary within the separation of powers framework is the interpreter of state laws and the state constitution, judicial actors – particularly those serving on state courts of last resort – have been known to "make" law, such as when the Massachusetts state supreme court interpreted the Massachusetts state constitution as protecting all couples – same-sex and opposite-sex – thereby "creating" same-sex marriage in the state.

[17] In the history of the gay rights legislation, state executives have served in a more complementary way by signing into law (or vetoing) the specific legislation adopted in the state legislatures.

Mississippi, however, has enacted a traditional gay rights policy profile, strictly defining marriage and family as existing between opposite-sex individuals.

Table 4.2 shows the average score on the homosexuality attitude scale broken down by state. Numbers in the cells represent average state-level response scores from 1973-2008 to the following question from the General Social Survey: "What about sexual relations between two adults of the same sex – do you think it is always wrong, almost always wrong, wrong only sometimes, or not wrong at all?" The variable ranges from 1-4 with 1 indicating sexual relations between two members of the same sex are always wrong and 4 indicating that sexual relations between two members of the same sex are not wrong at all. The table displays the states from least supportive of homosexuality to most supportive. As is obvious, there is not one single mean across all states; rather, there is wide variation across the states. For example, Alabama has the lowest average rating of homosexuality with an average citizen score of 1.22, while Maine has the highest average rating of homosexuality with an average citizen score of 2.77. The difference between the averages of the two states is nearly two points on the 4-point homosexuality attitude scale – a huge difference.

Table 4.2: Average Homosexuality Attitude Score By State

State	Average Homosexuality Score
Alabama	1.22
Kentucky	1.27
Arkansas	1.29
Utah	1.30
West Virginia	1.38
Mississippi	1.40
Tennessee	1.41
North Carolina	1.48
Oklahoma	1.55
Georgia	1.56
Montana	1.57
Missouri	1.60
Indiana	1.60
South Carolina	1.61
Louisiana	1.62
Texas	1.62
Delaware	1.73
North Dakota	1.76
Michigan	1.81
Florida	1.82
Pennsylvania	1.83
South Dakota	1.85
Virginia	1.85
Wyoming	1.87
Wisconsin	1.87
Iowa	1.93
Kansas	1.99
Oregon	2.03
Illinois	2.03
Rhode Island	2.04
New Hampshire	2.05
Minnesota	2.06
Maryland	2.12
Connecticut	2.15
New Jersey	2.15
Arizona	2.16
Colorado	2.17

Table 4.2 (continued)

State	Average Homosexuality Score
New York	2.19
Washington	2.19
California	2.21
Alaska	2.24
Idaho	2.26
New Mexico	2.27
Massachusetts	2.37
Vermont	2.65
Hawaii	2.69
Maine	2.77

NOTE: Numbers in the cells represent average state-level response scores from 1973-2008 to the following question from the General Social Survey: "What about sexual relations between two adults of the same sex – do you think it is always wrong, almost always wrong, wrong only sometimes, or not wrong at all?" The variable ranges from 1-4 with 1 indicating sexual relations between two members of the same sex are always wrong, 2 indicating that sexual relations are almost always wrong, 3 indicating sexual relations are wrong only sometimes, and 4 indicating that sexual relations between two members of the same sex are not wrong at all.

Does the fact that certain states have adopted progressive policy positions while other states have adopted traditional policy positions on gay rights have any impact on the public opinion of citizens within the various states? It could be the case that all the influence on attitudes may come from federal policies or Supreme Court rulings (Stoutenborough, Haider-Markel, and Allen 2006; Hoekstra and Segal 1996). Or, public opinion may influence policy adoption in the states, but not vice-versa (Lax and Phillips 2009). Alternatively, if all politics is truly local, constituent opinions may be led by their local representatives. Unfortunately, the political science literature does not provide much guidance on the final alternative.

Furthermore, state institutions have taken varied approaches to gay rights. In general, state courts have been more inclined to act to protect rights for gay individuals and families while state legislatures have been less inclined to act in favor of gay rights. Because the court system typically does not rely on majority rule, unlike state legislators who are always selected in plurality elections, courts tend to serve as bastions of hope for minority rights. Does the fact that certain institutions have been more inclined to adopt gay rights policies have any influence on public opinion? The literature on the United States Supreme Court suggests that the Supreme Court can and does act as an opinion leader (Baas and Thomas 1984; Hoekstra and Segal 1996). Regarding the United States Congress, only one study currently exists that explores a relationship between legislative policy and opinion, and the authors conclude that Congress can act as an opinion leader under certain circumstances (Bartels and Mutz 2009). Unfortunately, no studies exist exploring the opinion leadership capabilities of state courts or legislatures. Due to the uncertain nature about state institutions' impact on public opinion through established scholarly research and the fact that state institutions vary so widely from state-to-state – in terms of professionalism, docket size, agenda scope, ease of access to direct democracy processes,

political culture, to name a few –the exact nature and direction of the relationship is not clear, though there are good reasons to suspect that state institutions can and do serve as opinion leaders (see Chapter 3).

This dissertation explores the comparative ability of state institutions – state judiciaries, state legislatures, and interest groups through direct democracy – to lead mass public opinion through the adoption of public policy. I seek to explain if, when, and how state institutions serve as opinion leaders for their state citizenry. In order to do this, I use state-level data over time.

4.2   RESEARCH DESIGN

I evaluate the hypotheses detailed at the end of Chapter 3 in three empirical stages. First, I test whether state institutions are able to move public opinion with the adoption of public policy by running fixed effects models. Second, I run a mixed, multilevel model to determine when and how state institutions and their policies lead to changes in individual attitudes and public opinion. Third, I verify my findings about the impact of state institutions with two robustness checks.

4.2.1   Stage 1: Are State Institutions Capable of Leading Opinion?

The first step in exploring the comparative capacity of state institutions is to establish whether institutional opinion leadership is even possible in the first place. In order to determine this, I run a fixed effects model. Fixed effects regression exploits within-state variation over time in order to control for all time-invariant factors (e.g., political culture, race, gender), thereby

holding constant (fixing) the average effects of each state. In essence, a fixed effects model includes dummy variables for each state in the dataset, controlling for any time invariant factors that could account for changes in individual homosexuality attitudes. Utilizing a fixed effects model as the first cut to explore the policy-opinion relationship is ideal because it isolates the effect of public policy on attitudes by controlling for any variation within the state-year, causing unobserved variables to drop out of the model. These characteristics of fixed effects models make them the bluntest form of hypothesis testing because the control variables are so encompassing.

4.2.2 Stage 2: When and How Can State Institutions Lead Opinion?

After establishing whether state institutions are able to move public opinion, the next step in my dissertation is to determine when and how institutional opinion leadership occurs in the various states with real political institutions, policies, and citizens. In order to do this, I use mixed, multilevel models, which allow me to model the natural nested nature of the data. Individuals are nested within states and those states have specific characteristics that are relevant only to their citizens. Through citizens' mere exposure to them, these state-specific characteristics influence the attitudes of citizens. Mixed models recognize this variation attributed to the state-level and model the two sources of variation to individual homosexuality attitudes: within cluster random effects and between cluster fixed effects. Multilevel models, then, are variance component models that allow me to describe any data point as a deviation from the overall intercept and slope as well as the intercept and slope associated with the states. Observations between states are independent, but observations within each state are dependent because they

belong to the same subpopulation and are influenced by the same state characteristics. This means that I can gain some control over heterogeneity.

4.2.3   Stage 3: Are My Findings Robust?

In chapter one, I detailed the relationship between public opinion and public policy and the controversy that exists over the true directionality of that relationship. Since a potential reciprocal relationship is present between my primary variables of interest – public policy and public opinion – and a potential endogeneity problem arises from the link between policy and opinion, I perform two robustness checks as the final empirical portion of my dissertation. The first check on robustness is an exploration of the reverse relationship: switching the dependent and key independent variables in order to test the impact of lagged opinion on policy with both fixed effects and mixed models, as detailed above.

The second check on robustness controls for the problem of endogeneity. Methodologically, endogeneity problems occur because of association between an independent variable and the error term associated with the econometric equation. Given the plausible scenario that there is correlation between the error term and my key independent variable, public policy at t-1, since there are significant concerns of reverse causality, the use of an additional methodology to further examine the exact nature of the relationship among and between the variables and the error term becomes necessary. As such, I run my models with two-stage least squares (2SLS).

2SLS is a two-step regression model that uses instrumental variables – variables correlated with my potential endogenous variable, lagged policy, but not correlated with the dependent variable, homosexuality attitudes – to correct for the endogeneity problem detailed

above. As the name suggests, 2SLS proceeds in two stages: (1) the assumed endogenous variable, lagged policy, is regressed on all of the exogenous variables in the model, and then (2) the regression of policy's impact on opinion is estimated, except that the endogenous covariate is replaced with the predicted values from the first stage. The logic behind 2SLS is that since the computed values in stage one are uncorrelated with the errors, the results of the two-stage model are optimal.

4.3   DATA

I have chosen to use data from the General Social Survey (GSS) over the American National Election Survey (ANES) – the most common data source for political scientists researching public opinion – for a number of reasons. First, the GSS data samples from every state, unlike the ANES time series data, which omits several states due to their small and hard-to-reach populations. Second, the GSS has consistently included a question regarding the gay community since 1973 – eleven years before the ANES first asked about attitudes toward homosexuality or the gay community. Third, the GSS sample is consistently large, with as many as 1908 respondents answering questions relating to the gay community in 2006 and as few as 868 respondents answering in 2004. The fact that the GSS has consistently asked questions regarding the gay community to such large numbers of citizens bodes well for drawing conclusions about homosexuality attitudes.

4.3.1 Dependent Variable

The dependent variable in the GSS time series data analysis is respondents' approval of sexual relations between two members of the same sex. The variable is created from responses to the question "What about sexual relations between two adults of the same sex – do you think it is always wrong, almost always wrong, wrong only sometimes, or not wrong at all?" The variable ranges from 1-4 with 1 indicating sexual relations between two members of the same sex are always wrong, 2 indicating that sexual relations are almost always wrong, 3 indicating sexual relations are wrong only sometimes, and 4 indicating that sexual relations between two members of the same sex are not wrong at all.

4.3.2 Independent Variables

Policy is the revealed preference of a political institution and measuring the direction and intensity of said policy is key to understanding institutional opinion leadership. Policy cannot influence opinion instantaneously, however, due to the delay between passage, adoption, and implementation. Therefore, my key variable of interest is the lagged number of gay rights policies. The lagged policy variables were created by coding each of the five policy types (gay marriage, civil unions, gay adoption, discrimination protection, and hate crime protection) as 1 (for a progressive gay rights policy position), 0 (for no policy), or -1 (for a traditional gay rights policy position), and then summing across state-years. Once summed, the policies were lagged by one year. The lagged total policy variable ranges from -5 (for states with 5 traditional gay rights policies) to 5 (for states with 5 progressive policies), and the institutional policy variables range from -2 to 2 for policy originating in state legislatures, -1 to 3 for policy originating in

state courts, and -2 to 0 for policy originating via direct democracy procedures in the states. In some of the model specifications, the variable is coded as total number of policies and, in other models, the variable is coded as the number of policies per year originating in the specific state institutions (i.e., number of policies originating in the state legislature, state courts, or direct democracy). Some states have negative values because they have adopted anti-gay policies, most often a constitutional amendment defining marriage as between one man and one woman and restricting adoptions to married couples.

The tone of public debate is a key element to consider when explaining opinion on homosexuality attitudes. Public debate is led by political elites. Therefore, I include a variable derived from Berry, Ringquist, Fording, and Hansson's (BRFH hereafter, 1998) state elite ideology scores. The BRFH scores are constructed through the ideological placement of members of Congress by two interest groups – Americans for Democratic Action and the AFL-CIO Committee on Political Engagement. Then, the scores for each state's congressional delegation are averaged together to create the overall elite ideology score for each state. This process places every state's elites on the same conservative-liberal continuum. I used these scores to create a measure of the difference between the percentage of conservative and liberal legislators in the states, with small numbers meaning high polarization and large numbers indicating cohesion.

In the political science literature, the BRFH variable was the first attempt at trying to locate political elites from disparate states on the same continuum. The BRFH measure relies on ideological placements of members of Congress by two interest groups – Americans for Democratic Action and the AFL-CIO Committee on Political Engagement. The measure, therefore, assumes that the average ideological position of state officials matches the average

ideological position of House members from the same state. Because there is no guarantee that congressional legislators' ideology maps directly onto state legislators', the BRFH measure is not perfect for exploring state politics. However, it is the best measure available for my dataset and has been shown to be comparable to a more comprehensive state legislative delegation measure (Berry, Fording, Ringquist, Hanson, and Klarner 2013). These state legislative delegation measures, collected by Shor and McCarty (2011), only include data from the mid 1990s onward. Therefore, the BRFH measure captures my whole time period while keeping all state elites on the same metric, allowing for meaningful comparisons across states.

I include a series of variables that take into account whether consensus existed in the political body when the policies were adopted. A policy adopted by a unified body sends a stronger message to constituencies than a divided one and can perhaps lead to more institutional opinion leadership. Therefore, I include three variables in my models to account for whether the policy came about as a result consensual or divided politics in the various policy origination points – state courts, state legislatures, and direct democracy.

I include a measure of cohesion on the state courts of last resort. The measure is derived from the Party-Adjusted Judge Ideology (PAJID) scores developed by Brace, Langer, and Hall (2000). PAJID scores combine (1) the partisan affiliation of judges in each of the 50 states with (2) the prevailing ideology of their state at the time the judge came to the bench with (3) a measure of mass or elite ideology (mass ideology is used if the judge is selected via election and elite ideology is used if the judge is selected via appointment). PAJID scores are currently the most reliable and accurate measure of judicial ideology used in the judicial politics literature (Brace, Langer, and Hall 2000). PAJID scores range from 0-100 with 0 indicating the most conservative ideology and 100 indicating the most liberal ideology. I then used these scores to

create a measure of the level of partisan cohesion on the state bench by differencing the PAJID score of the most liberal and the most conservative state supreme court justices, with large numbers indicating wide spread in ideology/non-cohesion and small numbers indicating cohesion.

In order to measure legislative cohesion, I include a measure of the difference between the percentage of Democratic and the percentage of Republican legislators in the various state legislatures, with small numbers meaning polarization and large numbers indicating low polarization/cohesion. This measure is derived from Carl Klarner's Partisan Balance Dataset (2013). Klarner compiled information about state legislatures from 1937 through the present day, including the total number of representatives serving in state legislatures from each political party. Klarner's dataset is the most wide-ranging dataset currently available on state legislatures.

The Democratic and Republican Parties have taken dramatically different stances on gay rights issues, as detailed in the last chapter. Therefore, perhaps it is not the partisan spread in the state legislature that influences public opinion through policy, but rather which party is in control of the policy docket. Therefore, I also include a dummy variable of partisan control of the state legislature for each year.

For policies that originate with direct democracy, the relevant measure of cohesion deals with the citizens themselves. Therefore, I include a measure of state citizen ideology also created by BRFH. Their measure relies on actual election returns from states in order to place active electorates on the same continuum across the various states. The variable ranges from 0-100 with 0 indicating a fully conservative citizenry and 100 indicating a fully liberal citizenry. Across the period under study, Idaho has the most conservative citizenry (25.00 average ideology score) and Massachusetts is the most liberal citizenry (81.86 average ideology score).

