Legislative Victory, Electoral Uncertainty: Explaining Outcomes in the Battles over Lesbian and Gay Civil Rights

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Abstract

Previous studies indicate that in cases of relatively low issue salience, the interest group model best explains lesbian and gay antidiscrimination policy in the American states. The analysis of state and local public policy prohibiting discrimination on the basis of sexual orientation concludes that for cases of high issue salience, the morality politics model best describes outcomes. The interest group politics model is used here in a case study of Wisconsin’s passage of a comprehensive antidiscrimination policy, while the morality politics model is used to investigate the electoral outcomes of anti-gay ballot initiatives in several states. The results of this analysis conform with prior research—when lesbian and gay issues are not salient, the interest group politics model best explains resulting policy, however, under salient conditions, the morality politics model best describes outcomes. Finally, the implications of this research for social scientists and activists are discussed.

INTRODUCTION

The issue of civil rights protections for gays and lesbians has been part of the American political agenda since the early 1970s. Interest groups representing gays and lesbians have fought for antidiscrimination policies at the local, state, and national level only to be frequently meet by the opposition of conservatives and the religious right. Social scientists have begun to examine gay and lesbian politics and antidiscrimination policies (see Adam, 1995; Blasius, 1994), and recently this literature has become more empirically rigorous (see Bailey, 1999; Button, Rienzo, & Wald, 1997; Button, Wald, & Rienzo, 1999; Gamble, 1997; Golebiowska, 2001; Haeberle, 1996; Haider-Markel, 1997a, 1997b, 1999b, 2001; Haider-Markel & Meier, 1996; Hertzog, 1996; Riggle & Tadlock, 1999; Rimmerman, Wald, & Wilcox, 2000; Sharp, 1999; Wald, Button, & Rienzo, 1996; Yang, 1997). However, the relative lack of attention to this area is surprising because the issues raised by battles over gay and lesbian civil rights, including the civil rights of minorities versus the will of the majority, the authority of subnational governments to make their own laws, and the role of

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interest groups in American politics and policy, are fundamental to American democracy.

This article outlines the findings of past research on gay and lesbian politics, explores the dynamics of the battle over gay and lesbian civil rights in a case study of Wisconsin’s passage of a comprehensive antidiscrimination law, and tests these findings in the context of state-level battles over gay and lesbian civil rights at the ballot box. We discuss the implications of the research presented here and results of past studies for social scientists and political activists.

Investigations of Public Policy Concerning Lesbians and Gays

Public policy is influenced by various factors in the political and social environment including interest group activity, competition between parties, issue salience, public opinion, citizen forces, and the values of political elites (see Holbrook & Percy, 1992; Hwang & Gray, 1991; Meier & Johnson, 1990; Meier & McFarlane, 1993; Nice, 1988; Tatalovich & Daynes, 1998). Public policies are often viewed as redistributive, distributive, or regulatory with each type of policy arising from different patterns of politics (see Lowi, 1969; Ripley & Franklin, 1991, pp. 16–22).

Political issues that involve, or are perceived to involve, morality often deal with aspects of each policy area. Policies protecting lesbians and gays from discrimination regulate behavior, distribute opportunities and sometimes income to a small group, and in Gusfield’s (1963) terms, symbolically redistribute values in society. Gusfield (1963) argues that when the government enacts a policy that reflects one group’s values over another, the government has effectively approved the winning coalition’s values. Policies that redistribute values, therefore, are referred to as morality policies. The pattern of politics for morality policies has been examined to some extent in lesbian and gay politics (Haider-Markel & Meier, 1996; Lang, 1989; Mooney, 2001), sodomy laws (Nice, 1988), abortion politics (Mooney & Lee, 1995; Oldmixon, 2002; Roh & Haider-Markel, 2003), criminal justice politics (Gusfield, 1963; Meier, 1994; Mooney, 2001; Tatalovich & Daynes, 1998), among other policy areas (see Mooney, 2001; Sharp, 1999; Tatalovich & Daynes, 1998).

These studies suggest that in morality politics little information on the issue is needed for participation and the issue is likely to be highly salient. Low information and high salience will shape the pattern of politics by allowing for greater citizen mobilization (usually around religious beliefs) and attracting the attention of politicians (see Gormley, 1986; Haider-Markel, 1999a; Lowi, 1969; Mooney, 2001). In morality politics, compromise between extremes is unlikely because the battle is over core beliefs. Like redistributive politics, morality politics is, therefore, likely to be highly partisan, revolve around citizens’ core belief systems, seek nonincremental policy change, attract entrepreneurial politicians, and appear in competitive political systems. While interest groups are likely to be
active, their prime resource (information) is not needed, giving them relatively less influence over the outcome (Haider-Markel, 1999a, 1999b; Oldmixon, 2002).

Interest groups, then, are likely to try to limit broader involvement in the formulation of policy, or in Schattschneider’s (1960) terms, limit the scope of the conflict. Interest groups will be most effective when they can discretely lobby sympathetic policymakers and convince them they are concerned only with incremental changes in policy. If salience is kept low and the scope of the conflict remains small, an interest group model of politics suggests that the resources of interest groups, the supportive values of political elites, and incremental changes in policy can best predict policy.

