

Spring 5-18-2012

When is it Our Time?: An Event History Model of Lesbian, Gay, and Bisexual Rights Policy Adoption

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When is it Our Time?: An Event History Model of Lesbian, Gay, and Bisexual Rights Policy Adoption

A Dissertation

Submitted to the Graduate Faculty of the
University of New Orleans
in partial fulfillment of the
requirements for the degree of

Doctor of Philosophy
in
Political Science

By

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May, 2012

Dedication

This dissertation is dedicated to my family, biological and chosen, who have loved me and cared me for along the way. I could not have done this without each and every one of you.

Acknowledgements

I cannot fully express my gratitude to my chair, Dr. Michael Huelshoff, and the members of committee, Dr. Christine Day and Dr. Richard Frank for their guidance and encouragement. Your feedback has made me a better a scholar, thank you.

Table of Contents

List of Figures	vi
Abstract	vii
Chapter 1: Introduction	1
Chapter 2: Research Design	11
Chapter 3: Anti-discrimination Policy	53
Chapter 4: Military Personnel Policy	97
Chapter 5: Partnership Recognition Policy	154
Chapter 6: Conclusion.....	222
References.....	260
Appendices.....	270
Vita.....	274

List of Figures

Figures

Figure A	36
Figure B	73
Figure C	74
Figure D	81
Figure E.....	82
Figure F.....	84
Figure G	86
Figure H	87
Figure I.....	87
Figure J	89
Figure K	115
Figure L.....	115
Figure M	126
Figure N	126
Figure O	128
Figure P.....	129
Figure Q	134
Figure R	135
Figure S.....	136
Figure T.....	136
Figure U	137
Figure V	138
Figure W	140
Figure X	141
Figure Y	190
Figure Z.....	190
Figure A1	197
Figure B1	199
Figure C1	199
Figure D1	200
Figure E1.....	201
Figure F1.....	202
Figure G1	207
Figure H1	209
Figure I1.....	247
Figure J1	248

List of Tables

Tables

Table 2.1	35
Table 2.2	48
Table 2.3	50
Table 3.1	77
Table 3.2	78
Table 4.1	119
Table 4.2	120
Table 4.3	123
Table 5.1	193
Table 5.2	194
Table 5.3	197
Table 6.1	227
Table 6.2	228

Abstract

Gays and lesbians have long struggled for their rights as citizens, yet only recently has their struggle been truly politicized in a way that fosters mobilization. When and why social movements coalesce despite the many obstacles to collective action are fundamental questions in comparative politics. While examining social movements is worthwhile, it is important to examine not only when and why a social movement forms, but also when and why a social movement is successful. This dissertation tackles the latter of these objectives, focusing on when and why social movements have success in terms of their duration from the time of their formation until their desired policy output is produced.

Keywords: social movements, LGBT, survival analysis

Chapter 1 Why Lesbian, Gay, and Bisexual Politics?

“It has often been noted that in the Western tradition homosexuality was first called the sin of sodomy, then registered as the crime of buggery, next was considered the disease of psychological inversion, but now has become like an ethnicity. And where sinners are condemned, criminals are imprisoned and psychological inverts are hospitalized, members of ethnic groups participate in politics” (Smith and Haider-Markel 2002, xv). Gays and lesbians have long struggled for their rights as citizens, yet only recently has their struggle been truly politicized in a way that fosters mobilization. When and why social movements coalesce despite the many obstacles to collective action are fundamental questions in comparative politics. While examining social movements is worthwhile, it is important to examine not only when and why a social movement forms, but also when and why a social movement is successful. In the following I will tackle the latter of these objectives, focusing on when and why social movements have success in terms of their duration from the time of their formation until their desired policy output is produced.

The gay and lesbian social movements in industrialized democracies, when viewed cross-nationally, provide interesting cases for determining when a social movement is effective.¹ Such movements provide an opportunity to assess social movement success in which the inputs of the social movement are constant in terms of demands on the state, while the state structures and social context vary.² Gays and lesbians are also interesting to examine because they are a current

¹ I am measuring success in terms of policy adopted which LGB social organizations sought. I will address measurement and the reasons for measuring success as policy when I discuss the research design.

² There is an obvious assumption being made here that the LGB social movements across states place the same demands on the state. This argument will be developed when the history of gay and lesbian politics is addressed. Another important aspect to consider when examining policy is the feedback loop between policy changes and the social and political context for LGB movements. Through the use of event history modeling and careful categorization of policy variables, the feedback can be accounted for by the extent to which it changes the opportunity structure.

social movement that provides an in-process perspective on the impact of a social movement on public policy. The study of the politics of gays and lesbians is still in its infancy. Much of the research thus far in gay politics has consisted of historical accounts and comparisons to what the ideal outcomes for gays and lesbians would be in the political and social spheres. Quantitative analyses have narrowly focused on comparisons across US states or evaluations of the movement and/or policy within a single country. Where cross national comparison occurs it is often limited in its scope. This dissertation aims to contribute to the systematic study of this new social phenomenon via expansion to a cross-national multi-policy analysis.

Resource mobilization and the political opportunity structure are fundamental to understanding why a social movement may be successful in one context and not in another. Resource mobilization postulates that collective action is the result of rational behavior in which actors/social movement organizations coalesce or choose strategies based on the costs and benefits of actions. When an organization possesses resources for mobilization and the costs of mobilization are lower than the potential benefits, then actions are initiated (Tilly 1978). Political opportunity structure, on the other hand, explains the action decisions made by a social movement organization, its strategies, and its impact as a function of the features of the institutions and political context (Van Der Heijden 2006). The political opportunity structure is shaped by institutions as well as environment, and as such it is imperative to look at both institutional as well as contextual factors to explain political success.

Social movements do not gain resources in a vacuum, thus it is expected that changes in the institutional and/or social context impact the resources social movement organizations are able to acquire. While this structure raises endogeneity questions, this research addresses endogeneity by using event history modeling to study the impact of changes in political

opportunity structure that affect resources to be observed at subsequent times. These additional resources may in turn generate further structural changes that will be reflected in later observations.

The literature on the public policy process provides insight into why we should view policy change as an iterative process that continually reassesses inputs into the political system. Event history modeling captures the dynamic nature of the policy process. Furthermore, models of the policy process are able to incorporate resource mobilization into the government inputs that shape the subsequent policy outputs. The punctuated equilibrium model in particular offers important insight into the policy process because it accounts for the periods of stasis as well as rapid change that are observed in the development of gay rights policy. Punctuated equilibrium, like other models of policy, has some important limitations that can be well informed by political opportunity structure. The punctuated equilibrium model is a well-developed analytical theory, but lacks the causal mechanisms to serve as an explanatory theory, and it is in this capacity that resource mobilization and political opportunity structure help to fill in the theoretical gap.³ Political opportunity structure provides a much needed causal mechanism as will be discussed in the review of the literature and theoretical bases subsequently.

Policy diffusion provides an additional framework for understanding how policies spread from state to state that informs the research here. The policy diffusion anticipates policy adoption in one state to be related to the policy experiences in states that have already adopted the same or similar policy. The extent and pattern of diffusion is related to proximity and thus policy diffusion theory intersects with political opportunity structure insofar as structural similarity

³ Analytic theories are those theories that explain the nature of change or how something occurs, but does not explain why or provide causal mechanisms. Explanatory theories, in contrast, provide causal mechanism and attempt to developed predictable outcomes that can test the theory for validity. (Little 1991)

creates the proximity that encourages policy diffusion. Thus despite geographical distance proximity in the form of formal structures of government exists between Australia and Canada for example.

This research adds to the literature on gay politics by examining the development of gay-friendly policies, defined by those policy changes that LGB⁴ organizations seek. While both gay politics and comparative politics have been combined with fundamentals of public policy, the three have not simultaneously guided research. Nor has the use of event history modeling as a more accurate analysis tool for examining policy change sought by LGB organization that includes conceptually the iterative nature of public policy.

Through examination of advanced industrialized democracies, I allow for variation in institutions and context while simultaneously holding constant the general form the social movement has taken. For this reason I will briefly review LGB history as relevant to demonstrate the validity of understanding the movement as transnational. The limitation of this research is closely tied to the transnational nature's limitation to predominantly the global North. Much of the tactic sharing, cross national economic support and policy expansion has been limited to industrialized democracies with existing development related ties.

There are several reasons why we can look at gay politics in industrialized democracies as consistent in goals. Perhaps the most fundamental reason is that the modern gay rights movement in the western world has a commonly accepted start point in the radicalized politics and sexual revolution of the 1960s. Such politics culminated in many so-called game changing events such as the Stonewall riots of 1969 in New York. Although the riots themselves were the

⁴ LGB is an acronym for Lesbian, Gay, and Bisexual.

action of American LGBT⁵ persons, the impact and subsequent commemoration of the event has spread across the industrialized world. Gay pride weekends worldwide have their foundations in the Christopher Street Liberation parades held across the United States in 1970 to commemorate the Stonewall riots (Duberman 1993). Documentaries about Stonewall played a significant role in mobilizing gay youth on university campuses across Germany, further spreading the movement across national boundaries (Adam 1995). In addition, the impact of the importance of Stonewall can be seen in the names as well as the early tactics of gay rights groups worldwide, notably in the importance of the British gay rights group which utilizes the name Stonewall or in the tactics utilized by groups as near to the US as Canada and as far as Australia.