State citizens do not live in a vacuum. Through the wide availability of national news on television and the internet, people living in one state are aware of, and potentially influenced by, the gay rights policies from other states and the federal government. In an effort to control for anything occurring at the federal-level – specifically, the potential for federal institutional opinion leadership – I have included a variable that controls for the national trend in homosexuality attitudes. The variable is computed as the average response of all GSS respondents within each year. Figure 4.6 presents a graphical represent of this national trend. I expect a positive relationship between the national trend and individual homosexuality attitudes.[18]
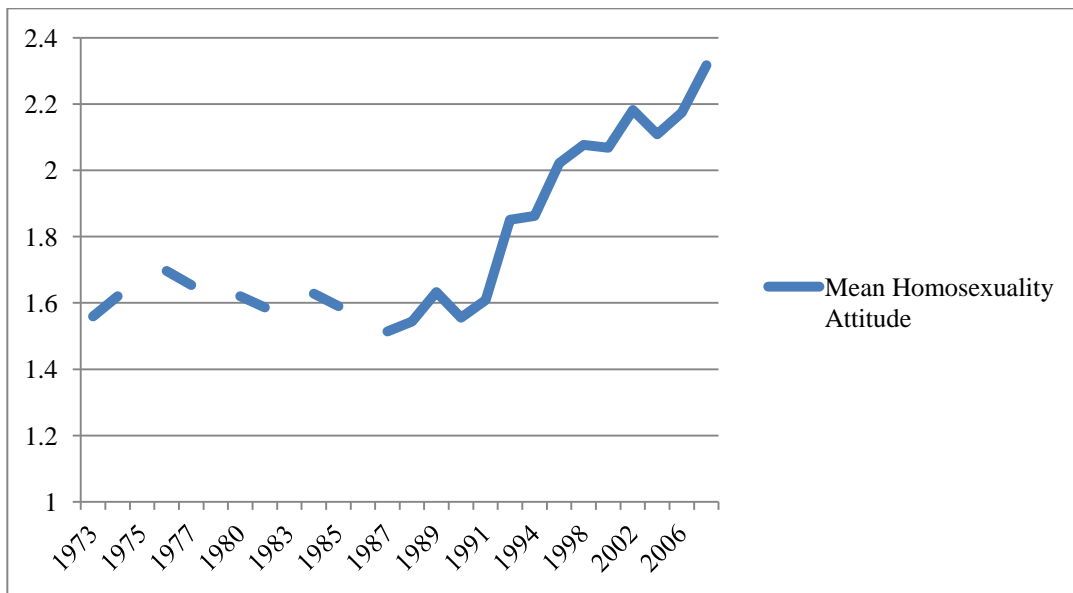
Figure 4.6: National Trend of Homosexuality Attitudes

As discussed in Chapter 2, attitudes have warmed toward gays and lesbians since the 1990s and must, therefore, be controlled for in any empirical model explaining homosexuality

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[18] I considered using state deviations from the national trend as the federal-level control. However, a number of state-years have a very small number of people. Therefore, the state deviation independent variable is very highly correlated with the dependent variable. Aggregating across all states within a given year alleviates this problem.

attitudes. Therefore, I have also included a year count in the model to account for possible influences on homosexuality attitudes occurring within any given year. The year count included in my models is unique in that it does not begin with 0 in 1973 (the first year of GSS questioning) and switch to 1 for 1974. Rather, the year count is 0 from 1973-1986 and switches to 1 in 1987, 2 in 1988, and so on. I made this methodological decision due to the fact that the rapid proliferation of gay rights policies did not commence in the states until 1987. It was only after 1987 that policies – both more and less restrictive of the gay community – began to rapidly appear, as is evident in Figure 4.1. I augmented the coding scheme in order to more accurately reflect this reality. I have included state*year count variables in the model to account for a basic time trend across the states.

Age is measured as the year in which the respondent was born. The average age of respondents in the GSS is 45.5. In order to facilitate interpretation, respondents' ages are centered around the mean age of the sample. Given that homosexuality has only recently become an acceptable lifestyle, younger people are more likely to have contact with "out" members of the gay community. It is known that contact with gay people produces more permissive attitudes (e.g., Kite 1984; Herek and Capitanio 1999), thus I expect that those members of the sample below the average age are more likely to be supportive of the gay community and report greater warmth toward them.

Further, the data are rather mixed between men and women. 45.7% of the GSS sample are men and 54.3% are women. Multiple studies have shown that women are, on average, more supportive of the gay community than men (e.g., Herek and Capitanio 1999; Kite 1984). I expect the same findings.

Educational attainment is measured by a seven-point scale gauging the highest grade/level of education completed, with a 0 indicating completion of eight grades or fewer and a 6 indicating an advanced degree completion. In order to facilitate interpretation, respondent education level is centered around the mean education level of the sample, which was completing high school, but not obtaining a college degree. Since higher levels of education are associated with more tolerant attitudes toward all outgroups (e.g., Ohlander, Batalovab, and Treas 2005), I expect the same finding.

Race has proven to be a highly controversial topic in the debate over gay rights. The blogosphere and some segments of the media blamed the approval of Proposition 8 in California on the large numbers of African Americans who turned out to vote for Barack Obama (Hill 2008). Since blacks were blamed by the public at-large for the passage of Prop 8, a dummy variable for African American is included in the models, with whites as the reference category. In line with past research, I expect that African Americans are less tolerant of the gay community.

Negative attitudes toward the gay community and gay rights have historically been linked to a conservative ideology (Ficarrotto 1990; Herek and Capitanio 1999). Further, because the Republican Party embodies largely conservative values, Republicans are more likely to hold negative attitudes toward the gay community. Party identification is measured by a 7-point scale, coded 0 for Strong Democrat and 6 for Strong Republican. 48.6% of the sample is Democratic, 35.1% is Republican, and 14.8% is Independent.

Religious commitment has often been linked to attitudes toward the gay community (Green 2000; Olson, Cadge, and Harrison 2006). Religiosity is measured by frequency of attendance at religious services. It is a scale from 0 (never attend) to 4 (weekly attendance).

While this measure taps only one dimension of religiosity, it should not be a significant drawback, as service attendance is considered to be the key measure of religiosity (Olson, Cadge, and Harrison 2006). Taking into account all of the respondents in the GSS dataset from 1973-2008, 15.4% of the sample reports never attending church, while 8.5% report attending services at least once a week and 56.1% are somewhere between the two extremes. I expect that high levels of religiosity serve to decrease positive attitudes toward the gay community.

The religion and politics literature indicates that religious tradition is an important predictor of political attitudes, including political tolerance (Kellstedt and Green 1993; Layman and Green 1998). The literature explicates six major religious traditions in the United States: Evangelical Protestants, Mainline Protestants, black Protestants, Roman Catholics, Jews, and seculars but the GSS data only include information about four main religious traditions: Catholics, Jews, Protestants, and seculars. Therefore, I include dummy variables for Catholic, Jewish, and secular in the models to follow, leaving out Protestants as the reference category. The Catholic Church has been vocally opposed to homosexuality,[19] while Jews and seculars have been vocally supportive. I expect Catholics to be less supportive of the gay community, while Jews and seculars to be more supportive of the gay community than Protestants.

For convenience, Table 4.3 lists and describes all of the variables in the models to be tested in this dissertation.

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[19] Evangelical Protestants have also been vocal opponents of homosexuality, but the GSS does not include adequate questions in every year to properly measure evangelicalism of respondents.

Table 4.3: Variable Descriptions

Variable	Variable Description
Dependent Variable Homosexuality Attitude	1 for sexual relations between two members of the same sex are always wrong
	2 for sexual relations between two members of the same sex are almost always wrong
	3 for sexual relations between two members of the same sex are wrong only sometimes
	4 for sexual relations between two members of the same sex are not wrong at all
Independent Variables Total Policy t-1	total number of gay rights policies in states at t-1
	varies by state and year
	negative numbers indicate traditional policies
	positive numbers indicate progressive policies
	ranges from -5 to 5
Legislative Policy t-1	number of gay rights policies originated in state legislatures at t-1
	varies by state and year
	negative numbers indicate traditional policies
	positive numbers indicate progressive policies
	ranges from -2 to 2
Court Policy t-1	number of gay rights policies originated in state courts at t-1
	varies by state and year
	negative numbers indicate traditional policies
	positive numbers indicate progressive policies
	ranges from -1 to 3
Direct Democracy Policy t-1	number of gay rights policies originated via direct democracy at t-1
	varies by state and year
	negative numbers indicate traditional policies
	positive numbers indicate progressive policies
	ranges from -2 to 0
Elite Ideology	Berry, Ringquist, Fording, and Hanson's elite ideology scores
	0 for fully liberal citizenry
	100 for fully conservative citizenry

Table 4.3 (continued)

Variable	Variable Description
Elite Ideology	Berry, Ringquist, Fording, and Hanson's elite ideology scores 0 for fully liberal citizenry 100 for fully conservative citizenry
Legislative Cohesion	Absolute value of the difference between the percentage of Democratic and Republican legislators Small numbers indicate polarization Large numbers indicate cohesion ranges from 0-1
Partisan Control of the State Legislature	0 if Democratic 1 if Republican
Court Cohesion	Absolute value of the difference between the PAJID ideology scores of the most liberal (0 minimum) and the most conservative (100 maximum) state supreme court justices in each state Small numbers indicate cohesion Large numbers indicate polarization
Citizen Ideology	Berry, Ringquist, Fording, and Hanson's state-level citizen ideology scores 0 for fully liberal citizenry 100 for fully conservative citizenry
National Homosexuality Attitude Trend	Average support for homosexuality (1-4) each year
Year Count	0 for 1973-86 1 for 1987 2 for 1988 …
Age	Age of respondent centered around mean of 45.5 years old
Female	1 if female 0 otherwise
Education	Education of respondent centered around mean of 12.7 years of schooling (some college)

Table 4.3 (continued)

Variable	Variable Description
African American	1 if African American 0 otherwise
Party ID	0 for strong Democrat 1 for not strong Democrat 2 for Independent, near Democrat 3 for Independent 4 for Independent, near Republican 5 for not strong Republican 6 for strong Republican
Church Attendance	0 for never attend church 1 for less than once a year 2 for once a year 3 for several times a year 4 for once a month 5 for 2-3 times per month 6 for nearly every week 7 for every week 8 for more than once a week
Secular	1 if secular 0 otherwise
Jewish	1 if Jewish 0 otherwise
Catholic	1 if Catholic 0 otherwise

4.4   CONCLUSION

The aim of this dissertation is to evaluate the comparative ability of state institutions – state judiciaries, state legislatures, and interest groups through direct democracy – to lead mass public opinion through the adoption of public policy. This chapter laid out my plan to address this puzzle, and described the measures to be used. The next chapter tests my hypotheses by using the data, methods, and variables described here by answering the following questions:

(1) Are state institutions capable of acting as opinion leaders?

(2) When and how can state institutions lead mass public opinion?

(3) Does the impact of policy on opinion hold up to rigorous robustness checks?

5.0   EMPIRICAL ANALYSIS OF PUBLIC POLICY AND PUBLIC OPINION

This dissertation explores the comparative ability of state institutions – state judiciaries and state legislatures – to lead mass public opinion through the adoption of public policy. This chapter evaluates empirically whether and how state institutions are able to act as opinion leaders, moving state-level public opinion. Using data stretching back to 1973, this chapter will address two main questions: (1) can policy lead public opinion in the various states? and (2) to what extent are there significant differences in the persuasive ability of state courts and state legislatures, and direct democracy?

5.1   REVIEW OF HYPOTHESES

In order to answer these questions, the following hypotheses will be tested in this chapter:

5.1.1   Legitimation Hypothesis

> **Hypothesis 1.1:** Public policy is more likely to cause legitimation in public opinion when the debate in the public sphere is cohesive and one-sided.

> **Hypothesis 1.2:** Public policy is more likely to cause legitimation in public opinion when cohesion in the political body where the policy originated is high.

Hypothesis 1.3: Legitimation is more likely to occur among public opinion when the policy originates from the state judiciary than when the policy originates in the state legislature or direct democracy.

5.1.2 Backlash Hypothesis

Hypothesis 2.1: Public policy is more likely to cause backlash in public opinion when the public debate surrounding the issue is strongly opposed to the institutional policy position.

Hypothesis 2.2: Backlash is more likely to occur among public opinion when the policy originates from the state legislature than when the policy originates in the state judiciary.

5.1.3 Polarization Hypothesis

Hypothesis 3.1: Public policy is more likely to cause polarization in public opinion when the debate in the public sphere is non-cohesive (partisan).

Hypothesis 3.2: Public policy is more likely to cause polarization in public opinion when the institutional position is non-cohesive (partisan).

Hypothesis 3.3: Public opinion is more likely to be polarized when policy originates in the state legislature or through direct democracy than when policy originates in the state judiciary.

5.1.4 Null Hypothesis

Hypothesis 4.1: Since public policy originating from direct democracy theoretically comes from the public, it will have no effect on public opinion.

5.2   EMPIRICAL ANALYSIS OF PUBLIC POLICY AND PUBLIC OPINION

As is the case with many policy areas ranging from lotteries to education policy to public health policy, states have served as the laboratories to test gay rights policies as well as the site of the battles waged over the gay rights movement. Have states, through policy adoption, been able to influence residents' public opinion on homosexuality in one direction or another? To examine the relationship between attitudes toward homosexuality and state-level policy, I first run a fixed effects model of lagged policy's impact on individual homosexuality attitudes. As noted in Chapter 4, fixed effects models serve as the strictest test of my hypotheses since the fixed effects models control for all time-invariant factors and average state effects, isolating policy's effect on opinion. As a result, if my key independent variable, lagged policy, is significant in a fixed effects model, it indicates that policy has an impact on individual attitudes over and above anything specific to the individual states, years, or state-year events.

The fixed effects empirical model is as follows:

$$Y_{it} \text{ homosexuality attitude} = \beta_0 + \beta_1 \text{state policy}_{t\text{-}1} + \beta_2 \text{year count} + \beta_3 \text{state*year count} + \alpha i + u_{it}$$

To briefly recap from chapter 4, the dependent variable, homosexuality attitude, is measured as the yearly state-level average of GSS respondents' approval of sexual relations between two members of the same sex on a scale from 1-4 with 1 indicating sexual relations between two members of the same sex is always wrong and 4 indicating that sexual relations between two members of the same sex is not wrong at all.

My key independent variable, lagged state policy, is measured as the number of gay rights policies per year in each state at time t-1. In some of the model specifications that follow, the variable is coded as *total* number of policies and, in other models, the variable is coded as the

number of policies per year originating in the specific *state institutions*. The total policy variable

ranges from -5 (for states with 5 traditional gay rights policies) to 5 (for states with 5 progressive

policies), and the institutional policy variables range from -2 to 2 for policy originating in state

legislatures, -1 to 3 for policy originating in state courts, and -2 to 0 for policy originating via

direct democracy procedures in the states. Interestingly, in the years examined here, no pro-gay

policies came from direct democracy measures.

I have also included a year count in the model to account for possible influences on

homosexuality attitudes (such as federal policies or media coverage) occurring within any given

year. The year count included in my models is unique in that it does not begin with 0 in 1973

(the first year of GSS questioning) and switch to 1 for 1974. Rather, the year count is 0 from

1973-1986 and switches to 1 in 1987, 2 in 1988, and so on. This methodological decision

reflects the fact that the rapid proliferation of gay rights policies did not commence in the states

until 1987. It was only after 1987 that policies – both more and less restrictive of the gay

community – began to appear rapidly, as is evident in Figure 4.1. I augmented the coding

scheme in order to more accurately reflect this reality. I have included state*year count variables

in the model to account for a basic time trend across the states in order to control for anything

occurring within each state-year that might account for changes in individual homosexuality

attitudes. Lastly, α_i is the unknown intercept for each respondent and u_{it} is the error term.

Table 5.1 reports the results from the fixed effects model described above with two

different specifications. The first specification, found in Model 1, estimates the impact of the

total number of state policies on individual homosexuality attitudes. The model itself is

significant, as indicated by the strength of the F statistic. The within state variation explained by

the inclusion of the total policy variable and time trends is 4.5%, the between state variance

explained by the model is 1.4%, and the overall variation explained by the policy variables and time trends is 3.3%. Additionally, the rho statistic for the model indicates that 37.7% of the observed variance is due to differences across states. The intercept for the model is 1.592, implying that the average attitude toward homosexuality across respondents is somewhere between 1 and 2 on the GSS scale, indicating that homosexuality is always wrong or almost always wrong. The only variable besides the state*year dummies that reaches statistical significance is the year counter, indicating that the time trend associated with homosexuality attitudes is negative. In this model, total policy is not a significant predictor of individual homosexuality attitudes.

Table 5.1: Fixed Effects Model of Lagged Policy Impact on Individual Homosexuality Attitudes

	(1)	(2)
Total Policy t-1	0.041 (0.029)	-
Policy from State Legislatures t-1	-	0.060+ (0.032)
Policy from State Courts t-1	-	0.061 (0.106)
Policy from Direct Democracy t-1	-	-0.035 (0.040)
Year Count	-0.181*** (0.014)	-0.191*** (0.030)
Constant	1.592*** (0.001)	1.596*** (0.005)
Observations	30176	30176
Groups	48	48
Min Obs per Group	37	37
Avg Obs per Group	628.7	628.7
Max Obs per Group	2938	2938
Corr (u_i, Xb)	-0.396	-0.422
Within R^2	0.045	0.045
Between R^2	0.014	0.011
Overall R^2	0.033	0.031
sigma_u	0.916	0.945
sigma_e	1.176	1.176
rho	0.377	0.392

Model also includes 47 constants, consisting of state*year in order to account for any time trends occurring in the individual states. Full results are available in the Appendix found at the end of this dissertation.

For comparison purposes, Maine is the omitted state.

No observations in Nebraska or Nevada.