In an analysis of gay civil rights policies in the US, Haider-Markel and Meier (1996) demonstrate that when gay and lesbian issues are not salient, lesbian and gay politics can be modeled as interest group politics. Their analysis suggests that lesbian and gay interest group resources, past civil rights policy, and the support of political elites largely determine anti-discrimination policies. Further, a similar pattern was found in the passage of local domestic partner policies (Haider-Markel, Joslyn, & Kniss, 2000).

When gay and lesbian issues do become salient and the broader public becomes involved, the scope of the conflict is widened and different factors become important. Haider-Markel and Meier (1996) indicate that lesbian and gay politics under salient conditions are more likely to reflect a pattern of morality politics where religious groups, competition between political parties, and the partisanship of the electorate will largely determine policy toward lesbians and gays (see also Haider-Markel, 1999a).

Wisconsin: A Mini Case Study

A mini case study of Wisconsin will illustrate the interest group nature of gay and lesbian politics. Wisconsin was the first state to pass a comprehensive antidiscrimination statute yet appears to have neither the interest group membership nor the elite support to predict this strong a position in 1993 as Haider-Markel and Meier (1996) suggest. However, as the case study demonstrates, forces predicted by the interest group politics model converged in 1982 to support the passage of antidiscrimination legislation. This illustrates the dynamic nature of the forces at work and suggests that antidiscrimination laws may be overturned if the

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1Wald, Button, and Rienzo (1996) find similar results in a local-level analysis of antidiscrimination policies for gays and lesbians but they did not specifically examine the notions of issue salience or the scope of political conflict.

2Information for the case study of Wisconsin is based on personal communications between the authors and several key politicians who served in the legislature at the time, including David Clarenbach.
configuration of forces changes over time or if the issue becomes salient. An in-depth analysis of gay and lesbian politics under salient conditions (the morality politics model) is presented in the following section.

Wisconsin established its antidiscrimination policies by statute in 1982. The policy entrepreneur behind the legislation was David Clarenbach, a liberal representing the university community of Madison; his cosponsors were four Democrats from safe legislative seats in Milwaukee. The bill simply added the category “sexual preference” to the various antidiscrimination laws on the books. Clarenbach introduced the legislation in every session from 1975 to 1981 but did not bring the issue to a vote, thinking that the process required some long-term education of political elites to the need for a law. His strategy had four parts: (1) to present the bill as a civil rights measure consistent with Wisconsin’s long-cherished progressive tradition, (2) to defuse the religious issue by seeking support from mainline religious organizations, (3) to gather bipartisan support for the bill, and (4) to use gay and lesbian activists to do the ground work in building political support. 

Clarenbach decided to push for passage of the bill in 1981 when his legislation to repeal Wisconsin’s “sodomy” law lost by a single vote. Owing to the potential controversy the bill would generate, Clarenbach perceived that he had only one session to pass the bill; if it failed to pass in this session, opponents would be able to mobilize their forces by increasing the salience of the issue and thus the scope of the conflict.

Building the supporting political coalition followed the four-point strategy. Wisconsin takes a great pride in being the first state to pass progressive legislation. The bill was framed as merely extending statewide some protections that the state’s two largest cities had already successfully implemented. Using gay and lesbian activists to contact individuals for support resulted in endorsements by the Catholic archbishop of Milwaukee and most mainstream Protestant denominations including the Baptists. The effort was to isolate the Moral Majority as the sole religious group opposing the legislation. To avoid having the legislation designated as a “Democratic bill” that could be used as a future campaign issue, several prominent Republican legislators were encouraged to support the bill (generally by using libertarian arguments that government should not regulate sexual preferences). Although the number of Republicans supporting passage was not large (six in the Assembly and four in the Senate), the Republicans were highly visible (one later was the Republican candidate for the US Senate, another is currently lieutenant governor) and provided the margin of victory on several votes. The National Gay and Lesbian Task Force was instrumental in providing information on the impact of similar laws and statements of support from major professional organizations (e.g., the American Medical Association).

Further contributing to the argument that this was an incremental change in policy was the experience of the two cities that only a modest number of cases were involved. The state administrative agencies confirmed this by reporting that existing procedures could handle these cases and that the legal change would not require additional appropriations.
The strategy was successful though the margins were close. The legislation passed the lower house by a 49 to 45 vote. Opponents in the Senate sought to defeat the legislation by claiming it would require private companies to take affirmative action to hire gays and lesbians. The Senate Committee on State and Local Affairs and Taxation then narrowed the scope of the conflict and offered an amendment that would specify that affirmative action was not necessary in regard to sexual preference and clarify that sexual preference complaints could not be brought under the category of gender (which would require affirmative action). This compromise passed the Senate (in February 1982 with the galleries packed by clergy supporting the bill) by voice vote (the key vote was one of “non-concurrence” with the Assembly bill which failed 13–19).\(^4\) The Assembly then accepted the Senate language, and Republican Governor Lee Dreyfus signed the bill into law on February 25, 1982. Dreyfus reputedly signed the bill immediately to prevent any groundswell of pressure for a veto to materialize. As further illustration that the elite process remained relatively unsalient, the final passage of the bill occurred in an election year, and it did not become a key issue in either the legislative or gubernatorial races that year.\(^5\)