This research contributes to existing literature in several important ways. First, it will connect the resource mobilization and political opportunity structure paradigms resultantly allowing for better use and understanding of both in the comparative policy literature. Second, it will acknowledge the causal mechanism deficiencies within the policy literature and attempt to fill the void with resource mobilization and political opportunity structure to generate a more comprehensive and explanatory model of the policy process. Finally, gay politics will be moved from narrow research agendas into a more encompassing research design that seeks to empirically test models of gay rights determinants across states rather than within in them.

History of Gay Politics

In order to understand the development of gay rights policy as a result of the social movement, it is imperative to have an understanding of the movement and its development. In

⁵ LGBT is used as an acronym for gay, lesbian, bisexual, and transgendered. While this paper focuses only on lesbian, gay and bisexual rights, it is important note that transgendered activists played an important role in the Stonewall riots and that transgendered persons are often allied with gay rights organizations. Please also note that I use LGB except in instances in which I am referencing an organization, event or program that explicitly includes the transgender community and gender identity rights.

particular, it is vital for this research to establish the pervasive implication of the aftermath of the sexual revolution, radicalization of politics, and the instigating nature of the Stonewall riots as relevant to the pursuit of LGB rights throughout the industrialized world. The history LGBT people extends back as far as all other history, but the modern gay rights movement is usually marked as beginning in 1969 with the Stonewall riots. While it is not possible to chronicle all of gay history here, it is important to establish a historical context for the development of the gay rights movement. The end of the nineteenth century and early part of the twentieth century proved very important in laying the foundations for the organizations that would later push for the recognition of gays and lesbians by the state, thus this is where the history will begin. The focus of this history, however, will be the time and events leading up to 1969 and the subsequent development of the movement.

The end of the nineteenth century at first glance might seem to an unlikely place to begin the history of gay politics, with the 1895 trial of Oscar Wilde effectively quelling gay organizations in England. But outside of England it served as a catalyst for mobilization, Magnus Hirschfeld founded the first organization to address the civil rights of gay people within two years of the trial. Hirschfeld, along with several others, began the Scientific-Humanitarian Committee (S-HC) in May of 1897 and it spawned additional gay organizations throughout Germany until Nazi suppression in 1933. The S-HC focused on educating the public about homosexuals and abolishing Paragraph 175 of the German legal code which outlawed homosexual sex. The work of the S-HC would spread in the subsequent decade to the United States, Sweden, the Netherlands, Russia, and many other countries (Adam 1995). This demonstrates that from inception, organizations within the gay rights movement have routinely sought to organize cross-nationally. As a result of this international focus, there has been a great

deal of goal coordination, information sharing, and policy learning throughout the industrialized world among LGBT organizations.

Leaping forward in history to perhaps the most well-known event in gay rights history, the Stonewall riots of 1969 in New York City is often marked as the inception of the modern movement. Although bar raids had been routinely occurring all over the industrialized world for years, in the pre-dawn raid of Stonewall on June 28, 1969, the LGB bar patrons fought back with rioting that lasted well into the morning and transformed the public image of the homosexual. The news of Stonewall spread quickly through the gay community and by the next morning a rally was formed in New York. The rioting-turned-demonstration continued with demands for an end to the discrimination against gays and lesbians and the nearly immediate formation of the Gay Liberation Front (GLF). The following year the event was commemorated with the Christopher Street Liberation Day parade in New York, Los Angeles and San Francisco as well as major cities in outside the U.S. (Adam 1995, Duberman 1993).⁶ Stonewall became a rallying cry that showed gays and lesbians worldwide that they could stand up for themselves and that in numbers their message could not be quelled.

Young lesbians and gay men who had been active in other movements such as the civil rights movement, the peace movement, or the feminist movement also came to realize that their discrimination as homosexuals deserved the same kind of mobilization and attention. These activists were able to draw from the tactical skills they had acquired in other social movements and apply these methods to reform existing gay organizations and create new ones that focused on public, loud, and forceful demands for equality. These organizations sprang up all over the

⁶ The Stonewall Riot is covered in exceptional detail by Duberman (1993) via personal accounts from rioters, archival material from the GLF, and historical coverage of the event. He addresses the context that led up to the Stonewall Riot, the riot itself, and the immediate aftermath in much greater detail than is possible here.

Western world drawing from the cultural symbol of Stonewall and often in response to showings of documentaries about the riots.⁷

From the early movement that began in Germany to the modern movement that was instigated by Stonewall, gay organizations have connected LGB persons to their counterparts in other countries sharing resources, strategies, and successes to build an international community. Second, we can see a general pattern across states in movement goals and development. Initial movement initiatives were focused on educating the public and providing services for gays and lesbians. The early political goals tended to focus first on decriminalization and equalization in age of consent, generally focusing on civil rights and decriminalization. While the achievements and specific ordering of civil rights goals varied across states there is also a recognizable consistency in the goal set sought (Waldijk 1999). Across states, decriminalization, equalization of consenting age, ability to serve in the military, provisions to prevent discrimination, legal recognition of relationships and parental rights are clearly on the gay-rights agenda. Where a policy goal is achieved, the strategy is disseminated to organizations in other countries via international conferences and organizations such as ILGA. Because of this continuity across advanced democracies, it is possible to regard the policy initiatives of the movement as congruent in the states that will be studied here.

In the next chapter I discuss the methodological approach to be used in the subsequent chapters. In detailing the theoretical framework and its connection to the statistical modeling used, I provide a rationale for a consistent structure for examining a diverse set of policies. This chapter will also explain a statistical modeling technique that has not previously been applied to the study of policy change in favor of LGB rights expansion.

⁷ Notably, documentaries using Stonewall and Christopher Street Liberation Day parade footage made an impact in Germany while documentaries on Nazi oppression of homosexuals bolstered the drive of American organizations.

The first policy chapter, Chapter Three, addresses prohibitions on discrimination. As Waaldijk points out, after decriminalization of homosexual behavior is achieved the next goal in most industrialized democracies is to pursue protections from discrimination, which in many ways represents the acknowledgement of LGB persons as complete citizens.⁸ Furthermore both LGB specific and general prohibitions against discrimination represent important access to the market and the free exchange of one's labor.

Because of the relationship between prohibitions on discrimination and citizenship, these policies are in many ways closely related to states' policy toward LGBs openly serving in the military, the focus of Chapter Four. As the military is a symbol of the nation, the ability to serve within the military is a sign that one is recognized as a citizen of the state with rights and obligations of citizenship. This is particularly true in states with mandatory conscription for either males or males and females. Thus Chapter Four examines when states adopt policies that allow LGB persons to serve in the armed forces.

In Chapter Five policies recognizing LGB relationships are analyzed. The ability to create a partnership that is recognized by the state has increasingly come to be understood as a fundamental human right to create a family. State recognition of a partnership between two consenting adult is also bequeathed with privileges in every state. Such privileges range from lower rates of taxation relative to single individuals to access to decision making in the medical care for one's partner to advantages in pension and inheritance rights. These policies are addressed subsequent to the discrimination chapter both because the usual order of the goals fits

⁸ Removal of sodomy laws is not addressed in this research because it would significantly constrain the dataset. Because the analysis begins in 1971, the number of states that would be right-censored is sufficiently high that results would likely have very little validity. Many states made general reforms to their constitutions or penal codes prior to 1971 and the removal of sodomy laws was a result of creating a more parsimonious and enforceable set of regulations as much (or more than) the result of any pressures from the LGB community.

this pattern as well as the need to recognize that discrimination exists and should be prevented before the privileges of partnership can be extended.

All three of the policy chapters explain the policies to be examined and provide a context through the examination of two illustrative cases at the national level and examination of the international context of the European Union that affects many of the cases in the analysis. Because the independent variables are nearly identical across these chapters, the review of the research design will be brief and focus on relevant differences within the chapter.

Following the policy chapters will be a final chapter devoted reviewing the findings and their impact upon the theory as relevant for future research. This chapter serves as final assessment of the value of the theory and addresses the strengths and shortcomings of this research. Additionally it provides perspective on the prospects for future research and the importance of continuing research in this area as it is a rapidly changing field.

Ch 2: Context and Methodology for Studying LGB Public Policy

If one were to review *Sociological Forum*'s mini-symposium on social movement theories (vol 14, no 1 March 1999), one would be struck by the multitude of interpretations applied to political opportunity structure and resource mobilization theory and the use of each as an explanatory tool for understanding social movements. While this insightful debate clearly informs this research, it is outside the scope of the project to attempt to resolve the debate or respond to the individual arguments of each paper within the symposium. Rather, the goal here is to incorporate additional paradigms as a complement to political opportunity structure and resource mobilization to develop a more careful use of these theories. Using the transnational LGB movement as the core of this research, an attempt is made to synthesize elements from public policy theories with theories of political opportunity structure and resource mobilization and examine the applicability of the synthesized theory to policy change. This shifts the focus from mobilization or social movement development to social movement success defined as policy change. Additionally the use of event history modeling as the statistical technique to test the applicability of combined theory allows for the incorporation of the endogenous nature of policymaking whilst retaining primary focus on the usefulness of the explanatory variables.