Standard errors are clustered by state and reported in parentheses

+ $p<0.10$, * $p<0.05$, ** $p<0.01$, *** $p<0.001$

The second specification, found in Model 2 of the table, estimates the impact of the number of state policies originating in various points in government on individual homosexuality attitudes. The within state variation explained by the inclusion of the policy variables and time trends is 4.5%, the between state variance is 1.1%, and the overall variation explained by just the policy variables and time trends is 3.1%. Further, the rho statistic in the model indicates that 39.2% of the observed variance is due to differences across states. The intercept is 1.596, implying that the average attitude toward homosexuality across respondents is somewhere between stating that homosexuality is always wrong or almost always wrong. Looking at the institutional venue policy variables, only policy originating in the state legislatures reaches marginal statistical significance at the 0.10 level. The coefficient of lagged legislative policy is 0.06, meaning that a 1-unit change in number of policies originated in the state legislature results in a 0.06 change in homosexuality attitude. The lagged legislative policy variable ranges from -2 to 2, meaning that a state with two progressive policies for gays originated in the state legislature results in a 0.18 increase of support for homosexuality and a state with two traditionally conservative gay rights policies results in a 0.18 decrease of support for homosexuality. Therefore, the difference of living in a state with 2 traditional gay rights policies and a state with 2 progressive gay rights policies is a difference of 0.36, or almost a half point on the homosexuality support scale. However, policies originating in state courts or direct democracy seem to have no discernible impact on homosexuality attitudes. In these models, the impact of policy originating in the state judiciary or through direct democracy cannot be distinguished from zero.

While the fixed effects models above are a good first test of the influence of policy on opinion – and policy originating in the state legislatures has some predictive power – they do not

tell the whole story. The battle for gay rights primarily occurs at the state level – not the federal level – and, therefore, the methodological exploration of the phenomenon should mirror reality as closely as possible. As such, I have chosen to conceptualize homosexuality attitudes as a multilevel model in which individuals are nested within states that have direct impact on those individuals' attitudes. Each of the following models includes a variety of state characteristics designed to capture the unique state environments that exist across the country.

Studying the relationship between homosexuality attitudes and state policy in the context of a multilevel model is beneficial for a number of reasons. First, the multilevel model allows me to account for the nested nature of the data (individuals are nested within states) and therefore predict levels of attitudes toward gays based on both fixed (factors that are the same for individuals across states) and random (factors that vary across states) parameters through a maximum likelihood process. In this way, multilevel models are variance component models that allow me to describe any data point as a deviation from the overall intercept and slope as well as the intercept and slope associated with the states. This allows me to gain some control over heterogeneity. Allowing for random variation in the dependent variable – residual factors that cannot be explained by the independent variables in the model – makes each case truly unique from others in the dataset.

Second, the inclusion of time in my models – as both an independent variable and a random parameter – allows me to control for the general trend witnessed over the past twenty years or so of warming feelings toward homosexuality and gay individuals. Including time as an independent variable allows me to control for the trend in the overall sample; including time as a random component allows me to control for state-specific trends, giving me the ability to isolate relevant state- and individual-level characteristics. The multilevel empirical model to be

explored is as follows:

$$Y_{it}\text{homosexuality attitude} = \beta_{00} + \beta_{01}\text{state policy}_{t-1} + \beta_{02}\text{year count} +$$
$$\beta_{03}\text{state characteristics} + \beta_{04}\text{individual characteristics} + \zeta_{0i} + \zeta_{1i} + \varepsilon_{it}$$

The dependent variable, state policy variables, and year count included in this model are the same as in the fixed effects models presented earlier. A number of state characteristics are also included in these mulilevel models, including elite ideology scores as a proxy for public political debate (Hypotheses 1.1, 2.1, and 3.1), the numerical difference between the most liberal and most conservative judge on the state court of last resort as a proxy for court cohesion, as well as (1) the numerical difference between the total percentage of Republicans and Democrats in the state legislature and (2) a dummy variable indicating partisan control of the state legislature as proxies for legislative/elite cohesion (Hypotheses 1.2 and 3.2), and citizen ideology scores as a proxy for cohesion in the citizenry (when policy originates via direct democracy). As discussed in Chapter 4, the national trend of mean homosexuality attitudes is also included in the models for the purpose of accounting for the inevitable relationship between national politics and state/local politics. Many of the multilevel models to be explored also include individual characteristics as control variables, including age, education, sex, a dummy variable for African American, party identification, church attendance, and a series of religion dummy variables. Lastly, is the random portion of the state-level intercept, is the random portion of the state-level slope for time, and is the idiosyncratic error term for a given state at a given time.

Looking at Models 1 and 2 in Table 5.2, which use state-level characteristics to estimate the influence of (1) total gay rights policies and (2) institutional policy sources on homosexuality attitudes, the models are both statistically significant, as indicated by the significance of the $\chi 2$

terms. Turning to the fixed parameters first, the coefficient on the constant is the homosexuality attitude value when all independent variables are at 0. Therefore, -0.309 (in Model 1) and -0.287 (in Model 2) are the attitude scores for a respondent living in a state with zero progressive gay rights policies, a strongly conservative elite body, an ideologically moderate state court of last resort, an equal number of Democrats and Republicans in a state legislature controlled by Democrats, a strongly conservative citizenry, and when the average national response to homosexuality is a 0 – homosexuality is always wrong – in the year 1973. The coefficient is statistically insignificant and therefore indistinguishable from 0. The year counter is insignificant as well, but the time-dependent national average homosexuality attitude is highly significant. This means that time itself is not a predictor of individual attitudes but the national trend does have some explanatory power over individual evaluations of homosexuality. The coefficient on the variable in the first two model specifications, is 1.026 and 1.022, meaning that a one-unit increase in the national homosexuality attitude (from sexual relations between two members of the same sex is always wrong (1) to sexual relations between two members of the same sex is almost always wrong (2)) is associated with a slightly higher than one-unit increase in individual attitudes. Models 1 and 2 are devoid of individual characteristics and so in the absence of information about individual respondents, the national average is a strong and positive predictor of individual attitudes.

Table 5.2: Multilevel Models of State- and Individual-level Characteristics' Impact on Homosexuality Attitudes

	(1)	(2)	(3)	(4)
Fixed Parameters				
Total Policy t-1	0.161** (0.057)	0.051 (0.093)	0.128** (0.045)	0.049 (0.074)
Legislative Policy t-1	-	0.116+ (0.061)	-	0.081 (0.051)
Court Policy t-1	-	0.149* (0.068)	-	0.082 (0.056)
Direct Democracy Policy t-1	-	0.005 (0.045)	-	-0.022 (0.037)
Elite Ideology	-0.000 (0.000)	-0.000 (0.001)	-0.000 (0.000)	-0.000 (0.001)
Elite Ideology * Total Policy	0.001 (0.001)	0.001* (0.000)	0.001+ (0.000)	0.001* (0.000)
Court Cohesion	0.001 (0.001)	0.001 (0.001)	0.001 (0.001)	0.001 (0.001)
Court Cohesion * Total Policy	0.000 (0.001)	0.000 (0.001)	-0.000 (0.000)	-0.000 (0.000)
Legislative Cohesion	0.034 (0.059)	0.033 (0.063)	0.075 (0.048)	0.068 (0.050)
Legislative Cohesion * Total Policy	-0.077 (0.047)	-0.094* (0.047)	0.010 (0.039)	-0.003 (0.037)
Republican Control of Legislature	0.012 (0.036)	0.016 (0.036)	0.006 (0.027)	0.008 (0.028)
Republican Control * Total Policy	-0.016 (0.031)	-0.009 (0.033)	-0.008 (0.023)	0.001 (0.024)
Citizen Ideology	0.004** (0.002)	0.004* (0.002)	0.004*** (0.001)	0.003** (0.001)
Citizen Ideology * Total Policy	-0.003** (0.001)	-0.003** (0.001)	-0.002** (0.001)	-0.002* (0.001)
National Homosexuality Attitude Trend	1.026*** (0.184)	1.022*** (0.183)	0.879*** (0.142)	0.884*** (0.140)
Year Count	0.000 (0.007)	0.051 (0.093)	0.005 (0.005)	-0.006 (0.005)
Age (centered around the mean for the sample)	-	-	-0.007*** (0.001)	-0.007*** (0.001)
Female	-	-	0.189*** (0.014)	0.189*** (0.014)
Education (centered around the mean for the sample)	-	-	0.082*** (0.005)	0.082*** (0.005)
African American	-	-	-0.187*** (0.024)	-0.187*** (0.024)
Party ID	-	-	-0.058*** (0.005)	-0.057*** (0.005)
Church Attendance	-	-	-0.090*** (0.004)	-0.090*** (0.004)
Secular	-	-	0.499*** (0.028)	0.498*** (0.028)
Jewish	-	-	0.766*** (0.054)	0.767*** (0.054)

Table 5.2 (continued)

Catholic	-	-	0.133*** (0.020)	0.133*** (0.020)
Constant	-0.309 (0.322)	-0.287 (0.321)	0.419+ (0.250)	0.427+ (0.245)
Random Parameters				
sd (slope)	0.015 (0.003)	0.014 (0.004)	0.010 (0.003)	0.010 (0.003)
sd (intercept)	0.191 (0.028)	0.193 (0.027)	0.109 (0.022)	0.108 (0.020)
sd (residual)	1.174 (0.027)	1.174 (0.027)	1.068 (0.021)	1.068 (0.021)
Observations	30176	30176	29158	29158
Groups	48	48	48	48
Min Obs per Group	37	37	36	36
Avg Obs per Group	628.7	628.7	607.5	607.5
Max Obs per Group	2938	2938	2815	2815
Wald χ^2 (13, 16, 22, 25)	312.61	377.06	6510.99	7272.89
Prob > Wald χ^2	0.000	0.000	0.000	0.000
Log Pseudolikelihood	-47761.95	-47759.48	-43365.84	-43364.04

Robust standard errors in parentheses
+ $p<0.10$, * $p<0.05$, ** $p<0.01$, *** $p<0.001$

With respect to the state characteristic variables in the models below, their interpretations are not straightforward due to the fact that my state characteristic hypotheses are conditional. This conditionality means that I only expect to find a policy effect on opinion under certain state-level circumstances: legitimation when public debate is cohesive and/or institutional cohesion is high, backlash when public debate is partisan, polarization when public debate and/or institutional cohesion is partisan. In order to ascertain whether or not the conditional relationship is statistically significant, the independent effect of the interaction terms must be calculated and I have created a number of graphs to facilitate the interpretation of state characteristic effects on the policy-opinion relationship (Friedrich 1982; Brambor, Clark, and Golder 2006). It is important to note that while the coefficients on the interaction may not reach statistical significance in Table 5.2, the interaction itself may still be significant since "the typical results table often conveys very little information of interest because the analyst is not concerned with model parameters per se; he or she is primarily interested in the marginal effect of X [policy] on Y [opinion] for substantively meaningful values of the conditioning variable Z [state characteristics]" (Brambor et al. 2006, 74).

Figures 5.1-5.5 display the marginal effects for each of the state characteristic interaction terms in Model 1 of Table 5.2. Figure 5.1 shows the marginal effects of the elite ideology interaction term with total gay rights policies. All values of elite ideology are statistically significant, which, when looking at the graphs, means that as progressive policies are added, public opinion becomes more tolerant of homosexuality regardless of elite ideology levels. This means that, regardless of conservative or liberal elite ideology, policy is influencing opinion by an average of two points on the homosexuality attitude scale.

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Figure 5.1: Marginal Effects of the Elite Ideology Interaction Term, Total Policy Model with State Characteristics

Figures 5.2-5.5 present the marginal effects for the institutional cohesion variables. Figure 5.2 shows the marginal effects for the court cohesion interaction term. All values of court cohesion are statistically significant, which means that additional progressive policies cause public opinion on homosexuality to liberalize by an average of 1.5 points on the homosexuality attitude score scale regardless of the level of cohesion on the court.

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Figure 5.2: Marginal Effects of the Court Cohesion Interaction Term, Total Policy Model with State Characteristics

Figure 5.3 shows the marginal effects for legislative cohesion interaction term and, since only the most smallest and polarized values of legislative cohesion are statistically significant, additional policies cause public opinion on homosexuality to liberalize by roughly 1.5 points on the homosexuality attitude scale, but only when cohesion in the state legislature is moderately cohesive or partisan. Figure 5.4 displays the marginal effects of the partisan control of state legislatures interaction term with lagged total gay rights policies. Both values of the partisan control dummy are significant, meaning that regardless of which party controls the state legislature, additional policies induce a liberal opinion change by an average of 1.25 on the homosexuality attitude score across the gay rights policy scale (from -5 to 5).
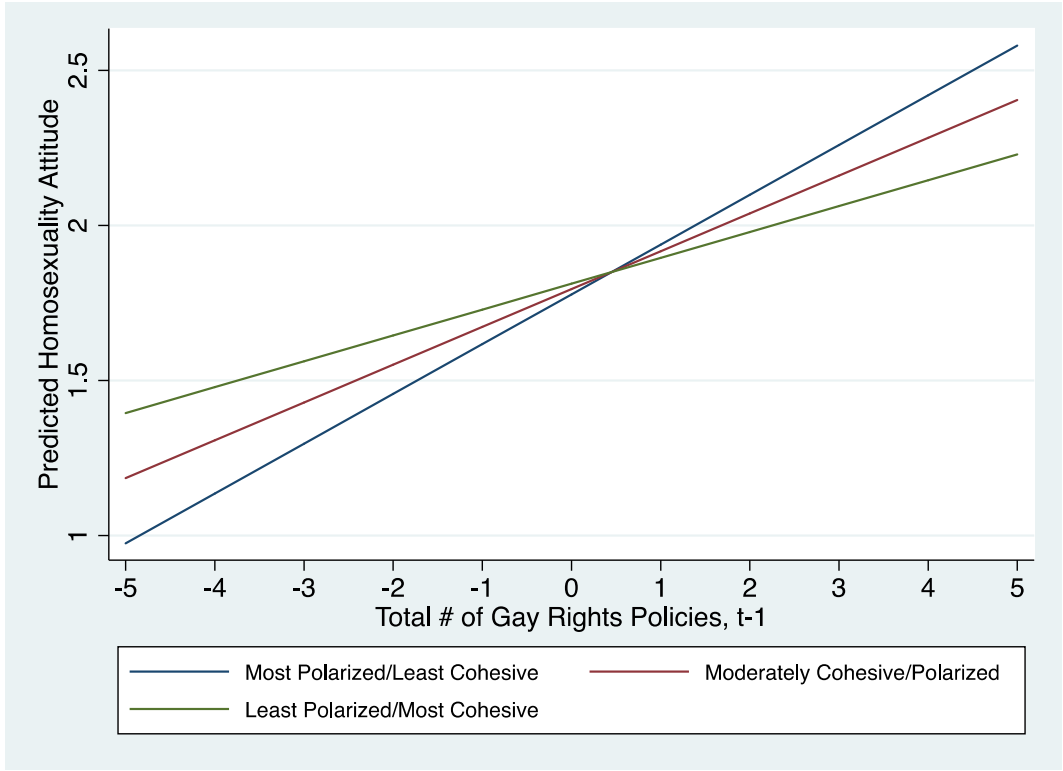
Figure 5.3: Marginal Effects of the Legislative Cohesion Interaction Term, Total Policy Model with State Characteristics
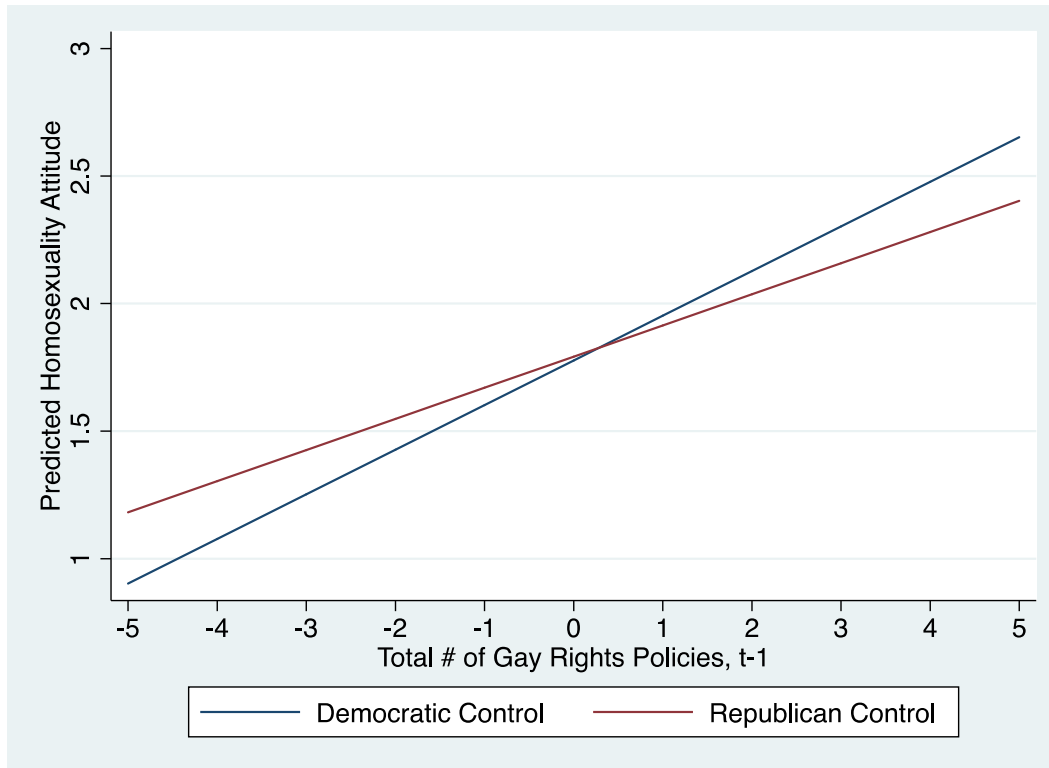
Figure 5.4: Marginal Effects of the Partisan Control of the State Legislature Interaction Term, Total Policy Model with State Characteristics