The case of Wisconsin illustrates the interest group model correctly describes gay politics but also that the importance of the support of political elites is incomplete. The general measure of elite support used by Haider-Markel and Meier (1996) is based on a relatively small number of elites and does not pick up the activities and skills of political entrepreneurs such as Clarenbach and his cosponsors (see also Haider-Markel et al., 2000). It measures the potential for elite entrepreneurs rather than their actual activities. Other key elements of the interest group model are also supported by this case study. The key players were able to prevent the issue from becoming salient to the broader public, gay and lesbian interest groups were able to bring their resources to bear on the process, policy change was framed as incremental, and partisanship was avoided.\(^6\)

\(^4\)The relative closeness of both the important votes in the Assembly and the Senate suggest that even with the endorsement of religious groups, the bill was not a “no-risk proposition” for politicians as has been suggested by Adam (1995, p. 131).

\(^5\)This can be attributed to the political skills of Clarenbach and his cosponsors. In both the Assembly and the Senate, the bill was moved from its initial committee to a committee more favorably disposed to the bill. Clarenbach had the reputation as a political insider with excellent legislative skills and served in key leadership roles. One of his cosponsors, Barbara Ulichny, also became a key member of the Democratic leadership.

\(^6\)Clarenbach feels that the passage of the 1982 law made gay civil rights a nonissue in Wisconsin. As evidence he cites that in 1983 the state repealed its “sodomy” law. In the mid- and late 1980s it passed a hate crimes bill that increased penalties if the crime involved targeted individuals including gays and lesbians, extended antidiscrimination laws to higher education, and passed a bill of civil rights for AIDS victims. Former Governor Tony Earl who noted that vetoing the “sodomy” bill never entered his mind reinforces Clarenbach’s contention. Similarly, a conservative Republican, Tommy Thompson, signed the most recently passed bills into law.
Gay and Lesbian Politics under Salient Conditions

The analysis in Haider-Markel and Meier (1996) and illustrated by the mini case study of Wisconsin presented here demonstrate that gay and lesbian politics resembles interest group politics rather than morality politics. The models suggested this was possible if the level of salience could be kept low; in fact, salience was negatively related to the adoption of some antidiscrimination policies in Haider-Markel and Meier (1996). To verify the general framework, however, gay and lesbian politics need to be examined when they are salient to see if morality forces then become important.

The models suggest that salience will be highest when the debate over lesbian and gay civil rights moves out of the legislative arena and the hands of political elites, and the issues are presented to the wider audience of general citizens. Expanding the scope of the conflict is nothing new in American politics; indeed, Schattschneider (1960) and others have routinely observed the phenomenon of coalitions expanding the debate over an issue when the battle is lost in one political venue. Including a wider audience in the debate over gay and lesbian civil rights is most likely to take the form of a ballot initiative or citizen referenda. From 1972 to 2001 at least 122 cities, counties, and states held initiatives and referenda that in some way addressed the civil rights of lesbians and gays (Haider-Markel, 2003). Of these measures 90 were antigay in their intent, mostly repealing existing laws or banning the passage of gay civil rights laws in the future. Over 71% of these initiatives and referenda have resulted in losses for supporters of lesbian and gay civil rights. Only 32 initiatives sought to enact laws to ensure the civil rights of lesbians and gays, and almost 69% of these have failed.

The results of these elections suggest that if the scope of the conflict on gay civil rights is expanded, not only will different factors be important, but also the outcome is unlikely to be favorable for gays and lesbians. Lesbians and gays are also unlikely to be successful in enacting new laws protecting their rights at the ballot box. While expanding the scope of the conflict may be beneficial to those opposing gay civil rights, gay and lesbian activists would be well advised to limit the boundaries of conflict over their rights. Our conclusions support Gamble (1997) and Gerber (1995, p. 125) since they suggest that minorities are likely to lose in the initiative process. The question remaining, however, is what are the

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7This count does not include four statewide and one local initiative in California dealing with AIDS. For analysis of these measures see Haider-Markel (1999a).
8Gamble (1997) discusses only 38 anti-gay ballot initiatives and referenda. The discrepancy is largely due to the fact that Gamble only included initiatives from 1977 through 1993, whereas our count includes initiatives from 1972 through 2001 (most of which can be found in Haider-Markel 1997a). Gamble did, however, miss some initiatives in the overlapping years. Nevertheless, the pattern of majority rejection of civil rights is consistent with her findings.
9Donovan and Bowler (1998) reach similar conclusions but also suggest that minorities will fare better in larger communities.
important factors for determining success or failure of gay civil rights ballot initiatives? To determine if the models presented earlier are correct in the frameworks they provide, we examine each of the ballot initiatives and referenda at the state level where the scope of the conflict over lesbian and gay civil rights has been expanded.