This chapter establishes the broader academic context in which this research fits including how it relates to existing literature on social movements, public policy, and LGB studies. The review of the literature begins with existing theoretical frameworks for understanding and examining social movements. The second section reviews the literature regarding public policy that is most applicable to the theory and research design employed here. The previous chapter reviews the historical context of the LGB movement and makes the case for understanding the movement as transnational..

I propose that public policy, particularly policy that relates to a social movement's goals, must be analyzed as a function of the interactions between resources and institutions.

Furthermore, it is problematic to assume that movement resources and institutions should be modeled as identical components to understanding policy. Movement resources are both filtered through and impacted by the political and social institutions in which they operate, thus institutions act as intervening rather independent variables.

The theory informs the statistical methods used, event history modeling, as well as the operationalization of formal and informal institutions. Thus, following the discussion of the theory, I present the methodology to be used as well as the operationalization of the variables. A brief explanation of event history modeling and the rationale for using event history modeling is presented along with explanations of possible parameterizations. The operationalizations of the variables are explained, including an explanation of the advantages and shortcomings of each measure as well the selection process and sources.

The chapter concludes with expectations for the findings. Because this is an ongoing movement, the expected findings present prospects for continuing change in the policy development across the states studies. This final section will also review the road map for the subsequent policy chapters.

Relevant Literature

Resource Mobilization

Social movement scholars who espouse resource mobilization theory see movements as a function of unequal power distributions and the desire by those with less power to seek redress (Amenta & Zylan 1991). Resource mobilization begins with a critique of discontent based theories of collective action and argues that grievances alone do not lead to mobilization because

grievances are constant (Tilly 1978, Jenkins & Perrow 1977, Oberschall 1978). These critiques and the underpinnings of what would subsequently be resource mobilization theory were outlined by Snyder and Tilly (1973) in their attempt to explain collective violence in France. They juxtapose the founding components of resource mobilization with the dominant discontent paradigm for collective action based on relative deprivation, or change lagging behind expectations. Unlike discontent theories, in which collective action is attributed to the momentary irrational behavior of actors, resource mobilization theory sees social movements as the rational result of groups responding to reductions in the costs of mobilizing or increases in either the benefits to be gained or the likelihood of success (Jenkins 1983, Valocchi 1993). The goals of social movements are defined by institutionalized power relations and the conflicts that such power relations create. Since discontent within the system is ubiquitous, mobilization as well as success are functions of resources (Jenkins 1983).

Resource mobilization theory points out that common interests are also insufficient for mobilization to occur, but argues that where well developed organizations and social networks exist, mobilization is more likely. This is because preexisting organizations that have constructed dense interpersonal networks and strong group identity lower the costs associated with mobilizing. Group or associational mobilizing is easier than individual mobilizing (McCarthy & Zald 1973, Amenta & Zylan 1991, Valocchi 1993). Governmental actors who serve as delegated agents of social control also impact the likelihood of mobilization because of their ability to raise the costs of collective action (McCarthy & Zald 1973). The resources available to a social movement organization and the likelihood for success may also be shaped by countermovement organizations, which oppose the social movement and mobilize to prevent its success.

Scholars have applied resource mobilization theory to a variety of social movements and social movement organizations in attempts to explain when mobilization occurs, what style or format the mobilization takes, and, more limitedly, how successful mobilization is in achieving goals. McAdam (1982), for instance, examined how changes in the Black community in the United States from the 1910s to the 1960s provided additional resources for mobilization which therefore led to the Black civil rights movement. His argument noted the importance of both increased financial resources as well as the importance of Black churches gaining independence from white churches and thus providing indigenous community resources for mobilization. Also examining the Black civil right movement in the United States, Jenkins and Eckert (1986) interpreted resources as including elite support for movement ideas and organizations and found this to be important in explaining organizational development. The Italian environmentalist movement mobilization has been explained in terms of social and human capital (Donati 1996). Success of the Nicaraguan revolutionary movement has also been explained as partially a function of resources available, such as support external to the movement, money, and the number of organizations within the movement (Cuzán 1990).

Resource mobilization is understood here in terms of the resources that can be created and used by a social movement or social movement organization, drawing more from Donati's interpretation than that of Jenkins and Eckert. The importance of resource mobilization in this instance is in its ability to provide an explanation for whether a movement has the wherewithal to achieve policy change and how long it will take until success is achieved. The level of resources a social movement possesses and devotes to the achievement of a goal, specifically a goal of policy change, impacts the likelihood of and duration until success. While financial resources are

important, the instruments of organizations and tools available to social movement organizations also have significant impact.

The resource mobilization tradition developed nearly exclusively in the United States in the 1970s and as a result clearly reflects the impact of movements of that era and location. Tilly (1978) framed social movements as challengers seeking access to the polity, generally in terms of basic citizenship rights. This frame seems to draw on the US Black civil rights movement that would also be the focus for the works of McAdam (1982) and Jenkins and Eckert (1986).

Many New Social Movements (NSMs), including the gay rights movement, are not challengers in the sense Tilly referenced, because influence on policy change is the goal, rather than basic citizenship rights. Although the policy change sought by the LGB community can be interpreted as basic citizenship rights, and the strategy of deploying this framework has been adopted by some movement organizations, the access to the polity is not equivalent to lack of access to the polity experienced by the groups addressed in the traditional resource mobilization literature. Lesbians, gays, and bisexuals have voting rights and the same level of access to the political system as other citizens; what the gay rights movement seeks are changes to policies that (tacitly or explicitly) allow differentials in their treatment to the detriment of LGB persons and recognition of the validity of their relationships and lifestyle. The change in what a challenger seeks does not change the basic premises of resource mobilization, but may impact the importance of particular resources.

Another important change for resource mobilization is the advent of the internet as a resource. The internet changes the relative importance of leadership that has been emphasized in resource mobilization. Movements that draw heavily on the internet for information dissemination and communication among members do not require the same kind of leadership

resources as previous movements or movements that do not draw on the internet as a tool (Peckham 2007). First, the internet's ability to instantly disseminate and exchange information worldwide means that action coordination does not require a movement elite's initiation. Furthermore, members are able respond to movement elites that are geographically distant but have ideological proximity. This is important for the gay rights movement because there is not a single identifiable leader for the global movement and yet the global movement exists and coordinates action. The transnational nature of the LGB movement has only increased with the spread of technology. Just as the "Arab Spring" uprisings in the Middle East in spring of 2011 and the even more recent Occupy Wall Street movement have used social media to dissemination information and coordinate actions, so too has the LGB movement relied on technology to expand their levels of coordination. LGBT websites, such as www.gay.nl, a Dutch LGBT news and networking site; and www.365gay.com, a U.S. news, culture and networking site, have a tradition of providing forums for political discussions, the organizing of meetings, and helping those in the closet reach out to the wider gay community. Gay organizations have expanded from the simple forums and chat rooms of the 1990s to use Twitter, Facebook, mobile alerts, emails, and their websites to reach LGBT identifiers, allies, and advocates across the globe.⁹

The role of social movement organization in the development of policy is captured and explained by resource mobilization theory. The extent to which an organization or a movement as a whole has the capacity to impact the time it takes for the government to enact policy that is favorable to the movement is dependent upon the resources available to the organizations within the movement. While developed predominantly to explain the successes of the US civil rights

⁹ While the role of the internet in facilitating the transnational nature of the movement is noted, the subsequent analysis in this dissertation does not control for the scale of internet usage. Because data on internet use is neither available nor particularly applicable until 1990, inclusion of a control for internet usage would constrain the duration of the dataset and vastly increase left censoring.

movement, resource mobilization extends to new social movements' capacity to prompt more expedient policy change.

Political Opportunity Structure

The most obvious existing school of thought to draw from in tandem to resource mobilization theory is political opportunity structure. Both comparative politics scholars as well as public policy analysts have utilized political opportunity structure in their research. Furthermore, the two paradigms are developmentally connected, as will subsequently be discussed. The concept of political opportunity structure was first developed by Peter Eisinger (1973, 11) who wrote that “environmental variables are related to one another in the sense that that they establish a *context* within which politics takes place.” Eisinger noted that patterns of political behavior were shaped by this context and particularly by those elements of context that contributed to opening the political system to outside influence or insulating it from outside influence.

Eisinger developed the notion of political opportunity structure to provide a theoretical explanation for the connection between variables of the political environment and political behavior. While the political environment was believed to have impact on political behavior and had been tested as such, little had theoretically connected the two. Eisinger's purpose was to explain how the elements of the political environment provide a context for political behavior and how a relatively open or closed context affects urban protest. The subsequent findings were that for American cities the relationship between political opportunity structure and protest is curvilinear but most protests did not lead to policy change. This finding supports assertions that institutions matter. Specifically relevant to this research is that institutions may serve a filtering

function and as such can reject, dampen and discourage, or facilitate and encourage calls for policy change made by interest groups and social movements.

The premises behind political opportunity structure begin with the notion that “the environmental variables are related to one another in the sense that they establish a context within which politics takes place” (Eisinger 1973, 11). These factors that together develop a political opportunity structure that subsequently serves to facilitate or obstruct social movement pursuit of policy change. Political opportunity structure is understood as a compilation of variables, each of which makes the opportunity structure more open or closed. It is the collection of these that comprise the political opportunity structure as a whole, so while we speak of the structure itself as open or closed in reality it is often a mixture of elements some of which facilitate government receptivity to social movements and some of which obstruct receptivity. Following on this, scholars have found that the impact of mobilization is mediated by context, so outcomes are a function of how mobilization, action, and political opportunity are combined (Piven and Cloward 1977, Amenta et al 1992, Skocpol 1992).