Figure 5.5 shows the marginal effects of the citizen ideology interaction term with total gay rights policies. Postestimation analysis reveals that the effect of policy on opinion is only statistically significant when citizen ideology is liberal (specifically, citizen ideology at levels of 0-25). The graph shows that as progressive policies are added in the states, overall opinion becomes more tolerant when citizen ideology is liberal. Specifically, the influence of policy on opinion is associated with a 1.5 increase on the homosexuality attitude score when the state citizenry is liberal: from an average response of homosexuality is always wrong (when policy is -5) to homosexuality is wrong only sometimes (when policy is 5). When citizen ideology is moderate or conservative, however, the effect of policy on opinion is statistically indistinguishable from zero.
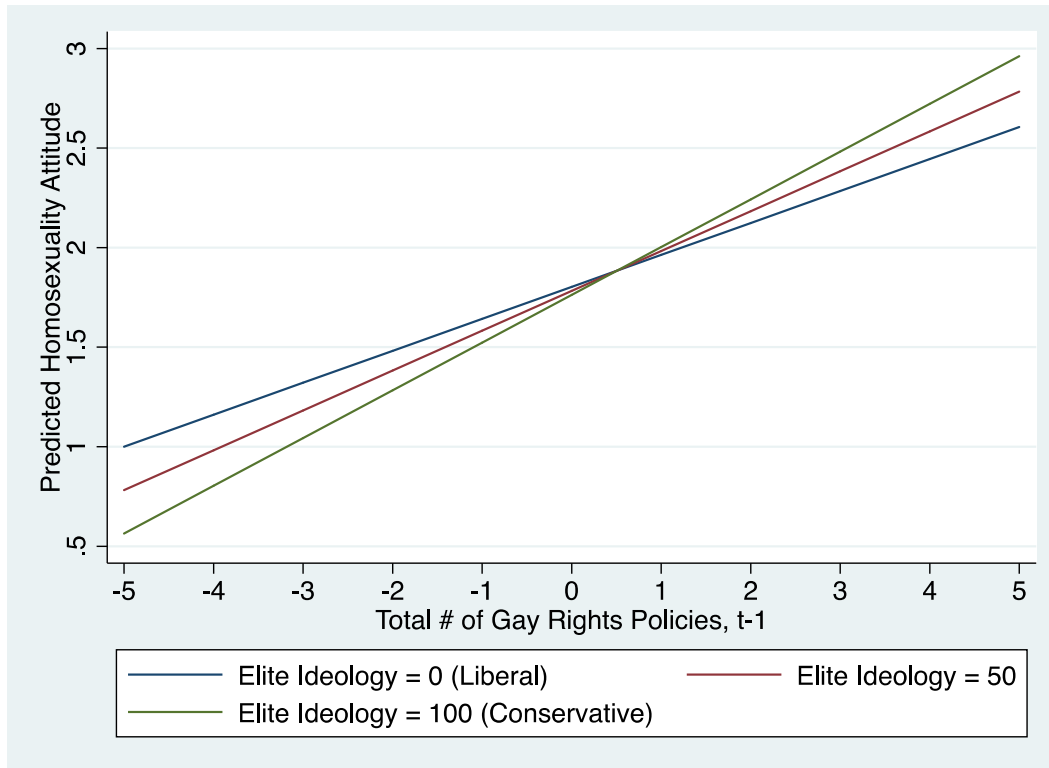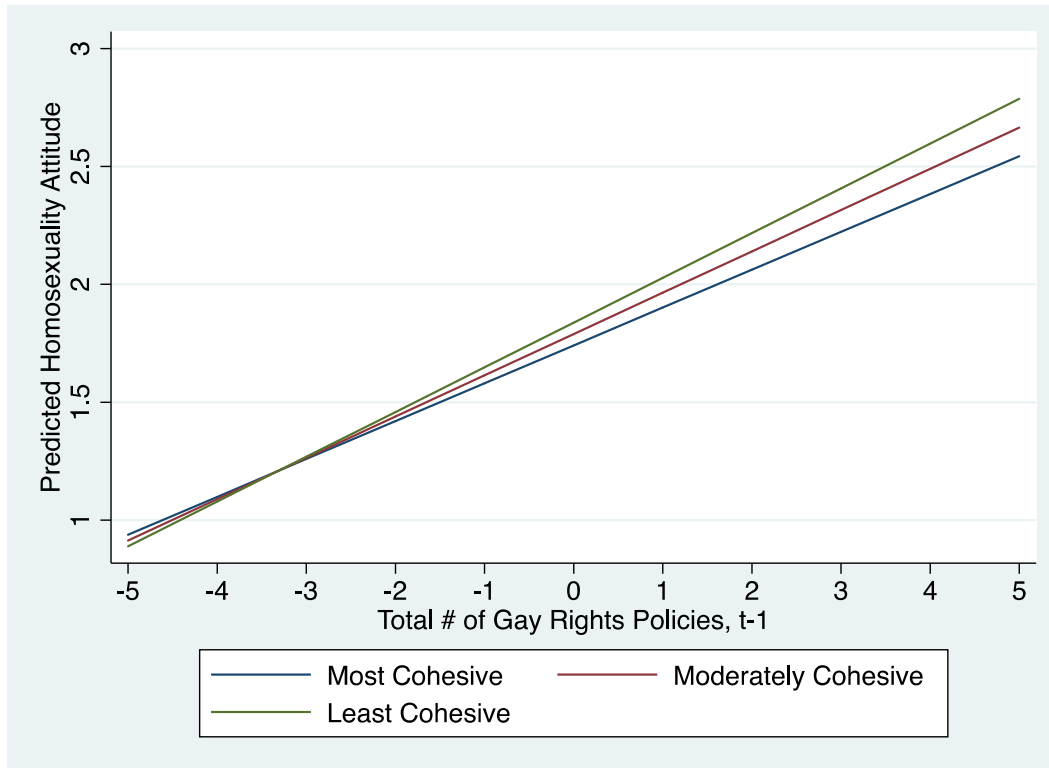
103
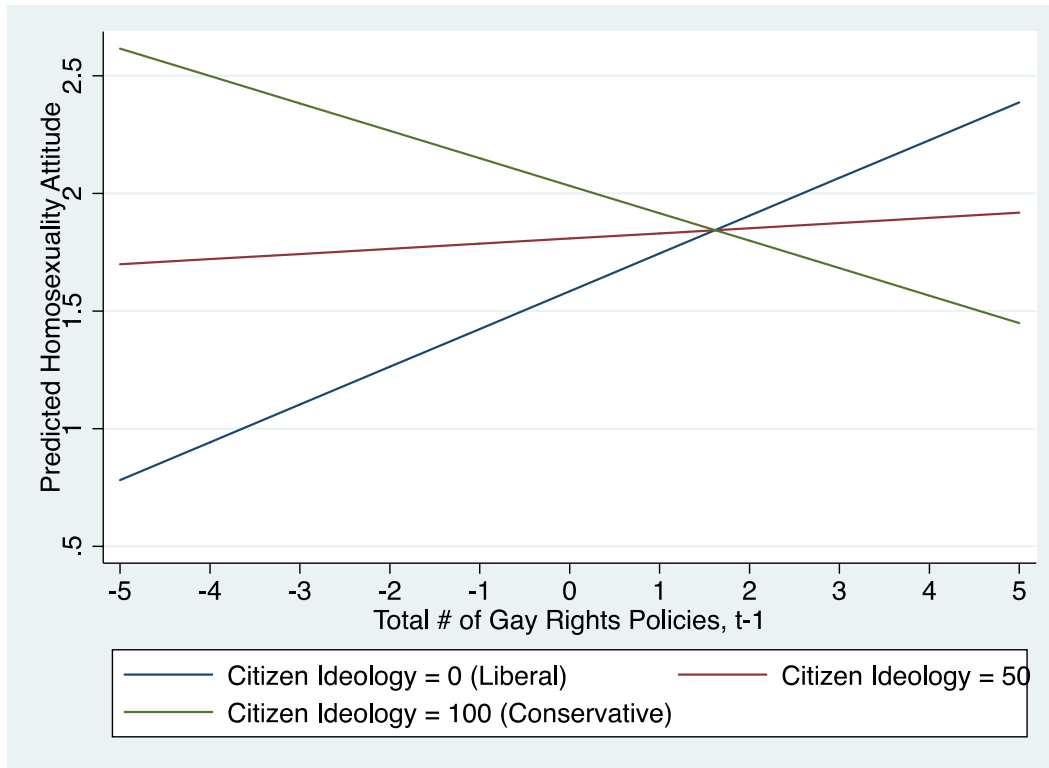
Figure 5.5: Marginal Effects of the Citizen Ideology Interaction Term, Total Policy Model with State Characteristics

Figure 5.6 displays the marginal effects of the only interaction term from Model 2 of Table 5.2 – the institutional policy venue model – to reach statistical significance, citizen ideology. Postestimation analysis reveals that only conservative citizen ideology (values 75-100) is statistically significant, meaning that when the electorate is strongly conservative and a progressive/liberal policy originates in the state government institutions of the court or legislature – not from the people (the reference category) – then a backlash against that liberal policy ensues. This means that when policy origination point is taken into account and the government institutions behave contrary to the will of a conservative citizenry, then backlash is the outcome – a polar opposite finding from the marginal effects presented in Figure 5.5.
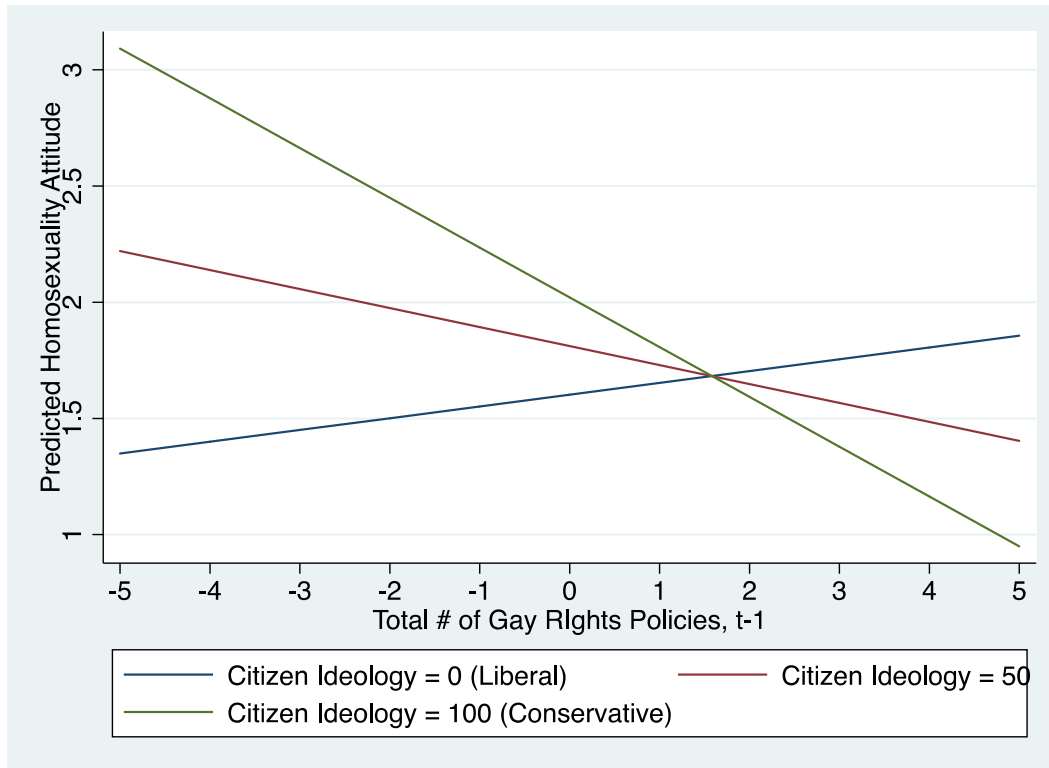
Figure 5.6: Marginal Effects of the Citizen Ideology Interaction Term, Institutional Venue Model with State Characteristics

Furthermore, and central to my theory and hypotheses, various lagged policies reach statistical significance in the state-level characteristic model specifications. In Model 2, lagged policy originating in the state legislature reaches statistical significance at the 0.10 level and the coefficient for the variable is 0.116. This means that adding an additional policy at t-1 bumps homosexuality attitudes by 0.116. The legislative policy variable itself ranges from -2 to 2, meaning that moving from 0 to 2 progressive gay rights policies resulting from state legislatures results in 0.232 increase in homosexuality attitude while moving from 0 to 2 traditional gay rights policies results in 0.232 decrease in homosexuality attitude, which means going from 2 traditionally conservative gay rights policies to 2 progressive gay rights policies results in a 0.464 change on the homosexuality score, or nearly a half a point on the 4-point scale.

Furthermore, lagged policy originating in the state courts reaches statistical significance

at the 0.05 level and the coefficient for the variable is 0.149. This means that adding an additional policy at t-1 bumps homosexuality attitudes by 0.149. The court policy variable itself ranges from -1 to 3, meaning that moving from 0 to 3 progressive gay rights policies resulting from state legislatures results in 0.447 increase in homosexuality attitude while moving from 0 to 1 traditional gay rights policies results in 0.149 decrease in homosexuality attitude, which means going from 1 traditionally conservative gay rights policies to 3 progressive gay rights policies results in a 0.596 change on the homosexuality score, or more than a half a point on the 4-point scale.

Turning to the random parameters of Models 1 and 2 in Table 5.2, the variance component associated with the average intercept of the models is 0.191 and 0.193, respectively. Since these estimates are substantially larger than their standard error (about 7 times larger), there appears to be significant variation in average attitude toward homosexuality across states. The two main variance components (associated with the intercept and the residual) can be used to partition the variance across levels. The intrastate correlation coefficient is equal to 0.191/(1.174+0.191)=0.140 in Model 1 and 0.193/(1.174+0.193)=0.141 in Model 2, meaning that roughly 14% of the variance is attributable to the state-level. Further, the variance component associated with the year count can be used to partition the variance associated with time. The coefficient associated with time is equal to 0.015/(1.174+0.015)=0.013 in Model 1 and 0.014/(1.174+0.014)=0.012 in Model 2, meaning that roughly 1.3% and 1.2% of the variance in Models 1 and 2 is attributable to time.

Now turning to Models 3 and 4 in Table 5.2, which add individual-level characteristics to the previously estimated Models 1 (total policy influence on opinion) and 2 (institutional policy source on opinion), the models are both statistically significant as indicated by the strength and

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significance of the χ2 terms. Looking first at the fixed parameters, the coefficient on the constant is the homosexuality attitude value when all independent variables are at 0. With the addition of the individual characteristics, this means that 0.419/0.427 is the attitude score for a 45.5 year old white man with some college education but no degree, who is a Republican Protestant who never attends church, living in a state with zero progressive gay rights policies, a strongly conservative elite body, an ideologically moderate state court of last resort, an equal number of Democrats and Republicans in a state legislature controlled by Democrats, a strongly conservative citizenry, and when the average national response to homosexuality is a 0 – homosexuality is always wrong – in the year 1973. 0.444/0.451 indicates that the large share of respondents indicate that homosexuality is always wrong.

The year count variable is once again insignificant and the average national homosexuality attitude is significant. The coefficient on the homosexuality trend variable is 0.879 and 0.884 meaning that a one-unit increase in the national homosexuality attitude is associated with a 0.879 and 0.884 increase in individual attitudes. As compared to Models 1 and 2, the effect of the national homosexuality trend is slightly depressed (from just over a one-unit change to just under a one-unit change) due to the addition of individual level characteristics and, therefore, not being conflated with the other variables in the model.