State-Level Initiatives and Referenda: Variables and Measurement

Statewide initiatives on gay civil rights have been held in California (1978), Oregon (1988, 1992 and 1994), Colorado (1992), Idaho (1994), Maine (1995 and 1998), and Washington (1997). In each ballot initiative different gay civil rights issues were raised, but the central themes remained the same. In California voters were asked to prevent homosexuals from teaching in public schools. Oregon (1988) voters were first asked to repeal an executive order barring discrimination on the basis of sexual orientation in public employment and later (1992 and 1994) asked to prohibit the state or any community from passing legislation to protect individuals based on sexual orientation. In Colorado, Idaho, and Maine (1995, 1998) voters were also asked to repeal existing antidiscrimination laws and/or prevent new antidiscrimination laws from being passed. Only in Washington (1997) were voters asked to include lesbians and gays in existing antidiscrimination laws, making that initiative the only proactive gay initiative in the bunch.

Although the intent and language of each initiative varied from state to state, the core issue in each was the civil rights of gays and lesbians. Indeed, because Lupia (1994) found that voters take information shortcuts in elections rather than gather all the possible information, the citizens voting in each of these referenda elections were likely to see the issue simply as gay civil rights.

Each of these initiatives divided the electorate, narrowly passing in Maine (1998), Colorado (1992), and Oregon (1988) and failing in each of the other state elections. If the interest group politics and morality politics models’ predictions are correct, county-level vote outcomes in each state should be predicted well by morality variables but not predicted well by interest group politics variables. The dependent variable is the percentage of the county vote that supported the pro-gay civil rights position.

In using counties as the unit of analysis, some of the variables suggested by the interest group politics model cannot be measured. Fortunately, we mainly seek to test the efficacy of the morality politics variables.


11Data on election results, registration figures, and party registration were obtained from the respective secretaries of state.
Only two interest group politics variables are available—a measure of elite support and a measure of potential lesbian and gay interest group resources. Since the interest group politics model indicates that the discussion and formulation of policy occurs out of the public view, the values of legislators and political elites should become more important if the theory is correct (Haider-Markel & Meier, 1996). The votes of a state’s delegation to the House should be a reflection of their individual values and the values of other political elites in the state (Holbrook & Percy, 1992). Instead of using Americans for Democratic Action (ADA) or American Conservation Union (ACU) conservatism and liberalism indicators to measure the support of political elites, we use House roll call votes on specific legislation and amendments that address gay and lesbian issues in the 100th, 101st, and 102nd Congresses (see Haider-Markel & Meier, 1996). The support of political elites, therefore, is measured as the average percentage that a county’s district representative voted in favor of the lesbian and gay position. States such as California have counties with multiple legislative districts. In these cases, the scores for representatives are averaged across the districts. We expect that elite support will be positively related to the pro-gay civil rights vote.

Although the resources of interest groups can be important in the morality politics model (Meier, 1994; Oldmixon, 2002; Roh & Haider-Markel, 2003), the ability of interest groups to influence the outcome will be attenuated by broader citizen forces (Button et al., 1997; Haider-Markel, 1999a, 1999b, 2001). Because there are no direct measures of interest group resources at the county level, a rough surrogate is used. Potential gay and lesbian interest group resources are measured as the number of same-sex unmarried partner households per one thousand county population (see also Haider-Markel, 1999a). We consider this to be a rough measure of politically active gays and lesbians simply because identifying oneself as gay is a significant precursor to political activity regarding sexual identity (Hertzog, 1996; Rayside, 1998; Vaid, 1995). We expect gay and lesbian interest group resources to be positively related to the pro-gay civil rights vote.

Haider-Markel and Meier (1996) suggest that morality politics factors should be more important than interest group politics factors in determining the outcome in gay civil rights ballot initiatives. The morality politics variables available at the county level include support for traditional values, which are measured as the percentage of county residents who oppose gay rights legislation.
religious values, partisanship of the electorate, the extent of party competition, and the salience of the issue in the initiative election itself.\textsuperscript{15}

Strong conservative religious beliefs are frequently in conflict with the concept of homosexuality (Haider-Markel, 1999b; Hugick, 1992; Nice, 1988; Seltzer, 1993; Sherrill & Yang, 2000; Yang, 1997). We capture the negative impact of support for conservative religious values on the pro-gay civil rights vote by including a measure of the percent of Protestant Fundamentalists in the general population.\textsuperscript{16} We expect that the greater the proportion of Protestant Fundamentalists in the population, the more widespread are conservative religious values among the populace of the county. Such counties should be less supportive of gay civil rights.

The Republican Party’s focus on traditional family values has led many to suggest that Republicans are opposed to nontraditional gender roles and homosexuality (Lindaman & Haider-Markel, 2002; Sherrill & Yang, 2000; Yang, 1997). Furthermore, public opinion polls suggest that persons identifying as Democrats are more likely to support gay civil rights, while Republicans are likely to oppose gay civil rights (Adam, 1995, p. 133; Lindaman & Haider-Markel, 2002; Sherrill & Yang, 2000; Yang, 1997). Partisanship in the electorate is measured two ways. First, we include a measure of the percent of registered Democrats in each county.\textsuperscript{17} Second, because traditional family values were clearly an issue in the 1992 presidential campaign (Adam, 1995, p. 133; Smith & Haider-Markel, 2002), we include a measure of the percent of support for the Bush-Quayle ticket in 1992 as an indication of support for traditional values.