Since Eisinger, political opportunity structure has developed to explain the rise of social movements beyond US urban protest. Political opportunity structure encompasses not only institutional structure, but the variety of “signals to social and political actors which either encourage or discourage them to use their internal resources to form social movements” (Tarrow 1996, 54).

Political opportunity structure scholars use “the idea of structures as a frame within which human action takes place” (Giugni 1998, 366). The importance of structure that Eisinger recognized and developed comes out of the sociological traditions of Europe, most notably those of Marx and Weber. Marxist theory points to the importance of particularly class structure in

shaping human behavior. Weber's approach to bureaucratic institutions and their role in shaping politics and policy provides the inspiration for the importance of political structure in shaping human behavior with regard to policy (Giugni 1998). While the tradition makes note of the role of formal political institutions as well as social institutions, the most visible and continuously used aspect of political opportunity structure are formal rules and institutions of the political system because they are the easiest to observe. Because of the focus on formal political institutions, political opportunity structure is often used to "explain how the political context affects the differential development and influence of ostensibly similar movements" (Meyer 2003, 17) and less attention is given to how social structures also influence these movements.

Even within this limitation to political structure, scholars have varied in their understanding of what is encompassed by political opportunity structure as well as how those concepts can be effectively operationalized for research. Acknowledging this, Tarrow (1998) developed categories into which political opportunity structure variables can be grouped. The first category is the degree of openness in the polity, which is notably key in the work of Kitschelt (1986) who employs an open/closed polity and a strong/weak implementation dichotomy to understand opportunity. The second category is the stability of political alignments which can be important in understanding the frequency in which opportunities for social movements arise. Variables that attempt to operationalize the presence of allies or support groups are categorized together and draw from Tarrow's own ideas about cycles of protest. Jenkins and Perrow's (1977) study of the mobilization of farmworkers provides an example of Tarrow's favorable political elites category of political opportunity. Tarrow's (1998) last two categories are closely related; Tarrow distinguishes between elite divisions and tolerance for protest and the tolerance of dissent by the state.

Similarly, Koopmans (1999) attempted to clarify the components that should be included in political opportunity structure. Rather than categorizing variables that have been used to understand political opportunity structure, Koopmans divided the concept into three logical claims that can be gleaned and tested from the concept:

1. Variations in opportunity are the most important determinant of variations in collective action.
2. Relevant variations in opportunity result primarily from the interaction of social movements with political actors and institutions.
3. Variations in such opportunities are not random or a mere product of strategic interaction, but are to an important extent structurally shaped.

(Koopmans 1999, 95-96)

While it is certainly a step forward to identify testable claims made by a theory, his focus is entirely on the role of structure in the development of the movement rather than acknowledging the important implications of political opportunity structure on movement success. This shortcoming is important because political opportunity structure not only “introduces analytical tools to study the degree of openness of a domestic or global governance system to intervention by social movement actors. It also attempts to operationalize and analyze the way political systems condition the success of movements” (Krieger 1999, 72).

Turning to the cultural elements of political opportunity structure, Elazar (1966) suggests that one aspect of the cultural structure that can impact the success of social movements is the public perception of legitimate interaction with government. This can limit both the policy realms the public feels is acceptable for organizations to attempt to shape as well as the strategies available to social movement organizations. An example of this in practice is the nature of

acceptable interaction between domestic organizations and the European Union governance. The overlapping authority of the EU and national governments provide some new possibilities for social movement organizations, but these are constrained by the culture of acceptable interaction between domestic NGOs and a supranational governance (Kreiger 1999). This acceptability not only varies by state, but also by time as we have seen recently with the growing resentment amongst Germans toward the European Union. Support for the European Union has declined sharply as Germans observe credit crises and downgrades among fellow member states that then put strain on the collective currency and place an economic burden on Germany that they feel is both disproportionate and unfair.

Political opportunity structure, while developed in the context of urban protest within the United States, explains how the institutional and social parameters of the moment impact the effectiveness of social movements far beyond the restrictions of either urbanization or the United States. From political opportunity structure an understanding is gained of how formal institutions serve as filter for the impact of forces on public policy, serving to either dampen the effect of inputs or heighten them. In the same way, the social context, or informal institutions, also filter the inputs that groups inject into the policy making process. The informal institutions can either reinforce claims made by social movements or can undermine the validity and popularity of such claims, thus impacting the likelihood of and duration until policy change occurs.

Public Policy Theories

Given the previously stated goal of applying the social movement literature to policy success, it is necessary to examine how social movements, specifically the LGB movement, interject in the policy process. The policy literature has developed to explain how policy occurs, but often fails to answer the why questions. Why is a policy adopted or why is a policy adopted

at this particular point in time and not another? The development of policy theory from the garbage can model through streams theory to punctuated equilibrium demonstrates how the policy theory literature had developed without adding a clearly defined, specifiable causal mechanism.¹⁰ When the iterative process of policy making, explained in punctuated equilibrium, is combined with political opportunity structure, a causal theory takes shape. Political opportunity structure provides punctuated equilibrium with the causal mechanism it lacks to move from a descriptive theory to an explanatory theory. Additionally, when integrated with policy diffusion theory, an understanding of the time dependency observed in the causal mechanisms across states adopting related policies is also further specified.

Policy adoption has been explained by Cohen, March, and Olsen (1973) via the garbage can model, which essentially takes the process model, turns it on its head and says that policy making is not an orderly rational process at all. While this model made the valid point that policy making does not always flow from agenda-setting to formulation to adoption, it also left how policy is adopted unspecified. Kingdon (1995) offers a revision of the “garbage can model” developed by Cohen and March. Kingdon (1995) describes three streams: the policy stream, which contains the universe of potential policies; the political stream, which contains the ever changing nature of the political environment; and the problem stream, which contains all problems or issues in society. Kingdon explains that a policy entrepreneur seizes an opportunity when the political stream is right to highlight an issue from the problem stream and supply its solution in the form of the policy entrepreneur’s chosen policy from the policy stream. One

¹⁰ A notable exception is Lowi’s (1964) explanation of policy development as a function of the type of policy to be made. This was a break through approach as it described politics as a function of the policy rather than usual explanation of policy a function of politics. His typology focused on the institutional structure of the United States which limits its applicability and leaves little room for changing dynamics for the same policy with the same content over time. An additional exception that will subsequently be discussed is the growing literature on policy diffusion, which explicitly examines when and why policy adoption occurs.

important contribution here is the importance of a policy entrepreneur who seizes opportunities to make policy happen. An additional but admittedly closely related contribution is inclusion of a dynamic political environment which could provide a bridge between the political opportunity structure as designed by social movement scholars and Kingdon's model of policy formulation.

The theory of policy punctuated equilibrium (Baumgartner and Jones 1993) relates to Kingdon's idea of a policy entrepreneur as a catalyst and simultaneously draws from biological scholarship the ideas of punctuated equilibrium to form a model of how policy emerges.

Previous models of policy making either focused on dramatic change, notably the garbage can and streams models, or on incremental change (see Easton 1965 for systems theory; Lindblom 1959, Lindblom 1979, Hayes 2001 for incrementalism). Baumgartner and Jones (1993) recognized that when looking at policy development historically, a model that incorporated both slow incremental change as well as sudden more dramatic change is vital. Punctuated equilibrium fits this by proposing that most policy change is indeed incremental, but that incremental development/stasis is at times interrupted by short periods of rapid change or sudden breaks from the previous policy development.

Punctuated equilibrium necessarily begins with an explanation of why the norm is incremental change or stasis in policy. Baumgartner and Jones argue that incrementalism in policy making is a function of what they call term a negative feedback process. The premise here mirrors that of Pierson's(2005) path dependency arguments in which the longer a state continues policy in one vein, the more difficult it becomes to change the policy or policy track. When policy is initially developed it is packaged with a policy image and policy venue, it is these two factors that become self-reinforcing as policy perpetuates.

The policy image is the simplified symbolic form of the problem or issue to be addressed. It defines a problem in a particular set of terms and thus leads to a specific solution bundle (Baumgartner and Jones 1993). Policy image is important to punctuated equilibrium because a fundamental shift in how the problem is defined can lead to a break from the stasis and thus a punctuation in the incremental development of public policy. Related to the policy image and simultaneously distinct and important is the policy venue. The policy venue is the institution of government that is deemed responsible for the problem or policy. Most problems have several different possible definitions and thus several equally valid options for what part of the government should address the problem. The selection of venue plays an integral role in determining what kinds of policy will be pursued. Once a venue and image are defined, it becomes increasingly difficult to change either the image or the venue without some major event that disrupts the existing paradigm for addressing the problem and as a result changes the policy image as well as possibly the policy venue.

The stability in the policy image and venue that reinforces incrementalism, but does not preclude the occasional sudden change in policy, requires that sudden policy change also be addressed in a comprehensive model of policy development. Baumgartner and Jones explain sudden change as punctuations in the status quo that generates a change in the policy image and/or venue producing new policy and a new policy trajectory. It is here that the policy entrepreneur becomes important as this individual is responsible for guiding the new trajectory for policy. The policy entrepreneur may also be responsible for generating the shift in the policy image in the first place and thus serves as Baumgartner and Jones' attempt at a causal mechanism. The problem with the policy entrepreneur as causal force in the model is that it is as

unpredictable as an exogenous shock and can really only be identified post hoc which ultimately destroys the predictive power of the model (Shockley 2007).