With respect to the state characteristics in Model 3 of Table 5.2, I once again turn to a series of graphs. Figures 5.7-5.10 display the marginal effects for each of the state characteristic interaction terms in Model 3. The relevant comparison figures to the interaction graphs below are Figures 5.1-5.5. For the most part, the statistical significance of the interactions in Model 3 are the same as in Model 1, unless otherwise noted below.

Figure 5.7 displays the marginal effects of the elite ideology interaction term from Model 3 of Table 5.2. In comparing Figure 5.7 to Figure 5.1, which shows the same interaction term but in the absence of individual characteristics, it is clear that the addition of individual characteristics into the model does not alter the impact of elite ideology on the opinion-policy relationship.

Figure 5.7: Marginal Effects of the Elite Ideology Interaction Term, Total Policy Model with State and Individual Characteristics

Figures 5.8-5.11 display the marginal effects for the institutional cohesion variables in Model 3 of Table 5.2. Figure 5.8 shows the marginal effects for the court cohesion interaction term and, since all values of court cohesion are statistically significant, additional policies cause public opinion on homosexuality to liberalize by an average of 1 point on the homosexuality attitude score scale regardless of the level of cohesion on the court. In comparing Figure 5.8 to Figure 5.2, which shows the same interaction term but in the absence of individual

characteristics, the addition of individual characteristics into the model causes all levels of cohesion to converge as progressive policies are added.
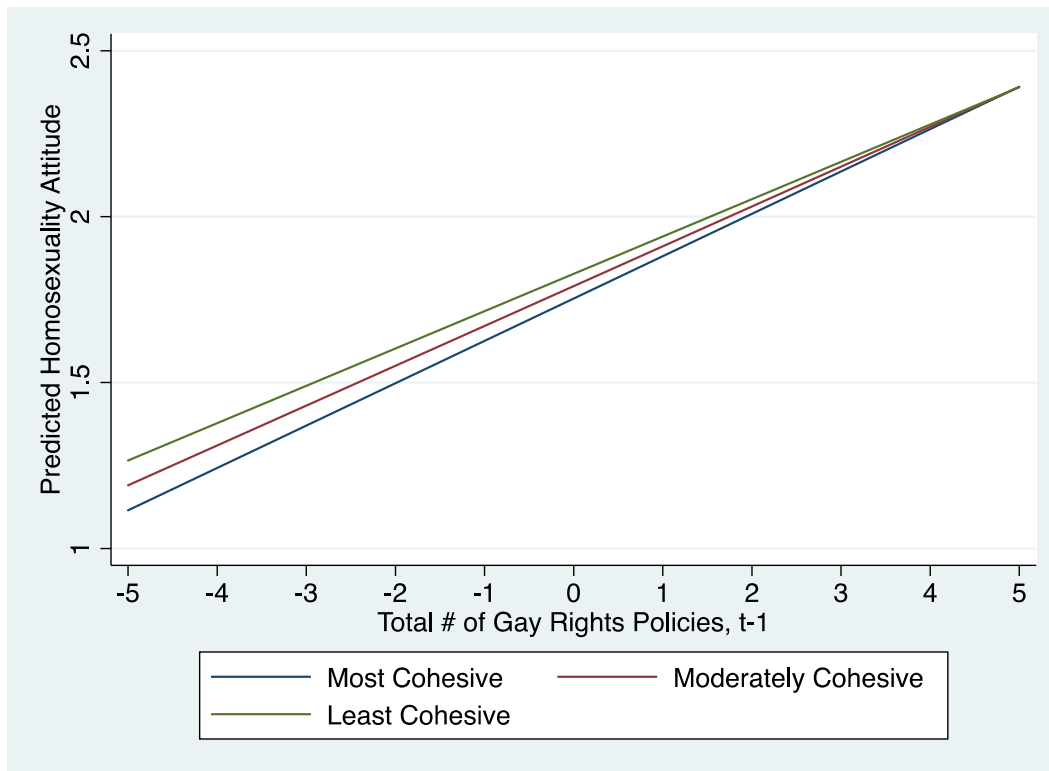
Figure 5.8: Marginal Effects of the Court Cohesion Interaction Term, Total Policy Model with State and Individual Characteristics

Figure 5.9 shows the marginal effects for the legislative cohesion interaction term. Two noteworthy differences exist between the legislative cohesion interactions from Models 1 and 3 of Table 5.2 and displayed in Figures 5.9 and 5.3. The addition of individual characteristics to the model cause (1) all values of legislative cohesion to reach statistical significance and (2) the predictions for homosexual attitudes all converge together meaning that additional policies cause public opinion on homosexuality to liberalize by roughly 1.5 points on the homosexuality attitude scale for all levels of legislative cohesion. This means that the policy-opinion trend is generally the same across all levels of legislative cohesion.
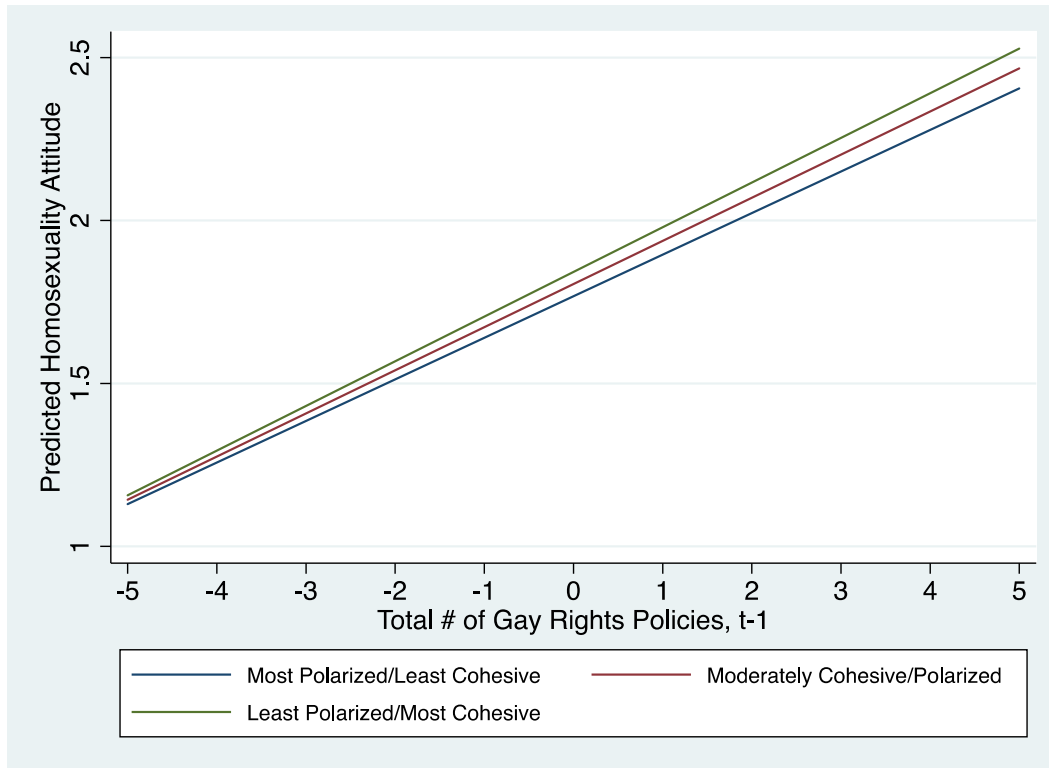
Figure 5.9: Marginal Effects of the Legislative Cohesion Interaction Term, Total Policy Model with State and Individual Characteristics

Figure 5.10 displays the marginal effects of the partisan control of state legislatures interaction term for the total policy model with both state and individual level characteristics (Table 5.2, Model 3). In comparing Figure 5.10 to Figure 5.4, which shows the same interaction term but in the absence of individual characteristics, it is clear that the addition of individual characteristics into the model does not alter the impact of partisan control of the state legislature on the opinion-policy relationship.
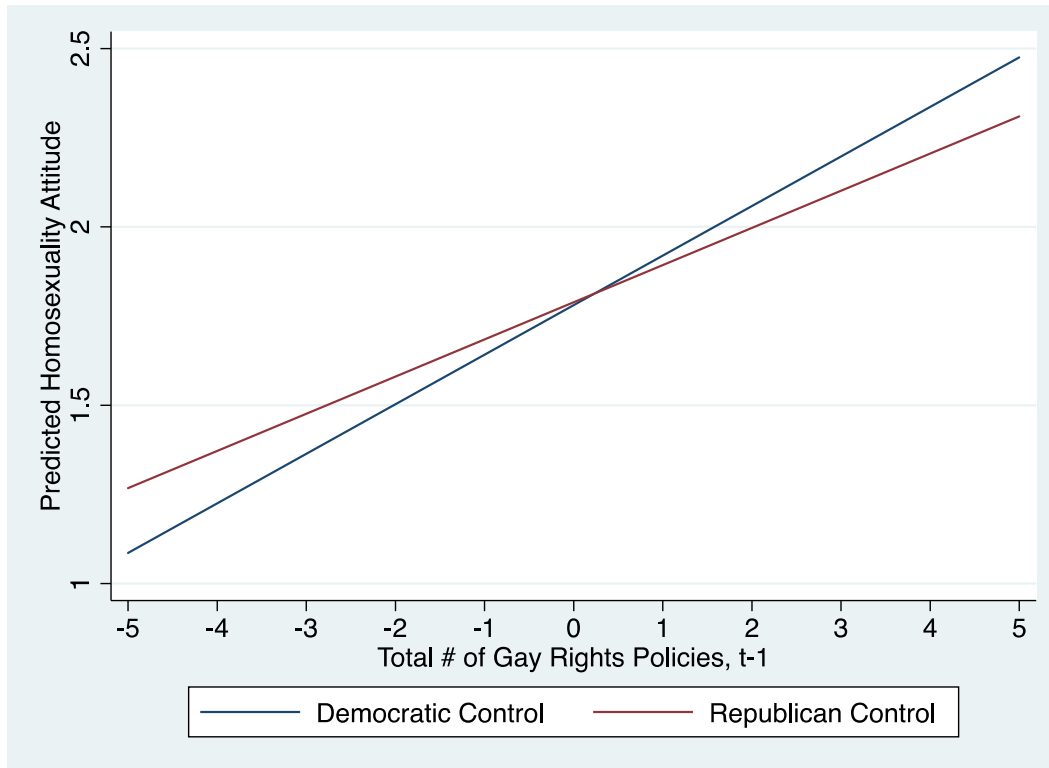
Figure 5.10: Marginal Effects of the Partisan Control Interaction Term, Total Policy Model with State and Individual Characteristics

Figure 5.11 shows the marginal effects of the citizen ideology interaction term with total gay rights policies in the total policy model with state and individual characteristics. As in Figure 5.5, which shows the same interaction term in the absence of individual characteristics, the effect of policy on opinion is only statistically significant when citizen ideology is liberal (specifically, citizen ideology at levels of 0-25): as progressive policies are added in the states, overall opinion becomes more tolerant when citizen ideology is liberal. The only slight difference is that the predicted homosexuality score for 5 traditionally conservative gay rights policies (-5) is roughly .25 lower in Figure 5.11 than 5.5.
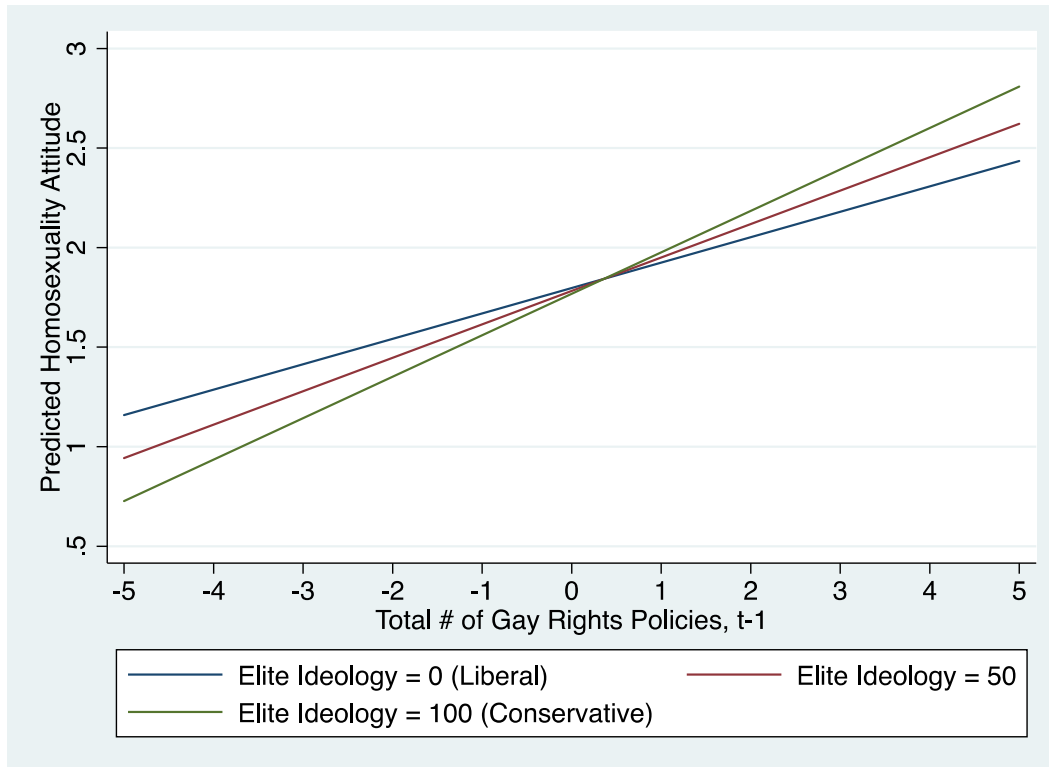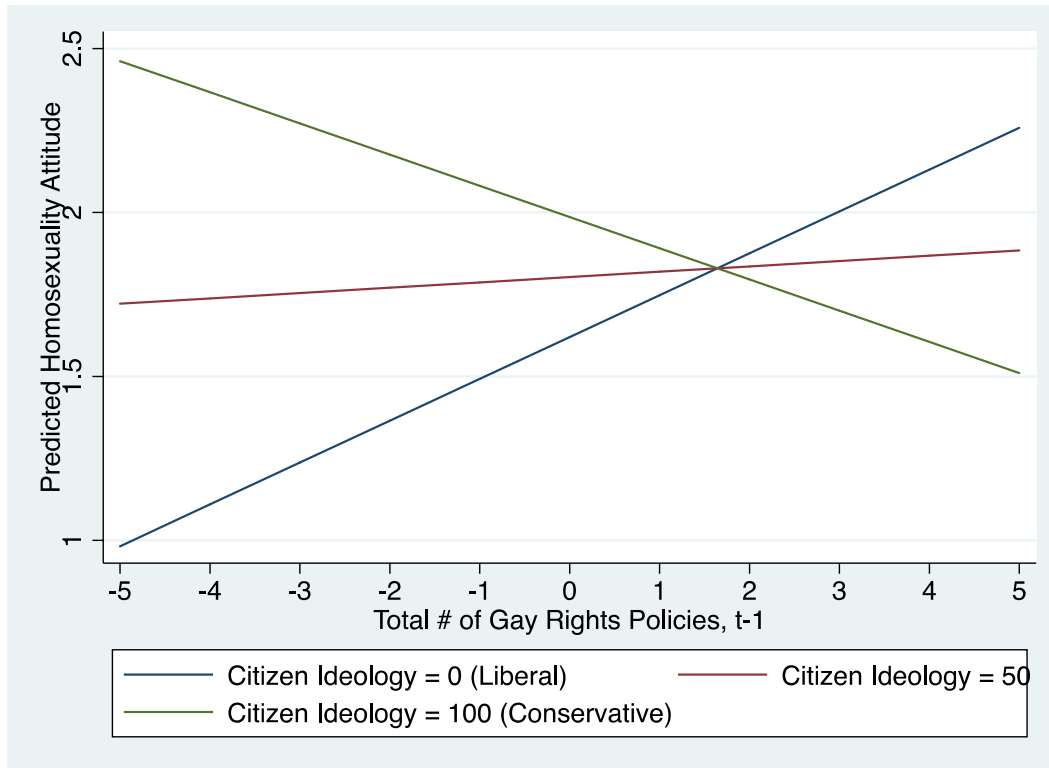
Figure 5.11: Marginal Effects of the Citizen Ideology Interaction Term, Total Policy Model with State and Individual Characteristics