Party competition plays an important role in morality politics, but citizen initiatives by-pass the electoral coalition building that politicians and parties engage in making it difficult to determine the relationship between party competition and initiative outcomes. The level of party competition is argued to influence how politicians and parties will act on citizen demands (Holbrook & Van Dunk, 1993, p. 955) and high levels of competition should result in more liberal social policies (Key, 1964). While both of these arguments may be correct, the influence of party

\textsuperscript{15}While we are assuming that the issue of gay civil rights has become salient in a state to make initiatives possible, the level of salience may vary by county and thereby influence electoral outcomes.

\textsuperscript{16}Data are from Bradley et al. (1992), except for California (1978 election) data, which are from Quinn, Bradley, Green, Johnson, Lynn, and McNeil (1982). Denominations classified as Protestant Fundamentalist were Churches of God, Later Day Saints, Churches of Christ, Church of the Nazarene, Mennonites, Conservative Baptist Association, Missouri Synod Lutherans, Pentecostal Holiness, the Salvation Army, Seventh-Day Adventists, Southern Baptists, and Wisconsin Synod Lutherans. While Catholic teachings are opposed to homosexuality, our preliminary analysis suggested that the percentage of Catholics had no influence on the election outcome.

\textsuperscript{17}Since Idaho does not collect partisanship figures in voter registration, the Democratic vote for Governor in 1994 was used to measure partisanship in Idaho. All partisanship data are from the respective secretaries of state.
competition on ballot initiative outcomes is not as clear. If an issue reaches the ballot in the form of an initiative, it is likely that some portion of the population believes that politicians are not responding to their demands (Gerber, 1996). Since each initiative in this study signifies opposition to gay civil rights, we can assume that the citizens opposed to gay civil rights felt their demands were not being heard. At the same time, politicians in a competitive system may believe that gay civil rights are a no-win issue. Support for gay civil rights may help politicians to gain the support of lesbians and gays, but it may also alienate more conservative voters (Haider-Markel et al., 2000).18

This discussion suggests two results, first, that as competition increases, so does the likelihood that politicians will defer the decision; second, as party competition increases and politicians do not respond for fear of alienating voters, those opposed to gay civil rights will be more likely to put the issue to a popular vote (in states that allow for citizen initiative). In such a process, party competition will be negatively related to the pro-gay civil rights vote in an initiative. Party competition is measured here using a folded Ranney Index based on the percent of registered Republicans and Democrats.19

An important aspect of the morality politics model is the salience of the issue. While the interest group politics model suggests that low issue salience will result in favorable policy toward gays, the morality politics model suggests that salient issues will mobilize citizens and politicians (Gormley, 1986, pp. 599–600). As the scope of the conflict expands with increased issue salience, not only will the resources of interest groups become less important but also the opinions of the majority will become more important. Since the majority of citizens believe that homosexuality is not an acceptable lifestyle (Sherrill & Yang, 2000) and most oppose extending civil rights laws to include homosexuals (Moore, 1993, p. 33), we should expect that greater citizen participation in a referenda will decrease the pro-gay civil rights vote. We examine this argument by including a dimension of salience with a measure of the percent of registered voters that turn out to vote in the initiative election.20

Education has frequently been found to increase tolerance toward persons different from oneself (Gibson, 1987; Seltzer, 1993, p. 93; Sullivan, Piereson, & Marcus 1982). Adam (1995, p. 133), furthermore, suggests that those with low education opposed gay civil rights during the 1992 referenda in Oregon. The percent of college graduates, therefore, is also included as an environmental factor that may influence election outcomes

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18Public opinion polls suggest this assumption is correct. Moore (1993, p. 33) finds that 46% favor extending existing civil rights laws to homosexuals and 48% oppose—a fairly close split.

19We use a Ranney index rather than the Holbrook and Van Dunk (1993) measure simply because the latter is not available at the county level and the computational technique would be exceedingly difficult since many legislative districts cross county lines.

20Data are from the respective secretaries of state.
either through citizen forces or indirectly through the support of tolerant political elites.21

**Strategy of Analysis and Results**

Since each state in this analysis is different, we should expect the political process to differ somewhat in each of the states. To ease comparison across states, we first estimate separate models for all states but include in each model any variable that mattered in any state.22 F-tests were conducted on each model where a variable was removed to ensure the additional variable did not improve the model. The results of the individual models are shown in Table 1.

Tables 1 and 2 confirm the morality politics pattern. In most initiatives the important negative predictor of the pro-gay civil rights vote is a measure of support for traditional family values, the vote for the Bush-Quayle ticket in 1992. College graduates, meanwhile, have a strong positive influence on the vote. However, its appearance can be tied to either morality or interest group politics.

Protestant Fundamentalist, our measure of support for conservative religious beliefs, shows a fairly consistent negative impact across most of these elections, mostly only showing no relationship in the initiatives where pro-gay civil rights forces lost. Partisanship as measured by registered Democrats performs inconsistently across the elections, indicating both positive and negative relationships—a problem due to collinearity with the vote for Bush. Most of the elections also indicate that turnout and party competition have negative influences when the relationships are significant.