Punctuated equilibrium also relies on the aforementioned idea of negative feedback to bring a causal mechanism into the theory. Negative feedback reinforces policy stability by discouraging policy change via entrenching interests in existing policy paths. When rapid change does occur it is due to a shift from negative feedback, which reinforces, to positive feedback, which advocates for change usually via shift in the policy image. While this does appear to function as causal mechanism it still fails to generate an explanatory theory because once again one can only identify the feedback change post hoc. The change in feedback may be related to or caused by the policy entrepreneur but because the existence, tactics, and identification of a policy entrepreneur can also only be identified post hoc, we still lack a predictable, testable causal mechanism.

Policy Diffusion

The above policy theories examine policy adoption and change as largely a function of domestic factors, which ignores the role of policy diffusion across jurisdictions. Policy diffusion “occurs when one government’s decision about whether to adopt a policy innovation is influenced by previous choices by other governments” (Graham, Shipan and Volden 2008, 3). Because decision makers in government seek to simplify the process of developing solutions to problems that arise, they seek out information about policies that have already been implemented elsewhere in response to the same or similar policy problems (Mossberger 1999; Grossback, Nicholson-Crotty, and Peterson 2004; Berry and Baybeck 2005, Volden 2006, Shipan and Volden 2008). The policy diffusion literature thus adds dimension to the policy stream from Kingdon’s streams theory. Rather than examining the universe of potential policies, policy

makers examine the success or failure of existing policies in other jurisdictions addressing the problem. Meseguer (2005) notes that in particular policy diffusion based on either learning or emulation tends to be further bounded by the narratives regarding success and failure and their interpretation by policy makers, which is influenced by proximity, however proximity may be interpreted in a number of ways.

Within policy diffusion Shipan and Volden (2008) have delineated between diffusion that occurs as a result of learning, competition, imitation, and coercion. Meseguer (2005) provides a nuanced examination of the distinction to be made between learning and emulation, which is conceptually identical to Shipan and Volden's (2008) imitation. Learning and emulation are similar in that both are horizontal forms of diffusion, that is policy diffusion often occurs across jurisdictions at the same level such as state to state (Meseguer 2005). Brandeis (1932) saw policy learning in particular as potentially occurring not only horizontally but also vertically in which subnational jurisdiction serve as laboratories that "test" the impact of policy prior to nationwide adoption. Once policy success is apparent, policy diffusion via learning, either horizontally or vertically, "naturally follows" (Graham, Shipan, and Volden 2008, 24). Policy learning as described by Meseguer (2005) is contingent upon proximity, most notably geographical, ideological and/or historical. Thus in her example of horizontal policy diffusion regarding market deregulation spread amongst the developing Asian Tiger and Latin American states in the 1980s and 1990s but did not further spread to developing states in sub-Saharan Africa.

In addition to policy learning, in which policymakers increase knowledge of the results of particular policy options emphasizing examples of successful policies, policy emulation may also be an impetus for policy diffusion. Emulation relies less on increasing knowledge regarding the impact of policy and instead emphasizes increasing credibility of the state, improving status in

the international arena, or conforming to the norms developing in the international arena (Meseguer 2005). An example of such emulation would be Hungary's adoption of LGB rights policies to appear more similar to Western Europe when applying for European Union membership. The focus of the policies was not success or failure in other states, in fact the policies have been marginally enforced at best, but rather the desire to appear in line with the norms in high status states and a supranational institution.

Given the role of supranational institutions, it is also important to examine coercion as a potential mechanism for policy diffusion. Policy diffusion via coercion occurs when "some set of actors attempt to impose their preferred policy solutions on another government" (Graham, Shipan, and Volden 2008, 26). Such coercion could be said to occur when the European Union incorporates new social policies into treaties and directives that represent a significant change from existing policy within the member states. Policymakers in states are compelled to adopt policies favored by other governments in order remain a part of or receive benefits from the supranational institution. Another example from Meseguer (2005) would be the influence of international financial institutions on the diffusion of deregulation policies in the 1980s and 1990s. While policy learning and emulation were emphasized as the causal mechanisms driving the spread of deregulation, international financial institutions contributed to the policy diffusion by incorporating deregulation into the requirements for loans.

Policy diffusion varies not only by causal mechanism type but also by policy actors involved. Internal and external actors to the state adopting a new policy as well as "go-between" actors are "crucial to a better understanding of the politics of policy diffusion" (Graham, Shipan and Volden 2008, 20) including the type(s) of causal mechanism(s) likely to be involved. Internal actors are those who influence policy adoption within the state such as the electorate and

elected politicians as well as domestic interest groups. The actors within a jurisdiction that has previously adopted a policy are external actors and may be influential in creating the narrative that can “sell” a state on similar policy adoption. Go-between actors are distinct from both those actors within the state considering policy adoption (internal actors) and those within the state that has already adopted (external actors), and serve as a conduit between the two. Thus supranational institutions as well as international nongovernmental organizations are best described as go-between actors (Graham, Shipan, and Volden 2008). True and Mintrom (2001) have emphasized the role of these go-between actors in the diffusion of gender mainstreaming policies. They argued that international nongovernmental organizations and supranational institutions, specifically the United Nations, provide dominant explanatory power in the spread of gender mainstreaming policies.

As the policy diffusion literature has developed it has increased in nuance expanding to differentiate between types of policy diffusion as well as further examination of how the policy actors involved may impact the form and extent of diffusion. For the purposes of this research, this helps to buttress not only the conceptualization of institutions as filters, but policy diffusion’s standard s-shaped curve supports the incorporation of time dependency into models of policy adoption and change.

Intersection of Theoretical Frameworks

The connections between resource mobilization, political opportunity, and public policy theories are both obvious and obscure. Because of the existing divisions within the study of social movements, comparative politics, public policy, and, in the specific case used here, minority politics, there has been insufficient connection between these schools of thought. Resource mobilization and political opportunity structure have often been connected implicitly

or explicitly, but nearly exclusively in the context of social movement studies. Policy process theories in turn are underspecified, lacking causal mechanisms, and often atheoretical. Where causal mechanisms have been developed, notably the policy diffusion literature, greater examination is needed of when and where policy is adopted, what actors explain when and where policy diffusion will occur, and how policy diffusion fits into conceptualizations of policy as an iterative process (Graham, Shipan and Volden 2008).

As the concept of resource mobilization has developed, two approaches have emerged (Canel 1997). The political interactive model of resource mobilization examines movement development as a function of the density of the given group members' social network within the social movement, the pre-existing organizations that social movement organizations can draw on, and the structure of opportunities. This aspect of the resource mobilization paradigm subsequently developed into the political opportunity structure paradigm. In contrast, the organizational-entrepreneurial model turns to organizational dynamics such as, leadership-member relations, resource management, and leadership experience in order to explain how social movements are organized and maintained (Canel 1997, Gamson 1987, Perrow 1977). The political interactive model bolsters the argument for using resource mobilization in concert with political opportunity structure to explain social movements, while both of the models of resource mobilization provide important insight into what constitutes a resource. The political interactive model demonstrates the need to include measures of network density within the movement such as the number of LGB organizations in a given country or the number of gay publications. The

importance of fiscal resources and leadership emphasized in the organizational-entrepreneurial model argues for the inclusion of organizational budgets in examining movement success.¹¹

Political opportunity structure is at times presented as an alternative to the resource mobilization paradigm (Goodwin and Jasper 1999, Jaswin 1999), but this is unnecessary because resource mobilization and political opportunity structure are complementary. While resource mobilization is important to social movement success because of the obvious need for movement organizations to have expendable resources for action, it is also necessary to incorporate an understanding of what impacts the use or lack of use of resources and the subsequent success or failure of the movement to achieve goals. Jackson (1992, 31) points out that “rather than competing with socioeconomic variables as direct determinants of state policy,” which are often correlated with resources mobilization theory, “political system characteristics may operate as mediating factors that either facilitate or impede the translation of ... preferences into policy.” Policy outputs are explained in terms of organization characteristics such as numbers of voters or liquid assets or socioeconomic demographics of organization membership and the strategic choices made by elites guided by these resources in the resource mobilization literature (Meyer 2003).

As previously noted, policy punctuated equilibrium benefits from the incorporation of political opportunity structure into its concept of policy entrepreneurs. Punctuated equilibrium relies on policy entrepreneurs interceding into the policy process to change the policy trajectory. Political opportunity structure lends predictability to the rise of a successful policy entrepreneur via adding measurable qualities of the political system as determinants of entrepreneur success.

¹¹ While fiscal resource would ideally be included in this analysis, organizations were reticent to release such information. Furthermore, for those organizations that no longer exist, reliable budget data could not be located at the time of this writing.