In order to determine the influence of the various policy sources, Model 4 of Table 5.2 includes variables for institutional policy source: state legislatures, state courts, and direct democracy processes. In this model, none of the institutional policy venue variables reach statistical significance, meaning that their effects on opinion are indistinguishable from zero. Furthermore, turning to the other state-level characteristics, the only interaction term to reach statistical significance is citizen ideology. Figure 5.12 displays the marginal effects for the citizen ideology interaction term in the institutional venue model including both state and individual level characteristics. As in Figure 5.6, the interaction between gay rights policies and citizen ideology is only a significant predictor of homosexuality attitude when the electorate is conservative. The two noteworthy differences between Figure 5.6 and 5.12 are (1) when policy venue is controlled for, the addition of a progressive policy leads to less support for

homosexuality, but only when the citizenry is very conservative (scores of 90-100) and (2) the

citizen ideology interaction effect is depressed when individual level variables are added to the

model, as in Figure 5.12.
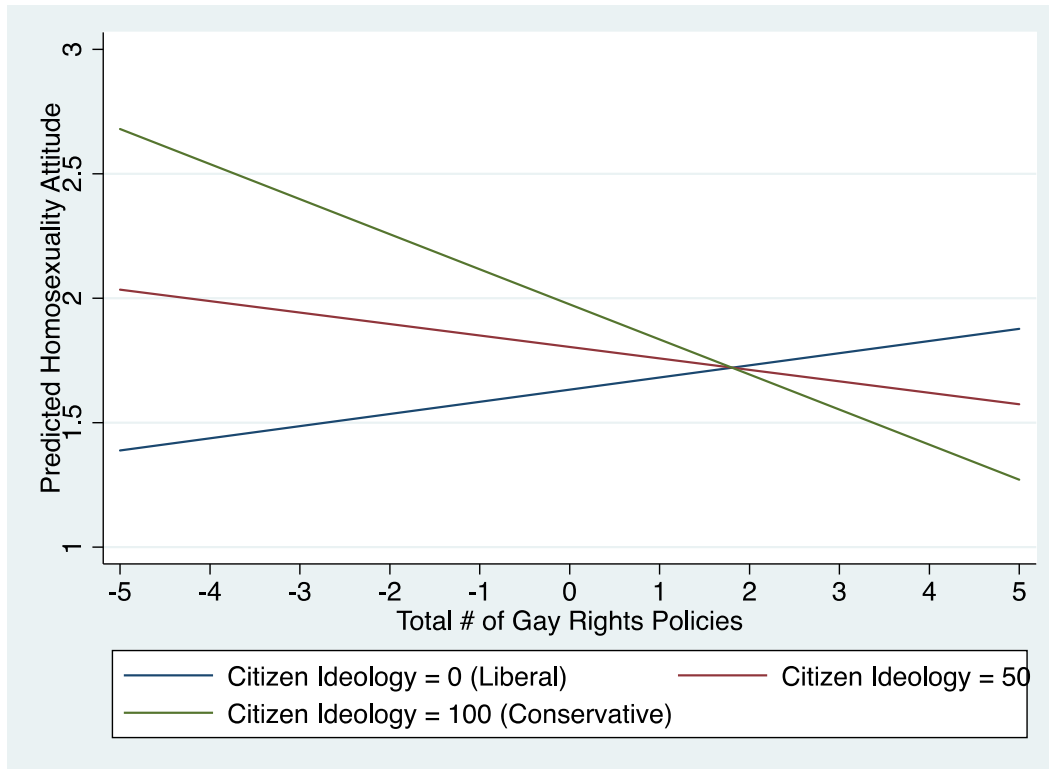
Figure 5.12: Marginal Effects of the Citizen Ideology Interaction Term, Institutional Venue Model with State and Individual Characteristics

As discussed in the last chapter, several individual-level characteristics are important to

determining homosexuality attitudes. Regarding these individual-level characteristics, being

above-average age, African American, Republican, a frequent church attender, and/or having

below-average education level decreases support for homosexuality. Conversely, being female,

secular, Jewish, Catholic, Democratic, younger than average, a non-frequent church attender,

and/or having above-average education increases support for homosexuality. All of these results,

with the exception of Catholics being more supportive of homosexuality, are expected based on

the literature on support for homosexuality and gay individuals. Perhaps for many Catholics

included in the GSS sample over 35 years, homosexuality is viewed through a social justice perspective rather than a traditional doctrinal perspective. Additionally, many American Catholics consider themselves culturally Catholic or "cafeteria-style" Catholics, picking and choosing the doctrines to which they adhere (Ekelund, Hebert, and Tollison 2006), thereby leading to greater acceptance of homosexuality and a rejection of official Church positions.

Turning to the random parameters of Models 3 and 4 in Table 5.2, the variance component associated with the average intercept of the models is 0.109 and 0.108, respectively. Since these estimates are substantially larger than their standard error (about 5 times larger), there appears to be significant variation in average attitude toward homosexuality across states. The two main variance components (associated with the intercept and the residual) can be used to partition the variance across levels. The intrastate correlation coefficient is equal to 0.109/(1.068+0.109)=0.093, meaning that roughly 9.3% of the variance is attributable to the state-level. Further, the variance component associated with the year count can be used to partition the variance associated with time. The coefficient associated with time is equal to 0.010/(1.068+0.010)=0.009, meaning that nearly 1% of the variance is attributable to time.

5.3   ROBUSTNESS CHECKS

My primary concern in this dissertation is whether institutions are capable of leading public opinion. This concern is complicated by a potential reciprocal relationship between my primary variables of interest – public policy and public opinion – and the related endogeneity that arises from the link between policy and opinion. A skeptic may say that the preceding analyses do not prove anything beyond an existing relationship that could, in fact, be stronger in the reverse

direction (that is, homosexuality attitudes could be the driving force behind the changing policies and that political elites are wise enough to see the writing on the wall and adopt policies proactively). This concern warrants further consideration and two robustness checks will be performed in the pages to follow.

5.3.1   Check #1: Testing the Reverse Relationship

The first check of robustness is a methodological exploration of the opposite relationship: lagged public opinion's influence on public policy. In an effort to test for reciprocal effects, I have run a series of multilevel models found in Table 5.3 in which the state policy is the dependent variable and homosexuality attitude at t-1 is the key independent variable. Since I am interested in overall policy and policy originating in the various institutions, six different model specifications are presented in Table 5.3.[20]

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[20] I could not run the robustness check for policies originating via direct democracy because there were not enough observations available to yield reliable estimates.

Table 5.3: Reciprocal Relationship Mixed Models of State- and Individual-level Characteristics' Impact on State Policy

	(1)	(2)	(3)	(4)	(5)	(6)
	Total Policy	Total Policy	Policy from State Legislature	Policy from State Legislature	Policy from State Courts	Policy from State Courts
Fixed Parameters						
Homosexuality Attitude$_{t-1}$	*0.048*	*0.048*	*0.014*	*0.014*	*0.034*	*0.035*
	(0.090)	*(0.089)*	*(0.079)*	*(0.079)*	*(0.023)*	*(0.023)*
Elite Ideology	0.003	0.003	0.003	0.003	-0.000	-0.000
	(0.003)	(0.003)	(0.003)	(0.003)	(0.000)	(0.000)
Court Cohesion	-0.005	-0.005	-0.005	-0.005	0.000	-0.000
	(0.004)	(0.005)	(0.005)	(0.005)	(0.000)	(0.000)
Legislative Cohesion	0.039	0.027	0.000	-0.011	0.037	0.035
	(0.295)	(0.298)	(0.290)	(0.294)	(0.034)	(0.033)
Republican Control of Legislature	0.049	0.048	0.052	0.051	-0.004	-0.004
	(0.049)	(0.048)	(0.049)	(0.048)	(0.006)	(0.006)
Citizen Ideology	-0.010	-0.010	-0.009	-0.009	-0.002	-0.001
	(0.007)	(0.007)	(0.007)	(0.007)	(0.001)	(0.001)
National Homosexuality Attitude Trend	-0.197	-0.203	-0.080	-0.087	-0.116	-0.114
	(0.360)	(0.362)	(0.256)	(0.260)	(0.141)	(0.141)
Year Count	0.049*	0.049*	0.051**	0.051**	-0.002	-0.002
	(0.020)	(0.020)	(0.019)	(0.019)	(0.006)	(0.005)
Age (centered around the mean for the sample)	-	0.000	-	0.000	-	-0.000
		(0.000)		(0.000)		(0.000)
Female	-	-0.001	-	-0.002	-	0.000
		(0.004)		(0.004)		(0.001)
Education (centered around the mean for the sample)	-	0.003*	-	0.002+	-	0.000
		(0.001)		(0.001)		(0.000)
African American	-	0.018	-	0.018	-	-0.001
		(0.013)		(0.013)		(0.001)
Party ID	-	-0.000	-	0.000	-	-0.000
		(0.001)		(0.001)		(0.000)
Church Attendance	-	-0.001	-	-0.001	-	-0.000
		(0.001)		(0.001)		(0.000)
Secular	-	0.004	-	0.001	-	0.003
		(0.011)		(0.012)		(0.002)
Jewish	-	0.016	-	0.013	-	0.003
		(0.028)		(0.026)		(0.005)
Catholic	-	0.005	-	0.006	-	-0.001
		(0.009)		(0.009)		(0.001)
Constant	0.563	0.583	0.361	0.382	0.197	0.196
	(0.612)	(0.623)	(0.475)	(0.487)	(0.227)	(0.229)
Random Parameters						
sd (slope)	0.103	0.103	0.095	0.094	0.040	0.039
	(0.013)	(0.013)	(0.012)	(0.012)	(0.014)	(0.014)
sd (intercept)	0.480	0.481	0.464	0.465	0.051	0.052
	(0.076)	(0.076)	(0.077)	(0.077)	(0.012)	(0.012)
sd (residual)	0.237	0.238	0.228	0.229	0.052	0.052
	(0.038)	(0.038)	(0.039)	(0.039)	(0.016)	(0.016)
Observations	13319	12860	13319	12860	13319	12860

Table 5.3 (continued)

Groups	41	41	41	41	41	41
Min Obs per Group	19	18	19	18	19	18
Avg Obs per Group	324.9	313.7	324.9	313.7	324.9	313.7
Max Obs per Group	1396	1353	1396	1353	1396	1353
Wald χ^2 (8, 17, 8, 17, 8, 17)	20.46	28.99	20.86	25.95	3.40	4.99
Prob > Wald χ^2	0.009	0.035	0.008	0.075	0.907	0.998
Log Pseudolikelihood	8.90	-17.14	526.92	474.77	20313.36	19575.35

Robust standard errors in parentheses

+ $p<0.10$, * $p<0.05$, ** $p<0.01$, *** $p<0.001$

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When looking at the six model specifications in Table 5.3, only model specifications 1-4 reach statistical significance, as indicated by the strength and significance of the $\chi2$ terms (though Model 4 is only marginally significant). The results demonstrate that relatively few variables in the model are statistically significant. In fact, the only variable that is significant across all models is the year counter. Further, education is the only individual-level variable that is predictive – and marginally, at that – of the number of gay rights policies present in a state. Lagged public opinion on homosexuality is not significant in any of the model specifications.

Turning to the random parameters of the models in Table 5.3, the variance component associated with the average intercept of Models 1-4 are 0.480, 0.481, 0.464, and 0.465, respectively. Since all of these estimates are substantially larger than their standard error, there appears to be significant variation in the average policy profile across states. The two main variance components (associated with the intercept and the residual) can be used to partition the variance across levels. Using the same equation detailed in earlier models presented, I find that roughly 66.9%, 66.9%, 67.1%, and 67.1% of the overall variance is attributable to the state-level for Models 1-4. Further, the variance component associated with the year count can be used to partition the variance associated with time. Using the same equations detailed in earlier multilevel models reveals that 30.3%, 30.2%, 29.4%, and 29.1% of the variance is attributable to time in Models 1-4.

The first check of robustness suggests that my findings that the relationship between opinion and policy is in my hypothesized direction and not the reverse.

5.3.2 Check #2: Instrumental Variable Estimation

In the models presented on the previous pages, an underlying assumption is that the error term is zero and not associated with any of the variables in the model. Methodologically, the problem of endogeneity occurs because of association between an independent variable and the error term associated with the econometric equation. Given the plausible scenario that there is correlation between the error term and my key independent variable, public policy at t-1, since there are significant concerns of reverse causality, the use of an additional methodology to further examine the exact nature of the relationship among and between the variables and the error term becomes necessary as a check on robustness. As such, I have run my models with two-stage least squares (2SLS).

In order to use 2SLS, I need to first find an instrumental variable that is correlated with the endogenous variable (policy at t-1) yet unrelated to the error term. Common practice in the political science literature is to use a further back lag of the offending variable (see Sovey and Green 2012 for details on the most common types of instrumental variables used in political science) as a proxy to correct for the endogeneity problem. Lags are commonly used as instrumental variables because the longer time period allows for the effect to be diffused and, therefore, not directly related to the dependent variable. Therefore, I have selected public policy at t-2 as my instrumental variable for use in 2SLS. Public policy at t-2 is highly correlated with public policy at t-1 (.963), but there is no explicit reason to assume that policy two years ago would be a significant predictor of attitudes today. Results of the 2SLS models are found in Tables 5.4-5.6.

Tables 5.4 and 5.5 present results of the original fixed effects models (1 and 3) alongside the same models estimated with instrumental variables (2 and 4). The fixed effects models in

Table 5.4 serve as the bluntest test of the time-varying lagged policy's impact on individual homosexuality attitudes since they include dummy variables for each state in the dataset, which control for any time invariant factors specific to the various states that could account for changes in individual homosexuality attitudes. The models also include time trends specific to each state (state*year count), which control for anything occurring over the years in the individual states that could account for variations in homosexuality attitudes. The inclusion of state dummies and state time trend dummies holds constant all time invariant factors, essentially dropping them from the model, and a statistically significant independent variable means that variable has an impact on individual attitudes over and above anything specific to the individual states, years, or state-year events. It is for this reason that fixed effects models are the most stringent test of significance. In the first two specifications, total policy is insignificant in the original fixed effects model and marginally significant (at 0.10 level) in the 2SLS model. In the second two specifications, policy originating in the state legislature is marginally significant in both the original model and the 2SLS model, and policy originating in state courts or though direct democracy are insignificant. The 2SLS results largely confirm my original model specification and suggest that there is no endogeneity problem with my key independent variable, public policy at t-1. The fixed effects models in Table 5.5 are similar to those in 5.4, but they include region dummies and time trends instead of state dummies and time trends. The 2SLS results in Table 5.5 further confirm that my model is appropriate, suggesting a minimal endogeneity problem.

Table 5.4: 2SLS Fixed Effects Model of Lagged Policy Impact on Individual Homosexuality Attitudes, States Model

	(1) FE	(2) 2SLS, FE	(3) FE	(4) 2SLS, FE
Total Policy$_{t-1}$	0.041 (0.029)	0.052** (0.018)	-	-
Policy from State Legislature $_{t-1}$	-	-	0.060+ (0.032)	0.081*** (0.022)
Policy from State Court $_{t-1}$	-	-	0.061 (0.106)	0.065 (0.081)
Policy from Direct Democracy $_{t-1}$	-	-	-0.035 (0.040)	-0.043 (0.032)
Year Count	-0.181*** (0.014)	-0.186 (0.129)	-0.191*** (0.030)	-0.197 (0.131)
Constant	1.592*** (0.001)	1.593*** (0.013)	1.596*** (0.005)	1.597*** (0.014)
Observations	30176	30176	30176	30176
Groups	48	48	48	48
Min Obs per Group	37	37	37	37
Avg Obs per Group	628.7	628.7	628.7	628.7
Max Obs per Group	2938	2938	2938	2938
Wald χ^2 (49, 51)	-	72102.27	-	72113.96
Prob > Wald χ^2	-	0.000	-	0.000
Corr (u_i, Xb)	-0.396	-0.405	-0.422	-0.435
Within R^2	0.045	0.045	0.045	0.045
Between R^2	0.014	0.013	0.011	0.011
Overall R^2	0.033	0.032	0.031	0.031
sigma_u	0.916	0.929	0.945	0.961
sigma_e	1.176	1.176	1.176	1.176
rho	0.377	0.384	0.392	0.400
F test (47, 28701)	-	14.78	-	13.99
Prob > F	-	0.000	-	0.000

Models also includes 47 constants, consisting of state*year in order to account for any time trends occurring in the individual states. Full results are available in Appendix.
Standard errors in parentheses
+ $p<0.10$, * $p<0.05$, ** $p<0.01$, *** $p<0.001$

Table 5.5: 2SLS Fixed Effects Models of Lagged Policy Impact on Individual Homosexuality Attitudes, Regional Model