The interest group factors perform inconsistently over most of the elections. The support of political elites is significant in five of the nine elections, but is incorrectly signed in one. However, these results make sense—when political elites are all on one side of the issue, as in Oregon (1992), a measure of elite support should not have any predictive ability. Only when there is elite division, such as in Colorado (1992) or Washington (1997) should elite values matter. As expected, our measure of potential lesbian and gay interest group resources, same-sex partner households, is not significant in most of the models. However, it does show a significant positive influence on the pro-gay vote in Colorado and Washington. Colorado may be an outlier here simply because the initiative there was the first in the round of 1990s initiatives. The election drew

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21 All morality politics data, except the Protestant Fundamentalist data, are from the US Bureau of the Census (1992).

22 To produce a regression that reflects the influence of population size on the electoral outcome as much as possible, we used weighted least squares with the number of registered voters as the weight. This prevents small rural counties from influencing the results disproportionate to their impact on the election. Because the state of Maine only has sixteen counties (not enough for reliable regression analysis) we used the voting results of the state’s 58 largest cities to predict the 1995 and 1998 election outcomes.
### TABLE ONE
Determinants of Pro-Gay Rights Vote in Gay Rights Ballot Initiatives

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<td>Proposition 6</td>
<td>Measure 8</td>
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<td>Proposition 1</td>
<td>Question 1</td>
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<td>Morality Politics Factors</td>
<td>Bush vote 1992</td>
<td>-0.31**</td>
<td>-0.55**</td>
<td>-0.79**</td>
<td>-0.94**</td>
<td>-0.74**</td>
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<td>Protestant Fundamentalist</td>
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<td>0.06</td>
<td>0.05</td>
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<td>-0.17**</td>
<td>-0.14**</td>
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<td></td>
<td>Reg. Democrats</td>
<td>0.29**</td>
<td>-0.08</td>
<td>-0.16</td>
<td>-0.43</td>
<td>0.03</td>
<td>0.48**</td>
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<td>Issue Salience (Turnout)</td>
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<td>-0.40</td>
<td>-0.07</td>
<td>-0.24</td>
<td>-0.25</td>
<td>-0.06</td>
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<td>Party Competition</td>
<td>0.44**</td>
<td>-0.34</td>
<td>0.06</td>
<td>-0.42</td>
<td>-0.23</td>
<td>-0.20</td>
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<td>Environmental Factors</td>
<td>College Graduates</td>
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<td>0.39**</td>
<td>0.34**</td>
<td>0.75**</td>
<td>0.66**</td>
<td>0.47**</td>
<td>0.75**</td>
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<td>Interest Group Politics Factors</td>
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<td>0.03</td>
<td>0.07**</td>
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<td>-0.01**</td>
<td>0.73**</td>
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<td>Gay Mobilization</td>
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<td>2.78**</td>
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<td>R-square</td>
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<td>0.82</td>
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<td>0.58</td>
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<tr>
<td></td>
<td>Standard Error</td>
<td>927.9</td>
<td>582.9</td>
<td>471.5</td>
<td>567.8</td>
<td>341.7</td>
<td>306.9</td>
<td>507.37</td>
</tr>
<tr>
<td></td>
<td>F Score</td>
<td>60.56</td>
<td>23.88</td>
<td>89.27</td>
<td>62.71</td>
<td>166.25</td>
<td>45.02</td>
<td>12.30</td>
</tr>
<tr>
<td></td>
<td>Constant</td>
<td>36.47**</td>
<td>103.4**</td>
<td>69.98**</td>
<td>138.53**</td>
<td>94.64</td>
<td>9.62</td>
<td>68.61**</td>
</tr>
<tr>
<td></td>
<td>Joint t-test (excluded gay mobilization)</td>
<td>0.98</td>
<td>0.06</td>
<td>11.82**</td>
<td>0.86</td>
<td>0.45</td>
<td>0.99</td>
<td>1.02</td>
</tr>
<tr>
<td></td>
<td>Number of Cases</td>
<td>58</td>
<td>36</td>
<td>63</td>
<td>36</td>
<td>36</td>
<td>44</td>
<td>58</td>
</tr>
</tbody>
</table>

Notes: Equations estimated with weighted least squares regression weighted for the number of registered voters in each county. Significance levels: **p < 0.05; *p < 0.10.
considerable national attention and was deemed the new ground zero in the battle over gay and lesbian civil rights (Vaid, 1995). The high level of attention appears to have lead to increased mobilization of the lesbian and gay population by interest groups. The Washington initiative, by definition, should have increased gay mobilization simply because gay groups put the measure on the ballot. These results suggest that although interest groups forces are less likely to matter when the scope of conflict is expanded, intervening factors can make their resources important (see also Roh & Haider-Markel, 2003). However, even when interest group forces influence voting patterns, as was the case in Colorado and Washington, those resources were not enough to gain a positive outcome for pro-gay forces.