It is in this causality void that resource mobilization and political opportunity structure become vital to the modeling of the policy process. When will a policy entrepreneur arise and shift the feedback trajectory? Political opportunity structure informs the when by explaining innovation capacity in terms of political and social institutions. Punctuated equilibrium failed to incorporate the notion that institutions could inform timing of punctuations because it has been nearly exclusively applied to the US, thus formal institutions have been constant. When comparing across states, institutions vary and the impact of openness in political and social institutions can be tested. When the political opportunity structure is more open, the likelihood of a policy entrepreneur appearing is greater. Therefore, we can expect greater, more frequent periods of radical policy change, or so called punctuations, in states with a more open political opportunity structure. Additionally, where the institutions that comprise the political opportunity structure are similar, policy diffusion is more likely.

Resource mobilization further informs expectations for policy adoption as the probability of adoption via diffusion or the rise of a policy entrepreneur is expected increase when resources are greater. As the resources of the national LGB movement increase, the probability one or more national organizations will engage with the international movement in the diffusion of strategies and tactics also increases. Furthermore, it is logical to expect the policy entrepreneur to either come from the social movement or be closely related to the social movement in some way. The power and resources of the social movement should thus be an indicator of how likely the rise of policy entrepreneur is. The more developed the social movement, the more likely there are professionalized movement leaders and as a result there is more likely an individual with the knowledge base, time and fiscal backing to serve as a policy entrepreneur. Thus increases in

resources increase the probability of policy adoption via increasing both the probability of a policy entrepreneur and the probability of policy diffusion via sharing of tactics.

The political opportunity structure emphasis on actors can be integrated with the policy diffusion literature to explain patterns in policy diffusion related to institutional proximity rather than geographic. For instance, an institutional similarity between the United States and Australia such as federalism may be more relevant to policy diffusion than the lack of geographic proximity. The internal, external, and go-between actors delineated in the policy diffusion literature can be used to generate greater nuance in our understanding of the political opportunity structure as consisting of more than merely domestic actors.

Models of the policy process have evolved via increasing specificity over time. Among the most recognizable models are the garbage can model, the streams model, and punctuated equilibrium theory, which constitute an interconnected progression of model development. Punctuated equilibrium models how policy changes over time via delineating specific roles to the policy image and venue in the process. While it is clear that rapid policy change happens when the image and venue are changed by the policy entrepreneur, it is unclear when a policy entrepreneur will arise and be successful in generating a policy image and/or venue shift. Political opportunity structure informs punctuated equilibrium by providing a causal mechanism driving the success of policy entrepreneurs.

Theory

When does policy change occur? This is the fundamental question in much of policy research including the research here. As previously discussed, many different theories have been developed to understand and explain policy change. When social movements desire policy change, what impacts how long it takes for a movement to be successful in achieving goals? This

is the key question of this research and a point in which social movement theory and policy analysis collide.

When examining policy change as a function of movement resources, we must identify policy adoptions that would constitute success by the standards of the movement. In this research three policy types are considered, each with varying levels of policy within type. Chapter three is devoted to general prohibitions on discrimination in the form anti-discrimination legislation and constitutional amendments. Anti-discrimination provisions are subdivided into two levels; policies that could be interpreted to include LGB persons via vague clauses and policies that explicitly include sexual orientation as a protected category. Chapter Four addresses access to military service and also subdivided into policies that allow LGB persons to serve with some restrictions or exemptions and policies that allow LGB persons to serve openly. Partnership recognition is the focal policy area of chapter five. Partnership recognition is subdivided into recognized cohabitation, registered partnership, and civil union or marriage.

Policy change that is related to social movements is a function of the resources of the movement. The more resources the social movement has at its disposal, the more options in terms of strategy they can pursue. Organizational resources are thus the first factor to shape the strategic options available to induce policy change. Resources are a necessary condition for policy success, but are not sufficient to insure policy change occurs. The capacity of a social movement is filtered through the institutional framework of the state and the social context in which the movement exists, which constitutes the political opportunity structure. Furthermore, preexisting policy impacts the resources, social context and institutional receptivity for social movements seeking policy change. Additionally, policy diffusion generated by supranational institutions may compel states to adopt LGB rights policies.

The modern LGB liberation movement provides an opportunity to examine how organizational resources are processed in the political system by institutions and social context to generate policy output. This is not to say that the movement is always successful or that policy change occurs. As we know from Dye (1984), public policy is not just the decisions government makes, but also the non-decisions made by government

Policy making is also not an instantaneous event, it is a process that requires time for development. Likewise the process of government recognizing and translating the demands of social movement organizations relative to societal orientation toward the movement requires time. As a result of the importance of time in the nature of policy design and social movement recognition, it is important to consider how time affects policy making in addition to the other determinants.

Organizational resources are necessary but not sufficient conditions for social movement success. The extent and shape of organization resources is less important than how these resources interact with formal and informal institutions. This is important because it means that a strong, well organized social movement is not by default more successful or more likely to be successful than a weak, relatively unorganized social movement. A minimum existence of resources is necessary and beyond that it is the interactions that matter, because, recall from both the political opportunity structure and resource mobilization paradigms, formal and informal institutions can both magnify and depress social movements and by extension the policy outputs a social movement can achieve.

According to the policy process literature, once policy is created it has an impact on the conditions in society, specifically feedback from policy output to organization resources and openness of informal institutions should be expected. This sort of endogeneity has often forced

scholars to resort to only studying segments of the policy process or only a single instance of policy change, leaving much of the feedback and more dynamic processes of interaction between policy and the forces that created it ill understood. By examining the policy determinants and policy outcomes over time in an event history framework, we can observe the impacts of feedback without applying an endogeneity model. This is possible because the extent to which a policy output impacts any of the determinants will be incorporated into the subsequent values of that determinant.

It is important to distinguish those determinants which should fluctuate over time and thus be responsive to a feedback versus those determinants that should be regarded as static. Formal institutions are the structural design of government and thus are regarded as constant for the cases selected.¹² Conversely, informal institutions are expected to fluctuate over time and be responsive to policy feedback loop. Because of the important differences between these types of institutions, they are modeled as distinctive categories. I categorize the relevant determinants as follows in table 2.1:

Table 2.1 Categories of Independent Variables

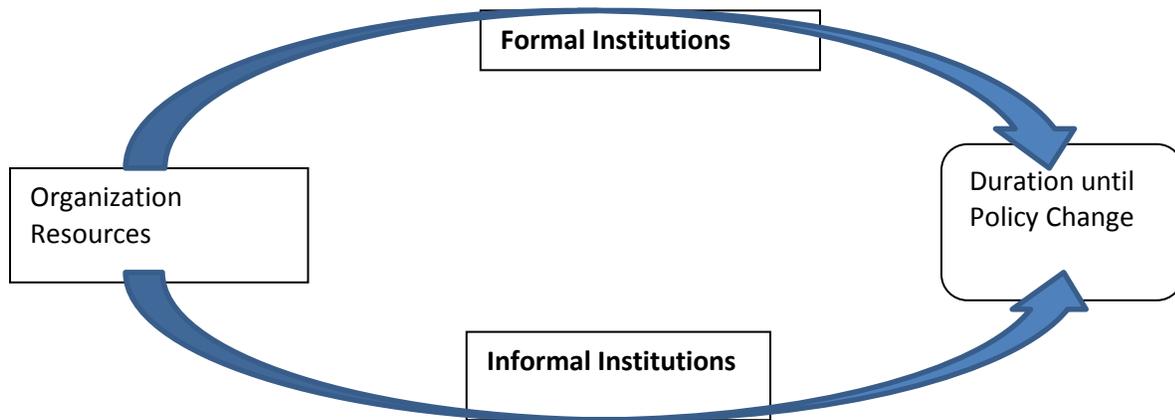
Organizational Resources	Formal Institutions	Informal Institutions
-number of national LGB organizations -number of LGB publications	-electoral system -federalism -structure of the executive	-economic threat -diversity -urbanism -amenable public officials

In order to fully understand the policy a given state has toward gay rights it is important to examine not only how open the political system is, but also the social context within the state. Utilizing the concept of opportunity as either open or closed, a state can have any combination of

¹² Because this analysis only examines advanced democracies, the structures of government are stable over the time period of analysis. Expanding this dataset to a more diverse set of countries would require additional considerations for structural changes that may occur in for example democratizing countries.

open/closed social opportunity and open/closed political opportunity. This opportunity filters the resources of social movement. The likelihood of policy corresponds to both the movement resources available as well as the opportunity structure.

Figure A



Gay rights policy falls under what has variously been called morality politics, social regulatory policy, or the culture wars, all of which emphasize a distinction between issues that engage value and moral judgments in place of or in addition to economic judgments (Wald, Button, & Rienzo 2001). Innovative policy in this area is especially prone to constraint from informal institutions as well as government structure, making it an apt initial look at the role such constraints play in determining policy outputs. In order to more fully specify the model of policy adoption, while the dependent variable is duration until policy change, the level of policy is also accounted for by allowing for any given case to experience multiple events during the observation period.

Research Design

Methodology

Box-Steffensmeier and Jones (2004, 1) introduce event history modeling by reminding us that “for many research questions, timing of social change is at least as interesting as understanding the event culminating the history” and this would certainly seem to be the case when one is interested in the impact of social movements on public policy. While both the public policy literature and the political opportunity structure emphasize the importance of timing, researchers have often failed to give time itself a spotlight in the statistical analysis. It is in this context in which theories converge to direct us toward a consideration of the event, in this case policy, and the history that leads up to the event.