	(1) FE	(2) 2SLS, FE	(3) FE	(4) 2SLS
Total Policy$_{t-1}$	0.041+ (0.022)	0.066*** (0.016)	-	-
Policy from Legislature $_{t-1}$	-	-	0.067** (0.023)	0.131*** (0.026)
Policy from Court $_{t-1}$	-	-	0.040 (0.051)	-0.011 (0.053)
Policy from Direct Democracy $_{t-1}$	-	-	-0.038 (0.036)	-0.105 (0.072)
Year Count	0.029*** (0.003)	0.026*** (0.003)	0.027*** (0.003)	0.022*** (0.004)
New England * Count	0.005 (0.006)	0.002 (0.006)	0.005 (0.007)	0.006 (0.007)
Mid-Atlantic * Count	0.004 (0.004)	0.005 (0.004)	0.005 (0.003)	0.008* (0.004)
East North Central * Count	0.008+ (0.004)	(0.012)** (0.004)	0.008+ (0.004)	0.011** (0.004)
West North Central * Count	0.015 (0.013)	0.018*** (0.005)	0.017 (0.012)	0.019*** (0.005)
South Atlantic * Count	0.002 (0.005)	0.005 (0.004)	0.004 (0.005)	0.009** (0.004)
East South Central * Count	-0.009* (0.004)	-0.006 (0.005)	-0.007+ (0.004)	-0.002 (0.005)
West South Central * Count	-0.007 (0.006)	-0.002 (0.005)	-0.007 (0.006)	-0.002 (0.005)
Mountain * Count	0.025** (0.009)	0.028*** (0.006)	0.027*** (0.008)	0.032*** (0.006)
Constant	1.584*** (0.010)	1.588*** (0.010)	1.587*** (0.010)	1.596*** (0.011)
Observations	30176	28759	30176	28759
Groups	48	48	48	48
Min Obs per Group	37	37	37	37
Avg Obs per Group	628.7	599.1	628.7	599.1
Max Obs per Group	2938	2782	2938	2782
Wald χ2 (10, 12)	-	68379.07	-	68365.68
Prob > Wald χ2	-	0.000	-	0.000
F (10,47/)	89.44	-	129.10	-
Prob > F	0.000	-	0.000	-
Corr (u_i, Xb)	0.068	0.077	0.077	0.088
Within R^2	0.0409	0.040	0.041	0.040
Between R^2	0.386	0.348	0.377	0.356
Overall R^2	0.051	0.051	0.053	0.053
Sigma_u	0.289	0.298	0.291	0.297
Sigma_e	1.178	1.186	1.178	1.186
rho	0.057	0.059	0.057	0.059
F test (47, 28701/28699)	-	17.71	-	17.14
Prob > F	-	0.000	-	0.000

For comparison purposes, pacific is the omitted region.
Standard errors in parentheses
+ p<0.10, * p<0.05, ** p<0.01, *** p<0.001

Table 5.6 presents the results of a fixed effects model of the influence of public policy on state and individual level characteristics and should be compared to the results of the multilevel models found in Table 5.2. While the two models are not fully compatible since the former are fixed effects regressions and the latter are multilevel regression models, they are useful in order to assess the robustness of my key independent variable, policy at t-1. In both types of models – multilevel regression and 2SLS – total policy (specifications 1 and 3) and policy originating from the state legislatures and state courts are statistically significant (specification 2) and in the same direction. This further suggests that endogeneity is not a significant problem in my models.

Table 5.6: 2SLS Fixed Effects Model of State- and Individual-level Characteristics' Impact on Individual Homosexuality Attitudes

	(1)	(2)	(3)	(4)
Total Policy$_{t-1}$	0.201** (0.072)	-0.161 (0.133)	0.155* (0.067)	-0.089 (0.123)
Policy from Legislature $_{t-1}$	-	0.288* (0.123)	-	0.200+ (0.114)
Policy from Court $_{t-1}$	-	0.330* (0.134)	-	0.194 (0.124)
Policy from Direct Democracy $_{t-1}$	-	0.097* (0.050)	-	0.032 (0.046)
Elite Ideology	-0.001 (0.000)	-0.001+ (0.000)	-0.001 (0.000)	-0.001 (0.000)
Elite Ideology * Total Policy	0.001+ (0.000)	0.001** (0.000)	0.001* (0.000)	0.001** (0.000)
Court Cohesion	-0.001 (0.001)	-0.000 (0.001)	-0.001 (0.001)	-0.000 (0.001)
Court Cohesion * Total Policy	0.000 (0.000)	0.000 (0.000)	-0.000 (0.000)	-0.000 (0.000)
Legislative Cohesion	0.159** (0.056)	0.091 (0.062)	0.162** (0.052)	0.119* (0.058)
Legislative Cohesion * Total Policy	0.030 (0.046)	0.010 (0.048)	0.084+ (0.043)	0.072 (0.044)
Republican Control of Legislature	-0.009 (0.024)	0.008 (0.025)	-0.009 (0.022)	0.001 (0.023)
Republican Control * Total Policy	-0.041* (0.019)	-0.005 (0.023)	-0.024 (0.018)	0.005 (0.021)
Citizen Ideology	0.002 (0.001)	0.002+ (0.001)	0.001 (0.001)	0.001 (0.001)
Citizen Ideology * Total Policy	-0.004** (0.001)	-0.003** (0.001)	-0.003** (0.001)	-0.002* (0.001)
National Homosexuality Attitude Trend	0.991*** (0.102)	0.999*** (0.102)	0.829*** (0.094)	0.848*** (0.095)
Year Count	0.001 (0.004)	-0.001 (0.004)	-0.002 (0.004)	-0.004 (0.004)
Age (centered around the mean for the sample)	-	-	-0.007*** (0.000)	-0.007*** (0.000)
Female	-	-	0.189*** (0.013)	0.188*** (0.013)
Education (centered around the mean for the sample)	-	-	0.082*** (0.002)	0.082*** (0.002)
African American	-	-	-0.187*** (0.020)	-0.187*** (0.020)
Party ID	-	-	-0.058*** (0.003)	-0.058*** (0.003)
Church Attendance	-	-	-0.090*** (0.003)	-0.090*** (0.003)
Secular	-	-	0.497*** (0.024)	0.495*** (0.024)

Table 5.6 (continued)

			0.758*** (0.048)	0.759*** (0.048)
Jewish	-	-	0.758*** (0.048)	0.759*** (0.048)
Catholic	-	-	0.125*** (0.016)	0.126*** (0.016)
Constant	-0.070 (0.188)	-0.073 (0.190)	0.696*** (0.176)	0.671*** (0.177)
Observations	30176	30176	29158	29158
Groups	48	48	48	48
Min Obs per Group	37	37	36	36
Avg Obs per Group	628.7	628.7	607.5	607.5
Max Obs per Group	2938	2938	2815	2815
Wald $\chi 2$ (13, 16, 22, 25)	71992.02	72014.40	89802.12	89824.03
Prob > Wald $\chi 2$	0.000	0.000	0.000	0.000
Corr (u_i, Xb)	0.040	0.088	0.160	0.177
Within R^2	0.043	0.044	0.206	0.207
Between R^2	0.387	0.465	0.778	0.812
Overall R^2	0.048	0.054	0.230	0.232
Sigma_u	0.297	0.283	0.200	0.188
Sigma_e	1.177	1.177	1.070	1.070
rho	0.060	0.055	0.034	0.030
F test (47, 30115/30112/29088/29085)	12.50	12.04	6.37	6.09
Prob > F	0.000	0.000	0.000	0.000

Standard errors in parentheses
+ $p<0.10$, * $p<0.05$, ** $p<0.01$, *** $p<0.001$

In sum, while significant questions exist regarding reverse causality and the exact nature of the policy-opinion relationship, I consistently find that policy influences opinion when that policy originates in the state legislature – even when the model is specified with fixed effects, biasing me against a statistically significant finding.

5.4   DISCUSSION

To summarize the preceding results, policy changes public opinion even when controlling for a wide variety of factors including anything occurring in the various states (from the fixed effects models), anything occurring within any given year (also from the fixed effects models), any time trend present in the various states and at the national level (from both fixed effects and multilevel models), and even state and individual level characteristics (also from both fixed effects and multilevel models). This means that state governments are able to lead the public opinion of their citizens simply through the adoption of policy. Mere exposure to policy – that is, citizens need not be aware of the policy stimuli in order to be influenced by it – proves to be a potent presence. Policy serves as a legitimizing effect on public opinion in all but one of the state environments explored herein. Therefore, Hypotheses 1.1 – public policy is more likely to cause legitimation in public opinion when the debate in the public sphere is cohesive and one-sided – and 1.2 – public policy is more likely to cause legitimation in public opinion when cohesion in the political body where the policy originated is high – gain support from the statistical analyses conducted in this chapter. As policies are added (in either a progressive or conservative direction), public opinion moves in the same direction.

The one noted exception to the legitimizing effect is when the state citizenry is very conservative. When this is the case, as state government adds policies that are at odds with the preferences of the conservative citizenry, a backlash effect is the outcome such that policies move in one direction (progressive) and opinion moves in the opposite (conservative). That means that Hypothesis 2.1 – public policy is more likely to cause backlash in public opinion when the public debate surrounding the issue is strongly opposed to the institutional policy position – gains support from the empirical analysis, while Hypotheses 2.2 – backlash is more likely to occur among public opinion when the policy originates from the state legislature than when the policy originates in the state judiciary – and 4.1 – since public policy originating from direct democracy theoretically comes from the public, it will have no effect on public opinion – fail to find support.

Furthermore, the results suggest that state institutions can serve as opinion leaders on homosexuality through the adoption of state policy. Specifically, state legislatures seem to have some ability to lead public opinion, though much more research must be done in order to fully understand the mechanism through which they moderate the policy-opinion relationship. In every model but one (Model 4 of Table 5.2) policy from the state legislature is a statistically significant predictor of homosexuality attitude, consistent with Bartels and Mutz (2009). This finding holds even when controlling for anything occurring in the various states, anything occurring within any given year, any time trend present in the various states, and even state and individual level characteristics. Policy from the state legislatures, therefore, leads to a legitimizing effect on public opinion, once again confirming Hypotheses 1.1 and 1.2 with respect to state legislatures, but providing no support for Hypothesis 1.3, which hypothesized that legitimation would only occur when policy originated in the state courts.

The empirical results produce conflicting results with respect to state court and direct democracy's impact on public opinion. Policy originating in state courts is a statistically significant predictor of homosexuality attitude in two models: institutional policy source multilevel model with only state characteristics (Model 2 of Table 5.2) and the 2SLS robustness check of this model (Model 2 of Table 5.6). Once individual characteristics are added to the multilevel models, the influence of policy originating in the state court system washes away. Policy originating via direct democracy reaches statistical significance only in the 2SLS robustness check of my main models. These contradictory and conflicting results demonstrate the need to further investigate the role of institutional venue in attitude change.

One possible reason for the finding that state legislatures are able to lead public opinion is likely due to issue visibility. Policies that tend to originate in the state legislatures may not be as visible as the policies resulting from state courts (mostly highly controversial issues such as same-sex marriage), but are highly impactful on the daily lives of citizens. Revisiting Table 4.1 shows that anti-discrimination policies and hate crime protection policies uniformly originated in the state legislatures. These policies most closely impacted the daily lives of gay residents in the states, serving to make them more secure in their jobs, their relationships, and their lives; this greater sense of security no doubt led more and more gay and lesbian citizens to "come out of the closet." As discussed in Chapter 2, one of the reasons attitudes toward homosexuality have warmed over the years is due to the fact that more people have come in contact with gays and lesbians. As more gays and lesbians are secure in their lives, more of them are likely to reveal their sexual orientations to those around them, which led to wholesale warming of attitudes. Therefore, policy that originated in the state legislature started the long process of acceptance.

5.5   CONCLUSION

In this chapter, I sought to test the relationship between state-level gay rights policies and homosexuality attitudes of state citizens. I found that state legislatures appear to have a strong influence over the homosexuality attitudes of state citizenry while the dynamics of policy originating in state courts and direct democracy are less obvious. In my analyses, I tested for reciprocal effects by running models to test for the opposite relationship than the one I hypothesized. In these models, I find no support for the contention that lagged opinion influences public policy. This is in contrast to some findings in the political science literature (e.g., Lax and Phillips 2009), which warrants further exploration and will be discussed in greater detail in the next chapter.

6.0   CONCLUSION

This dissertation explored the comparative ability of states – via state judiciaries, state legislatures, and direct democracy – to lead mass public opinion through the adoption of public policy. My analysis reveals that states are capable of leading the opinion of its state citizens on homosexuality. Since attitudes toward homosexuality reflect a general affective disposition and not a policy-specific opinion, the analysis herein finds that state governments can, in fact, change what is in the hearts and minds of citizens. The empirical analysis shows state-level policies to be a potent force, withstanding multiple model specifications and robustness checks. Specific to state institutions, my results indicate that state legislatures lead public opinion, direct democracy does not lead public opinion, and the results with respect to courts are inconclusive, requiring more research before determining their opinion leadership power. In this chapter, I conclude the dissertation by tying together the theory developed in Chapters 1 and 3 with the empirical results revealed in Chapter 5.

6.1   SUMMARY AND DISCUSSION OF RESULTS

At the outset of this dissertation, I described a number of reasons to believe that states could lead public opinion. In Chapter 3, I detailed my hypotheses, which highlighted four potential consequences of policy on opinion (legitimation, backlash, polarization, no relationship) that

could be facilitated or inhibited by a number of institutional characteristics (specifically, institutional cohesion and cohesion of public debate). My focus was on the influence that policy from specific sources (state court, state legislature, direct democracy) has on homosexuality opinions. With guidance from existing political science literature, I expected state courts to have the greatest ability to influence public opinion toward their institutional position via policy adoption, interest groups to have no impact on public opinion via direct democracy, and state legislatures to be able to lead public opinion, but their opinion leadership power would be less influential than that of state courts.

I conducted a series of empirical analyses in Chapter 5 in order to explore the impact of public policy – both in the aggregate and by institutional venue – on public opinion regarding homosexuality, based on time-series GSS data from 1973-2008. I find that the mere existence of policy, regardless of its source, changes how citizens feel regarding homosexuality. In most cases analyzed herein, policy induces public opinion regarding homosexuality to move in the same direction as the policy adoption, serving as a legitimizing agent. This means that if a state passes a progressive policy protecting the rights of gays and lesbians, the citizens of that state become more positive in their evaluation of homosexuality the following year. Per Table 4.1 and 4.2, state institutions have been adopting more protective policies for gays and lesbians than at any other time point in history. It follows then, that public opinion has also become more progressive through time. Even when controlling for a number of state-level characteristics such as elite ideology, court cohesion, legislative cohesion, and partisan control of state legislature, public policy consistently serves as a legitimizing agent on public opinion regarding homosexuality.

This legitimation consequence of policy is a tremendous revelation not noted in the state politics literature heretofore. Citizens may not even need to be aware of a policy's existence; rather, through repeated exposure to the policy and its direct (e.g., banishing discrimination against gay and lesbian citizens) and indirect effects (e.g., gays and lesbians more willing to "come out" due to greater legal protections), citizen feelings become more positive toward homosexuality. This legitimation means that public policy can, in fact, change what is in the hearts of their citizens, despite the warnings of President Dwight Eisenhower (noted in the opening paragraph of this dissertation) to the contrary.

This legitimizing force holds in all but one scenario: when the state citizenry is very conservative. When the overall citizen ideology in a state is very conservative, then the addition of protective policies for gays and lesbians results in less support for homosexuality. This means that an opinion backlash occurs in states where state-level public policies and citizen ideology do not match. Therefore, policy leads opinion regarding homosexuality in a multitude of ways. In most scenarios, public policy legitimizes opinion, but in a very limited case, policy and opinion move in opposite directions.

Contrary to my expectations, state courts are not the strongest institutional opinion leaders. Established research at the federal level routinely finds that the highest federal court – the Supreme Court – leads public opinion in a variety of policy areas (Baas and Thomas 1984; Hoekstra and Segal 1996). Instead, the results in Chapter 5 with respect to state courts are inconclusive. In some of the model specifications, state courts are a significant predictor of evaluations of homosexuality but not in all or even most of them. There are two reasons that help to explain the unexpected futility of state courts to lead public opinion, both relating to drawbacks of my data analysis and structure. First, perhaps I do not find evidence of state court

opinion leadership because my state court analysis is not nuanced enough. State supreme court judges achieve (and retain) their positions through a variety of methods – appointment, partisan election, nonpartisan election, and the "merit plan" – and it could be the case that the different methods of selection lead to a differential ability to lead public opinion. For example, judges initially selected via appointment may have an easier time adopting policy contrary to public opinion since they do not have to face the electorate, but their legitimacy may be lower than judges selected through elections.

Second, the one-year policy lag I use to capture changes in public opinion in my models may not be long enough when policy originates in state courts. The long delay between policy creation and policy effects being felt by the public are the result of two different factors. First, due to their reactive (and not proactive) nature, courts must rely on the legislative and executive branches of state government to implement and enforce the policies they determine. This process is not quick and/or easy. Second, once state courts make a policy decision, there is the possibility of appeal to the Supreme Court of the United States. Since issues of gay rights are frequently challenged and/or defended based on their relation to the equal protection clause, the full faith and credit clause, or provisions for federalism within the Constitution, they can and do get appealed to the Supreme Court. Controversial state court decisions are rarely viewed as the final outcome, especially those highly visible decisions relating to the status of same-sex families.