The overall pattern of morality politics is also supported by the high levels of prediction in the models—varying from 63% to 98%. Even if we have biased the results by not having many interest group measures, those measures would have little variance left to explain in the election outcome given the high levels of explanation in each model.

**Differences among the Elections**

Although the models indicate the pattern of morality politics is fairly consistent across states and elections, the differences suggest that the pattern of morality politics will vary slightly across elections. California and Colorado are less homogeneous than Idaho, Oregon, and Maine in terms of race and religious denominations. And California, Colorado, and Washington have higher numbers of gays and lesbians, and these states provide more antidiscrimination protections for lesbians and gays in comparison to the other states in our sample (see Haider-Markel, 1997a). In California (1978), Oregon (1992), and Maine (1995) most political elites opposed the antigay civil rights measures, while elites were divided in Colorado (1992), Oregon (1988 and 1994), Idaho (1994), Washington (1997), and Maine (1998).

The California (1978) initiative, proposed by the far-right State Senator John Briggs and fiercely opposed by gay activist groups, would have prevented gays and lesbians from teaching in public schools (Adam, 1995, pp. 112–113). In addition, President Carter, former governor of California, Ronald Reagan, entertainer Bob Hope, state teachers associations, unions, and religious leaders opposed the measure (Thompson, 1994, p. 164; Vaid, 1995). Oregon’s 1988 initiative, sponsored by the Oregon Citizens’ Alliance, repealed an executive order that would have prevented antigay discrimination in state employment (Thompson, 1994, pp. 329, 397). Measure 8 was approved to the surprise of gay activists who had not

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23We attribute the lower levels of explanation in the Maine elections to the use of the fifty-eight largest cities rather than all Maine cities. Data for all Maine cities was not available.

Focus on the Family (based in Colorado) and the Christian Coalition poured money into the Colorado campaign but also assisted the initiative efforts in Oregon (1992 and 1994) and Idaho (Haider-Markel & Meier, 1996; LeVay & Nonas, 1995, pp. 316–317). The Oregon Citizens’ Alliance not only sponsored the statewide initiative of 1992 (Measure 9), but also convinced a number of small towns to pass laws preventing pro-gay antidiscrimination laws from 1992 to 1994. Many of these laws were passed even after a state law was passed making them unconstitutional (LeVay & Nonas, 1995, p. 285). The 1992 Oregon initiative was opposed by most political elites including Governor Barbara Roberts and presidential candidate Bill Clinton (Mahtesian, 1993, p. 40; Barone & Ujifusa, 1993, p. 1054). Business and religious leaders throughout the state also spoke out against the measure (Thompson, 1994, p. 397).

A less extreme version of Oregon’s Measure 9 was introduced by the Oregon Citizens’ Alliance (OCA) in 1994 as Measure 13. This initiative also failed, but by a closer margin (Levay & Nonas, 1995, p. 285). By 1994, the Oregon Republican party was largely under the control of the OCA (Levay & Nonas, 1995, p. 317). Both Oregon and Idaho’s 1994 initiatives were opposed by diverse coalitions of unions, religious, business, and gay civil rights groups (Tho’Mas, 1994). The 1994 initiative in Idaho (Proposition One), introduced by the Idaho Citizens’ Alliance (ICA), was the outgrowth of a reactionary social agenda by far-right groups that was highly publicized and debated (Weatherby, 1995, p. 15). Gay civil rights groups spent over $560,000 fighting the measure whereas the ICA spent just over $190,000 (Statesman Staff, 1995).

In 1995, Concerned Maine Families spearheaded the antigay civil rights initiative and was strongly opposed by more than twenty chapters of Maine Won’t Discriminate around the state (National Gay & Lesbian Task Force, 1995, 15). Not only did Maine Won’t Discriminate outspend Concerned Maine Families by $1 million (Carrier, 1995), but they also made considerable use of the Internet to organize lesbians and gays in Maine and seek contributions from supporters outside the state.24 Maine’s Governor Angus King and State Senators Paul Amerill and Betty Lou Mitchell opposed the initiative.25 Maine’s 1995 initiative was perhaps also the most confusing of the lot—gays and lesbians were not even mentioned in the initiative, the measure would have simply prevented any new laws from being passed to protect any group.

24Insight based on our monitoring of Maine Won’t Discriminate’s use of the list-server me-gaynet@abacus.math.oxy.edu throughout 1995’s campaign.
25From the Maine Public Broadcasting monthly program “Capital Connections” that aired June 26, 1995 (a partial transcript was obtained via the Internet).
Religious Right groups were also behind the effort to repeal a 1997 Maine law that protected gays from discrimination. Making use of the “people’s veto” power at the ballot box, conservative religious groups were able to block the law from going into effect, despite the fact that they were outspent by gay groups by a factor of nearly 4 to 1.

The 1997 ballot initiative in Washington State was unique because it was the first time gay groups were able to successfully place a proactive antidiscrimination policy on the ballot. The measure failed by a margin of 20% even though gay groups spent more than their opponents by a factor of over 15 to 1 (Smith, 1997). The failure was attributed to the heavy turnout of pro-gun activists for an antigun ballot measure. However, the margin of defeat may also have been due to the proactive nature of the initiative itself (Smith, 1997).