Previous scholars have deployed time-series analysis to study public policy as well as social movements, but as Tuman and Hannan(1984, 3) and Box-Steffensmeier and Jones (1997) have pointed out, too often time-series analysis ignores the temporal structure and accounts for time with the limited use of autocorrelation. When we are interested in a dynamic process it is problematic to use a regression approach that cannot simultaneously address the issues that are likely to arise, most importantly right censoring and OLS regression’s assumption of normally distributed residuals (Box-Steffensmeier and Jones 1997, Cleves et al. 2008).

Right censoring occurs when a case is in the risk pool for an event to occur but the event does not occur during the period of analysis, that is it continues to be at risk after the observed period ends. In this research these would be states that have not adopted an LGB-friendly policy by 2005. If an ordinary least squares regression model were applied, mathematically it would be treating a state that does not adopt a new policy identically to a state that adopts a policy in the final year of the dataset. For example, Greece adopts an anti-discrimination policy that explicitly

includes sexual orientation as a covered category in 2005, the final year of the dataset, while the United States has still yet to adopt a national level discrimination protection policy that applies to LGB persons. If regression analysis in which time is operationalized as the dependent variable were to be used, then these two cases would be presumed to be identical, which is inaccurate. A dummy variable could be included for policy adoption in the regression analysis, but then information would be lost via the use of a less efficient model that does not incorporate temporal nature of the event as had been theorized (Box-Steffensmeier and Jones 1997; Tuman, Hannan, & Groeneveld 1979).

Even if the data did not include right censoring, duration analysis would be preferable to regression because of the assumptions made about residuals. Regression assumes a normal distribution of residuals, and this seems unlikely if time dependency is truly relevant (Cleves et al. 2008). For this reason the statistical analysis in each subsequent chapter begins with an evaluation of the time dependency. If there is no evidence of time dependency, then an alternative method should be used.

Event history modeling expressly focuses on the temporal nature of a research question by parameterizing the survival and hazard functions of the data. The survival function is a probability function for a state continuing to be in the risk pool. For this analysis the survival function models the probability that the state will not adopt a LGB-friendly policy. Thus in subsequent discussion of the survival rate, a higher survival rate indicates that a variable prolongs the time until a state provides greater rights for LGB citizens. Similarly, the hazard rate has a counterintuitive interpretation in this research. A high hazard rate indicates that a state is more likely to adopt a policy that will benefit LGB persons. In short, survival is bad while hazards and failures are good in the context of this research.

In duration analysis, the hazard and survival functions can be unparameterized, which is used to test for time dependency and does not include covariates; semi-parameterized, as the Cox model; or fully parameterized, with any of a variety of functional forms. The Cox proportional hazards model is a logical starting point for duration analysis once one is confident that time dependency does indeed exist and is relevant because it is semiparametric, that is the baseline hazard is left unestimated. This can be advantageous, but is also less efficient in coefficient estimation. Furthermore, the Cox regression ignores changes to variables that occur in timer periods in which no state fails. For example, in 1994 no state in the dataset adopted a policy, so a Cox proportional hazard model would ignore changes in the explanatory variables for that year. Thus if one has theoretical reasons to prefer a particular parameterization, it is advisable to parameterize rather than use the Cox (Cleves et al. 2008). Because the parameterizations vary by the policy type, the parameterization and explanation of why it is preferable is explained in each chapter for each policy.

The following research is comprised of independent variables that fall into one of three categories used to predict duration until policy adoption measured as time in years.¹³ The duration begins when a state enters the dataset and ends when a policy is adopted. Because there are multiple levels of policy evaluated in this research, states may “fail” multiple times during the observation period. In order to account for this and better incorporate the endogenous aspect of public policy making, a shared frailty parameter is added to the model. The assumption of shared frailty in this dataset indicates that I assume the adoption of a lower level policy in a state will be correlated with the subsequent adoption of a high level policy in the same state.¹⁴

¹³ See Appendix for list of countries including the dates in which they enter and exit the dataset.

¹⁴ By lower level and higher level I mean the level of protections or rights that the policy accords LGB persons.

Policy chance is modeled as a function of LGB movement resources and institutions based on the resource mobilization and political opportunity structure literature. Movement resources form the base of the model as institutions are understood to be filters for these resources. Institutions are also subdivided into formal institutions, essentially the structure of government, and informal institutions, the social norms or proxies for norms.

Movement Resource Variables

The resources available to movement organizations play a vital role in determining policy success. One of the best measures of social movement resources is the number of voters within the movement or identity group, but this is problematic for LGB politics due to the lack of consensus on the percentage of homosexual and bisexual persons in society and the frequency of underreporting in surveys. As a result alternative measures of movement strength must be used.

The number of national LGB organizations is an apt measure of movement strength that is particularly useful for the purposes here. The number of gay right organizations serves in part as a proxy for the size of the gay population, but also indicates the extent to which LGB persons are committed to political change. Only national organizations are included because the focus of the research is national level policy and local/regional organizations are more likely to be focused on local/regional policy or social change. Furthermore, “organization[s] only have a real social or political impact if they can be said to constitute...a movement with at least some kind of common strategy and policy goals” (Hooge 2005, 976) and national level organizations reflect a common strategy and greater coordination. National organizations are measured via counts of the organizations listed Spartacus International Gay Travel Guides issued from 1971 through 2005 and verified via organizations websites.¹⁵

¹⁵ Website validation was not available for all organizations, particularly those that existed in the 1970s but collapsed before the 1990s. When possible these organizations were validated by gay history archival websites, but

The number of LGB publications is also relevant to organization strength because it demonstrates both a connected gay community as well as an avenue for mobilization. Publications targeted at gay men, lesbians, and/or bisexuals provide connection within the community by disseminating information about community events and providing a forum for discussion of issues that are LGB-specific. Such publications can also disseminate information about public officials' responsiveness to the gay community and policy agendas for gay rights organizations. The number of publications in a state is also measured via the listings of publications available in Spartacus International Gay Travel Guides produced between 1971 and 2005.

Formal Institutions Variables

As noted above, movement resources are only one component to consider when attempting to understand policy change. These resources are filtered through institutions that can serve to either increase or decrease the effectiveness of the movement's strategies and resource deployment. Formal institutions can encompass many aspects of governmental structure, but the most relevant ones for this research are those that will have a direct impact on the openness of the political system to social movement pressures.

Several factors shape the level of openness in a political system, one of which is the electoral system. The electoral system is important because of its role in determining the number of parties in a system. As district magnitude and thus the number of parties increases, it becomes more likely that one of the parties will include the issue of gay rights in their policy agenda. As parties attempt to secure votes in a multiparty system, they will need to find electorates that they can capture and the LGB population is a potential voting bloc to capture (Frymer 2005).

organizations that could not be validated were included if they appeared in more than one annual edition of Spartacus.

Furthermore, as the number of viable parties increases, the likelihood that all parties will need to be centrist and incorporate the views of the right and/or conservative religious factors will decrease, allowing room for LGB rights to be incorporated into a party platform without necessarily resulting in election losses.

Parties are important because ultimately parties control the issue agenda (Rohrschneider 1993). The party system is important because parties can be insulated from social movement pressures for inclusion on the issue agenda by centralized organization that limit the points of access for movement organizations. Specifically, “modified proportional laws facilitate the evolution of smaller green parties, which increases the pressure on established Old Left parties to respond favorably to social movement demands” while “the modified plurality system in France and Great Britain shields established Old Left parties from minor-party competition” which delays party response to new social movements (Rohrschneider 1993, 164). Electoral systems are important in so far as the level of competition between parties is a function of the electoral system and this party competition impacts the importance of public opinion on policy making (Burnstein 2003). Golder (2007) originally classifies democratic electoral systems as being one of four types, majoritarian, mixed, multi-tier, or proportional. Teorell, et al (2011) collapsed these four categories to three, majoritarian, mixed, and proportional systems, which is the categorization used in this analysis. Because categorical data with more than two categories is problematic in duration analysis, I create two dichotomous variables for proportional and mixed systems leaving majoritarian systems as the null. If I were to retain the three categories, proportional equal to one, mixed system equal to two, and majoritarian equal to three; then mathematically the model would be constrained to assuming that a mixed system has twice the effect of a proportional system and a majoritarian system would have three times the effect of a

proportional system. Hence two dichotomous variables were created leaving the majoritarian system as a null category in the interpretation.

H1: Policy adoption will occur more quickly in states with more movement resources and either a proportional or mixed electoral system than in states with a majoritarian system.

Relatedly, the type of executive, while frequently correlated to the electoral system, is important to consider as it points to the amount of power consolidated in the executive branch. The greater independence from the legislature that the presidential model provides has different implication for policy change as compared to mixed systems. Where the mixed executive includes a head of state that is insulated from the political process, such as a monarch, the head of state may provide rhetorical leadership on LGB rights issues without electoral costs. In a presidential system the unitary executive is less insulated from popular opinion and thus may be less likely to show leadership on civil rights for an unpopular minority. Mixed executives were defined by constitutions that create a dual executive in the form of a president or monarch, the head of state, and a prime minister, the formal head of government¹⁶ (Norris 2008). A presidential system is interpreted as a state in which the head of state and the head of government are fused in a unitary executive.

H2: Policy adoption will occur more quickly in states with more movement resources and a mixed executive than in states with a presidential executive.