Another unexpected finding is that state legislatures are a strong force in changing the evaluations of homosexuality of state citizens. Policy resulting from a state legislature must be implemented by the executive branch, but the process is usually much shorter than the process faced when policy originates in the state courts. Once policy is passed in the legislature, the

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policy is put into effect relatively quickly and citizens must live under the new status quo unless and until it is repealed by the legislature itself or until a court invalidates it. This gives an edge to state legislatures because citizens get a chance to personally experience the policy and then, if lives are not impacted adversely, attitudes can shift toward the institutional position.

My results further indicate that policy originating via direct democracy has no discernible impact on public opinion. In the past, direct democracy was a strategy utilized exclusively by opponents of gay marriage to bypass the courts and the political branches of government in order to restrict marriage to one man and one woman exclusively. However, public sentiment has recently shifted toward a more pro-gay position,[21] which means that direct democracy is not guaranteed to produce an outcome that gay marriage opponents desire. Direct democracy may also be met with greater backlash. In fact, voters in Arizona and Minnesota recently (2006 and 2012) voted down constitutional amendments that would have banned same-sex marriage in their respective states. On the contrary, voters in Maine approved a referendum establishing same-sex marriage.

Lastly, I find little support for the reciprocal relationship that public opinion leads public policy on gay rights. This non-finding is contrary to a number of political science scholars, including Lax and Phillips (2009), who look at policy responsiveness in the states on the topics of homosexuality and gay rights. Lax and Phillips (2009) find a high level of policy responsiveness to policy-specific opinion. That is, states respond to high levels of public support for same-sex marriage with a policy establishing same-sex marriage in the state. My results differ from Lax and Phillips' (2009) for a number of reasons. First of all, we utilize different key variables. Lax and Phillips' dependent variable is a dummy variable indicating whether or not

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[21] The first national poll to indicate majority support for same-sex marriage (52%) was conducted by CNN and released on August 11, 2010.

states adopted specific types of gay rights policies; their key independent variable is policy-specific opinion. Therefore, Lax and Phillips are measuring responsiveness as the likelihood that a state will adopt a policy based on public support for that specific policy. This measure of responsiveness is an improvement over aggregate liberalism scores used by scholars such as Erikson, Wright, and McIver (1993) and Berry et al. (1998) because liberalism scores are indirect measures of opinion. However, the specific opinion-specific policy link propagated by Lax and Phillips ignores the fact that elites and institutions can lead general attitudes (e.g., toward homosexuality) as well as policy-specific opinion (e.g., toward same-sex marriage). Here in my dissertation, my measure of opinion as attitudes toward homosexuality strikes a balance between the general ideology scores of Erikson, Wright, and McIver and the specific opinion measures of Lax and Phillips.

Second, while we are both looking at policy and opinion on gay rights, we are looking at different aspects of the relationship. I am interested in exploring and explaining institutional opinion leadership while Lax and Phillips are interested in exploring and explaining policy responsiveness. It could be the case that, under certain circumstances (or even when dealing with certain policies), institutional opinion leadership occurs and, under other circumstances, responsiveness occurs.

Third, while we both look at institutional variations and the relationship between policy and opinion, Lax and Phillips examine characteristics of institutions (professionalism, etc.) but not the actual sources of policy to determine whether one is more effective/responsive than the others. As my research shows, however, one of the institutional variations that conditions the relationship between opinion and policy is the policy source.

6.2   ALTERNATIVE EXPLANATIONS

Perhaps my results do not indicate a relationship between policy and opinion but rather a relationship between a third variable and my two key variables. This potential spuriousness is a real issue with which I must contend. There are two main sources that could potentially confound my findings: ideological culture of the state and interest group activity. I will speak to each of these concerns in order.

First, the ideological culture of the state could influence both policy and citizen opinions. While this is a possible scenario, my fixed effects analysis in Chapter 5 accounted for this possibility, though not explicitly. The fixed effects models found in Table 5.1 account for any potentially confounding state-level factors, including the ideological culture of the various states. Even when accounting for these characteristics, policy from the state legislatures is statistically significant. Additionally, region is a possible proxy for political culture. Regional fixed effects models are presented in Table 5.5 and the results still hold.

Second, interest group activity – particularly the Religious Right – could possibly influence both public policy and public opinion. The argument is that interest groups reach out to citizens as well as the elites and so interest groups are actually driving the direction of policy and opinion. While interest groups are certainly part of the political system, I am confident that they are not wholly responsible for the relationship revealed by my empirical analyses. If interest groups were the driving force behind policy and opinion, I would expect that policy from all three sources – state legislatures, state courts, and direct democracy – would be significant (or, alternatively, insignificant) in my models. Interest groups play a large role in the policy process regardless of the source. Interest groups for and against gay rights sponsor cases brought to the state courts, lobby specific members and committees of state legislatures, and they

organize support for and sponsor specific ballot initiatives (Hansen 2011). Therefore, if interest groups were the driving force behind policy *and* opinion, policy, regardless of source, should be statistically significant. Instead, only policy originating with state legislatures consistently reaches significance.

6.3   FUTURE RESEARCH

While my test of reciprocal causality finds no support for the influence of public opinion on policy, further tests must be conducted to more fully flesh out the nature of the relationship. Specifically, the next step is to run a structural equation model with the same variables in my models from Chapter 5. Structural equation modeling would allow me to model reciprocal causality and measure the weight of policy on opinion and vice versa, dealing more directly with the endogeneity question.

Another avenue of future research would be to study the relationship between public policy and public opinion through a series of case studies. I would like to select a case that fits each of the four hypotheses I laid out in Chapter 3 (legitimation, backlash, polarization, and no relationship between policy and opinion) and utilize process tracing to follow the policy process from proposal to adoption to consequences for public opinion, fully taking into account the role of interest groups.

Additionally, I would also like to employ a study that looks at state-level gay rights policies that have been adopted *and* proposed. While the outcome is not always successful, it is possible that the debate surrounding the gay rights policies still influences opinion in systematic

ways. This policy debate can have consequences for public opinion that are not picked up by the analysis found here in this dissertation.

Lastly, I would like to analyze other policy areas in order to determine the extent of institutional opinion leadership. Are state institutions better able to lead opinion on controversial issues or mundane issues? Can state courts lead on a particular set of policies, but not others? Can state legislatures lead in other policy areas?

6.4   CONTRIBUTION AND IMPLICATIONS

This research is situated among multiple literatures: mass politics, policy studies, and state politics. Regarding mass politics, my dissertation adds a public policy dimension to the sources of attitude change. Antecedents to attitude change are largely believed to originate from social and demographic factors, such as familial income level and education levels, but my results show that state political context also has an important influence on citizens' homosexuality attitudes.

Regarding policy studies, my dissertation shows that it is important to take the policy point of origin and its differing impact on attitudes into account. That is, it is important to note whether a policy originates from the state legislature, state judiciary, or the ballot initiative process, as each of these origins has differing implications for attitude formation and leadership ability. Additionally, I show that policy has very clear consequences for attitudes and public opinion. Many policy analyses have focused on different types of policy and the cultural consequences of those policies. For example, it is universally understood that certain policies are meant to curb crime, increase the welfare of society, and regulate economic conditions.

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However, much less scholarship has focused on a secondary impact of policy: an attitudinal outcome of policy, which is one of the goals of this dissertation.

Regarding state politics, this research advocates a sub-national approach to analyzing the policy-opinion relationship when policy varies at the state-level. Since most policies about gay rights, abortion, the death penalty, and education, for example, are determined at the state level, research focusing on public opinion surrounding these policies and their target groups in society should also be studied at the state level. Furthermore, due to their centrality to American democracy, the relationship between public policy and public opinion has been intensely debated and studied in American political science research. This dissertation's contribution is the examination of state political structures and, specifically, the various routes by which public policy is adopted within the states.

This dissertation and the theory it promotes also has a number of normative implications and consequences. First, as mentioned above, policy can change public opinion. More specifically and significantly, policies can change what is in the hearts and minds of state citizens.

Second, my theory challenges conventional wisdom regarding the demands of democracy. Representative democracy requires that citizens express their will to the elites who then make their constituents' opinions expressed in policy. It is widely assumed that legislators listen to their constituents' demands and then vote on bills according to constituent preferences, thereby allowing the masses to lead elites. While many scholars accept this assumption as truth, it does not always hold up to rigorous empirical examination. The issue evolution literature, for one, is predicated upon the assumption that elite opinion crystallizes and then masses follow. Therefore, in light of Bartels and Mutz (2009) and this project there is reason to believe that

policy does not always follow public opinion; under some conditions, policy leads public opinion.

FULL RESULTS FROM TABLES 5.1 AND 5.4

Table A.1: Fixed Effects Models of Lagged Policy Impact on Individual Homosexuality Attitudes with State Dummy Variables Included

	(1) FE	(2) 2SLS, FE	(3) FE	(4) 2SLS, FE
Total Policy$_{t-1}$	0.041 (0.029)	0.052** (0.018)	-	-
Policy from Legislature $_{t-1}$	-	-	0.060+ (0.032)	0.081*** (0.022)
Policy from Court $_{t-1}$	-	-	0.061 (0.106)	0.065 (0.081)
Policy from Direct Democracy $_{t-1}$	-	-	-0.035 (0.040)	-0.043 (0.032)
Year Count	-0.181*** (0.014)	-0.186 (0.129)	-0.191*** (0.030)	-0.197 (0.131)
Alabama * Count	0.203*** (0.016)	0.209 (0.129)	0.213*** (0.031)	0.220+ (0.131)
Alaska * Count	0.176*** (0.025)	0.186 (0.145)	0.187*** (0.036)	0.199 (0.147)
Arizona * Count	0.249*** (0.014)	0.254* (0.129)	0.259*** (0.030)	0.264* (0.131)
Arkansas * Count	0.171*** (0.017)	0.177 (0.129)	0.177*** (0.030)	0.184 (0.131)
California * Count	0.213*** (0.011)	0.217+ (0.129)	0.220*** (0.025)	0.224+ (0.130)
Colorado * Count	0.245*** (0.015)	0.251+ (0.129)	0.255*** (0.030)	0.261* (0.131)
Connecticut * Count	0.204*** (0.010)	0.208 (0.129)	0.211*** (0.026)	0.214 (0.130)
Delaware * Count	0.141*** (0.013)	0.146 (0.134)	0.150*** (0.023)	0.156 (0.135)
Florida * Count	0.214*** (0.014)	0.219+ (0.129)	0.223*** (0.030)	0.229+ (0.131)
Georgia * Count	0.207*** (0.018)	0.214+ (0.129)	0.216*** (0.031)	0.224+ (0.131)

Hawaii * Count	0.397***	0.402*	0.406***	0.413*
	(0.014)	(0.192)	(0.030)	(0.193)
Idaho * Count	0.142***	0.147	0.142***	0.146
	(0.014)	(0.145)	(0.030)	(0.147)
Illinois * Count	0.214***	0.218+	0.222***	0.227+
	(0.012)	(0.129)	(0.024)	(0.130)
Indiana * Count	0.206***	0.212	0.216***	0.223+
	(0.015)	(0.129)	(0.029)	(0.130)
Iowa * Count	0.202***	0.207	0.211***	0.217+
	(0.014)	(0.129)	(0.030)	(0.131)
Kansas * Count	0.242***	0.248+	0.249***	0.255+
	(0.016)	(0.129)	(0.030)	(0.131)
Kentucky * Count	0.196***	0.202	0.205***	0.211
	(0.015)	(0.129)	(0.030)	(0.131)
Louisiana * Count	0.204***	0.210	0.212***	0.219+
	(0.016)	(0.129)	(0.030)	(0.131)
Maryland * Count	0.222***	0.227+	0.231***	0.235+
	(0.012)	(0.129)	(0.029)	(0.131)
Massachusetts * Count	0.219***	0.222+	0.224***	0.228+
	(0.008)	(0.129)	(0.015)	(0.129)
Michigan * Count	0.220***	0.226+	0.227***	0.234+
	(0.017)	(0.129)	(0.031)	(0.131)
Minnesota * Count	0.260***	0.265*	0.269***	0.274*
	(0.012)	(0.129)	(0.029)	(0.131)
Mississippi * Count	0.217***	0.224+	0.229***	0.237+
	(0.017)	(0.130)	(0.032)	(0.132)
Missouri * Count	0.205***	0.211	0.214***	0.220+
	(0.015)	(0.129)	(0.030)	(0.131)
Montana * Count	0.201***	0.208	0.213***	0.222+
	(0.018)	(0.130)	(0.032)	(0.132)
New Hampshire * Count	0.383***	0.393**	0.400***	0.410**
	(0.025)	(0.144)	(0.057)	(0.150)
New Jersey * Count	0.227***	0.230+	0.233***	0.236+
	(0.009)	(0.129)	(0.021)	(0.130)
New Mexico * Count	0.227***	0.233	0.237***	0.243
	(0.014)	(0.180)	(0.030)	(0.182)
New York * Count	0.211***	0.216+	0.219***	0.223+
	(0.011)	(0.129)	(0.023)	(0.130)
North Carolina * Count	0.202***	0.208	0.213***	0.220+
	(0.016)	(0.129)	(0.031)	(0.131)
North Dakota * Count	0.245***	0.251+	0.256***	0.263*
	(0.016)	(0.130)	(0.031)	(0.132)
Ohio * Count	0.228***	0.236+	0.235***	0.242+
	(0.020)	(0.129)	(0.036)	(0.131)
Oklahoma * Count	0.202***	0.208	0.212***	0.218+
	(0.015)	(0.129)	(0.030)	(0.131)
Oregon * Count	0.201***	0.206	0.208***	0.213
	(0.012)	(0.129)	(0.029)	(0.131)
Pennsylvania * Count	0.211***	0.217+	0.221***	0.228+
	(0.015)	(0.129)	(0.030)	(0.131)
Rhode Island * Count	0.131***	0.137	0.141***	0.147
	(0.014)	(0.146)	(0.030)	(0.148)

South Carolina * Count	0.218*** (0.016)	0.224+ (0.129)	0.227*** (0.031)	0.234+ (0.131)
South Dakota * Count	0.205*** (0.019)	0.213 (0.143)	0.219*** (0.033)	0.228 (0.144)
Tennessee * Count	0.199*** (0.015)	0.204 (0.129)	0.208*** (0.030)	0.214 (0.131)
Texas * Count	0.208*** (0.015)	0.214+ (0.129)	0.217*** (0.030)	0.223+ (0.131)
Utah * Count	0.237*** (0.014)	0.243+ (0.142)	0.247*** (0.030)	0.253+ (0.144)
Vermont * Count	0.318*** (0.012)	0.323* (0.137)	0.326*** (0.017)	0.333* (0.138)
Virginia * Count	0.219*** (0.017)	0.226+ (0.129)	0.230*** (0.031)	0.237+ (0.131)
Washington * Count	0.206*** (0.014)	0.211 (0.129)	0.216*** (0.030)	0.221+ (0.131)
West Virginia * Count	0.219*** (0.016)	0.225+ (0.129)	0.230*** (0.031)	0.237+ (0.131)
Wisconsin * Count	0.207*** (0.014)	0.212+ (0.129)	0.215*** (0.035)	0.219+ (0.131)
Wyoming * Count	0.213*** (0.014)	0.219+ (0.129)	0.223*** (0.030)	0.229+ (0.131)
Constant	1.592*** (0.001)	1.593*** (0.013)	1.596*** (0.005)	1.597*** (0.014)
Observations	30176	28759	30176	30176
Groups	48	48	48	48
Min Obs per Group	37	37	37	37
Avg Obs per Group	628.7	599.1	628.7	628.7
Max Obs per Group	2938	2782	2938	2938
Wald $\chi 2$ (49, 51)	-	68730.25	-	72113.96
Prob > Wald $\chi 2$	-	0.000	-	0.000
Corr (u_i, Xb)	-0.396	-0.423	-0.422	-0.435
Within R^2	0.045	0.044	0.045	0.045
Between R^2	0.014	0.012	0.011	0.011
Overall R^2	0.033	0.031	0.031	0.031
sigma_u	0.916	0.944	0.945	0.961
sigma_e	1.176	1.184	1.176	1.176
rho	0.377	0.389	0.392	0.400
F test (47, 30077)	-	13.65	-	13.99
Prob > F	-	0.000	-	0.000

For comparison purposes, Maine is the omitted state.
No observations in Nebraska or Nevada.
Standard errors in parentheses
+ $p<0.10$, * $p<0.05$, ** $p<0.01$, *** $p<0.001$

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