To determine how much these elections differ from each other statistically, we pooled the counties for each state and election into a single dataset. T-tests revealed that the elections were too different to be pooled data and provide reliable estimates for the independent variables. However, we did pool the elections to find out just how much they differed from one another and why they differed.

In a pooled dataset the mean of the pro-gay vote across all nine elections is 51.05%, accurately reflecting the fact that most of these initiatives were defeated, but also just how close the margins for most of them were. Modeling the pooled data in a weighted least squares regression equation provides even further information (equations not shown). To determine if individual elections significantly differed from the overall mean, a dummy variable was created for each election and individually introduced into the pooled model. The resulting slopes for each election differed significantly, demonstrating that there were different electoral processes at work in each election. Washington was the most negative outlier, with a pro-gay vote over 16% lower than we would expect based on county characteristics. This finding suggests that conservative gun-rights forces may have indeed had a disproportionate impact in the 1997 election. The 1994 initiative in Idaho is the most interesting positive outlier, with a pro-gay civil rights vote almost 20% higher than expected controlling for all other factors. This is especially interesting considering that voters in Idaho defeated the antigay initiative by only three thousand votes.

Idaho is probably the most Republican state of our group. In fact, a 1995 survey found that 48% of Idahoans consider themselves Republicans, 30% are independents, and only 21% are Democrats (Weatherby, 1995, p. 2). The political spectrum has been shifting toward a conservative but individualistic perspective as those fed up with urban problems have moved to states like Idaho (Weatherby, 1995, p. 2). This individualistic strain benefited pro-choice candidates in 1990 after the Idaho legislature passed a restrictive abortion bill (Weatherby, 1995, p. 2), and may similarly have benefited pro-gay civil rights forces in 1994. Weatherby
(1995, p. 8) argues that conservative Idaho voters are unlikely to support progressive policy but their individualistic strain will also lead them to reject reactionary measures such as the 1994 antigay civil rights initiative. Idahoans may have also been worried about their negative far-right image in both the region and nationally (Weatherby, 1995, p. 15). Furthermore, the Idaho Citizens’ Alliance may have alienated Mormons by pushing the video “Gay Right/Special Civil rights” which was made by the same California organization that produces anti-Mormon videos (Newman, 1994).

DISCUSSION

To summarize, Haider-Markel and Meier (1996) and the mini case study of Wisconsin presented here found that if the scope of the conflict over gay and lesbian civil rights is limited, an interest group politics model best explains state policies for lesbians and gays. However, when the issue of gay civil rights becomes salient, and the scope of the conflict is expanded to the electoral arena, the pattern of politics is best explained by a morality politics model. In the morality politics model, policy is a function of religious forces, party competition, partisanship, high salience, and possibly education. Our county-level analysis of seven different initiatives and pooled analysis of these initiative elections has reaffirmed the importance of morality politics factors when issues become salient. Most importantly, as the analyses of all gay civil rights initiatives suggests, if the scope of the conflict is expanded to the electoral arena, gay civil rights supporters are likely to lose, even when gay civil rights supporters are the ones that move the conflict to the electoral arena.

These conclusions hold true despite the fact that pro-gay civil rights forces have been successful in six of the nine gay ballot initiatives at the state level. But it does suggest that statewide initiatives may be different than those in smaller jurisdictions (see also Donovan & Bowler, 1998). It appears that states are more likely to protect minority civil rights, if only to ensure that they do not undergo boycotts and unfavorable publicity. When an antigay initiative does reach the state ballot, the results shown here suggest that pro-gay civil rights forces must selectively mobilize the voting population, especially gays and lesbians, Democrats, and the college educated, and demobilize conservative religious forces. Furthermore, a general mobilization of voters is likely to result in increasing the antigay civil rights vote.

Thus, our analysis found that gay and lesbian politics is similar to politics in many other areas. The pattern of politics in the confines of a legislative arena differs from the pattern of politics found when political conflict occurs in the broad-based venue of ballot initiative campaigns. If the scope of the conflict can be kept narrow, then interest group pressures can prevail if elite attitudes are supportive. When the scope of the conflict expands, then a broad-based form of morality politics exists where
political power is demonstrated at the ballot box. Defining the scope of the conflict does not always guarantee who wins such issues, but defining the scope of the conflict determines what resources are important and, thus, provides advantages to some coalitions over others.

In general the optimum strategy for gay and lesbian groups is to reduce salience and reduce the scope of the conflict. They fare better within political institutions than in the context of elections and better in relatively quiescent elections than they do in highly salient and contentious ballot initiatives—suggesting a strategy not unlike that used by other minorities in the past. Religious conservatives, meanwhile, would be advised to pursue the opposite strategy.

As new issues, including same-sex marriage, are raised in state legislatures and at the ballot box, the results presented here should have continued relevance for groups on both sides of this debate. However, gay marriage may tap into even stronger moral beliefs and stereotypes, making the civil rights of minorities less likely to survive regardless of the scope of political conflict (see Haider-Markel, 2001).

REFERENCES


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