Federalism is an important part of the political opportunity structure and is generally thought to increase openness as well as the number of veto players. While this is true, federalism also changes the access points for social movements and thus the likely locus for policy making.

¹⁶ This coding admitted does not incorporate the nuances of the power distribution between the prime minister and president.

Federalism makes national level policy less likely even though it increases opportunities because it encourages states to devolve responsibility for complicated controversial policy to regional and local level governments. Policy change at the local level is often easier and less costly to achieve for interest groups than is national policy, which in turn leads to a patchwork of policies across a state. Policies developed at the local or regional level are unlikely to be adopted as national policy because once devolution of responsibility has occurred it is likely to persist. When policy is adopted at the national level, it is often to address existing policy at the regional level. Thus it is expected that even this policy occurs later than would be expected in a unitary state. There are often few incentives for the national government to develop policy that is already being addressed by a lower level of governance. Unitary states are defined as those in which the constitutions “where the national government retains sovereignty over all sub-national tiers” whereas federal states are defined as those in which “governments has national and sub-national units in a compound polity were each tier possesses some autonomous powers and functions” (Norris 2008. 22).

H3: Policy adoption will occur more quickly in unitary states with more movement resources than in federalist states.

In addition the structure of government within states, the impact of international institutions must also be considered important given the increasing role supranational institutions play in domestic policy. In particular I examine the influence of the European Union and the European Convention on Human Rights as both have been influential in states’ policies regarding minority inclusion in the polity. Both institutions are measured dichotomously as member or non-member for each year, thus some states enter the dataset as non-members and become members during the time span of analysis.

H4: Policy adoption will occur more quickly in states with more movement resources and that are members of the European Union.

H5: Policy adoption will occur more quickly in states with more movement resources and that have signed the European Convention on Human Rights.

Informal Institutions

Formal institutions comprise one set of filters that impact the effect of social movement resources, a second set of filters is comprised of informal institutions, or social norms. While formal institutions are straightforward in their measurement, informal institutions can be more elusive sometimes requiring that proxies be used because direct measures are unavailable.

The informal institutions examined here that are most closely related to the formal institutions discussed above are amenable public officials. This relationship is cause for some concern for multicollinearity as amenable public officials may, as discussed above, be closely related to the electoral system in place¹⁷. Ideally amenable officials would include some measure of openly gay public officials, but this information is insufficiently available for the entire duration of the dataset across all of the states examined. Here amenable officials measures are limited to the percentage of the national legislative seats held by women and the ideological party placement of the executive, regardless of executive type. The percentage of women in the legislature is anticipated to be important because women typically have higher tolerance levels for homosexuality in general and are more likely to support gay rights than their male counterparts. Furthermore, increased representation of women is associated with higher levels of post-materialism, which should also increase the probability of LGB rights policy adoption. Ideology of the executive, measured as the executive being from or composed predominantly of

¹⁷ After calculating the variance inflation factor (VIF), I find that there is not problematic collinearity between amenable officials and the formal domestic institutions included in the model.

a rightist, centrist, or leftist party, is important because of the role the executive plays in setting the policy agenda. The party leaning of the executive data was taken from the Worldbank database of political institutions. The executive was coded as rightist for parties defined as conservative, Christian democrat or right-wing. The executive was coded as leftist for parties defined as communist, socialist, social democratic, or left-wing. These categories were used to create two dichotomous variables, rightist and centrist executives, leaving a null category, leftist executives.

H6: Policy adoption will occur more quickly in states with more movement resources and a higher percentage of females in the national legislature.

H7: Policy adoption will occur more quickly in states with more movement resources and an executive of a leftist party compared to a rightist or centrist party.

Economic threat is an important indicator of tolerance toward minorities, including homosexuals, and thus favorable social context for gay rights. “Greater economic security, together with the attitudes fostered by vibrant civil society including greater trust and less anomia, appear to increase espoused social tolerance” (Persell, Green, & Gurevich 2001, 203). Because civil rights are often mistakenly interpreted as zero-sum by the public, when economic distress is high public support for extension of civil rights to additional groups is perceived as somehow reducing their own rights. Economic distress will be measured in terms of change in GDP per capita and the annual unemployment rate.

H8: Policy adoption will occur more quickly in states with more movement resources and higher GDP per capita.

H9: Policy adoption will occur more quickly in states with more movement resources and lower unemployment rates.

In addition to economic distress, degree of urbanism is an important determinant of gay rights policy. Urbanism is related to greater tolerance with regard to sexual behaviors and thus would be expected to be related to greater support for the extension of civil rights to sexual minority groups (Wilson 1995). The percentage of the population residing in an urban area will be used to measure urbanization. As people move toward larger urban areas and gain greater exposure to more diverse social circles, there is increased pressure to express tolerant views regardless of actual opinion (Persell et al 2001). As a result, the higher the level of urbanization in a state, the more likely it is that LGB rights policy will be adopted.

H10: Policy adoption will occur more quickly in states with more movement resources and greater urbanization.

Diversity within a state, much like urbanization, increases individuals' exposure to alternative view points and lifestyles. Previous research on LGB politics has noted the influence of religion in morality politics in general and LGB rights in particular, thus I include ethnic fractionalization within a country as a measure of the diversity in a state¹⁸. A state dominated by a single ethnic and cultural identity is less likely to adopt anti-discrimination policy protecting minority rights, including policies that protect the rights of sexual minorities.

H11: Policy adoption will occur more quickly in states with more movement resources and more ethnic fractionalization.

¹⁸ This is operationalized as the probability that any two randomly selected persons within the state will be from different ethnic groups, thus the higher the value the greater ethnic diversity. Because of the relationship between ethnicity and religious identification, this measure also serves to capture some degree of religious fractionalization. This is relevant because religion is not included directly in the analysis but is generally considered to be relevant to the status of LGB rights (see for example D'Emilio 1983, Sherrill 1996, Smith & Haider-Markel 2002, Merin 2002).

Table 2.2

	Variable	Operationalization	Source ¹⁹
Dependent Variable	Time until policy change	Years	Government legal documents including constitutions & civil codes, law journal reports on legal changes, the ILGA World Legal Survey
Organization Resources	Movement Strength	# of LGB organizations	Spartacus Gay International Travel Guides validated by websites for individual organizations
	Ability to disseminate information	# of gay publications in a country	Spartacus Gay International Travel Guides validated by websites for individual publications
Formal Institutions	Electoral system	Proportional Representation/ Majoritarian/ Mixed	Golder <i>Democratic Systems Around the World</i> New York University
	Structure of the Executive	/Presidential/Mixed	Norris <i>Democracy Time-Series Dataset</i>
	Federalism	Federalist/ Not Federalist	Norris <i>Democracy Time-Series Dataset</i>
	International Treaties	Membership in the EU	www.europa.eu
European Convention		www.echr.coe.int	
Informal Institutions	Diversity	Ethnic Fractionalization	Fearon <i>Ethnic and Cultural Diversity by Country</i>
	Economic security	GDP per capita	Worldbank IMF Government Finance Statistics
		Unemployment	Worldbank IMF Statistics
	Urbanism	% of the population in cities	Vanhanen Index of Power Resources
	Political Opportunities	% of legislative seats held by women	OECD Gender, Institutions, and Development Database
Party leaning of the Executive		Worldbank Database of Political Institutions	

Many of the variables to be examined are closely related, so there is potential for multicollinearity. One potential source of multicollinearity is the measures of movement strength and information dissemination. Movement strength is measured as the number of LGB

¹⁹ Complete citation information in bibliography.

organizations and information dissemination is measured as the number of gay publications. Because gay publications are often closely linked or supported by LGB organizations, it would not be surprising to find that changes in the number of gay organizations also yield changes in the number of gay publications. Likewise, acknowledging the work of Downs (1957), we would expect party competition in the form of effective number of parties to be correlated with the electoral system. The potential for multicollinearity was assessed via the variance inflation factor (VIF) test. A VIF score above ten would indicate that multicollinearity is problematic (Kutner et al 2004). The reported VIF scores range from 1.05 (change in GDP per capita) to 3.51 (LGB organizations) with a mean VIF of 2.05, thus multicollinearity is not increasing the standard errors in the models found in Chapters Three through Five. Furthermore I examine the correlation coefficients across the independent variables (Appendix F).

Policy does not occur instantaneously; in fact as previously discussed, it is often modeled incrementally. Thus a cross-sectional approach would be unlikely to exhibit many of the causal processes that occur over time in policy making. Gay politics would likely be impacted by slow causal processes such as demographic shifts and threshold effects in which the movement is not perceived as politically significant until it reaches a critical mass (Pierson 2005). Event history modeling provides significant advantages over cross-sectional models for examining policy determinants. Event history models can examine change over time as a result of immediate response or building effects and places event occurrence into a historical context. Amenta and Zylan (1991) advocate inclusion of temporal considerations when studying social movement success in particular because “the rise of a social movement may be epiphenomenal—indicating that policies may soon change rather than constituting the reason for changes.” Additionally, cross-sectional analysis is poorly suited to examining the role structural factors play in policy

making because structural factors rarely generate immediate change that would be necessary to be observed in a cross-sectional analysis.

Table 2.3: Descriptive Statistics for Independent Variables

	Obs	Mean	Std. Dev.	Min	Max
Organizations	956	6.791	7.353	0	35
Publications	908	5.97	8.772	0	63
Proportional Representation	957	0.679	0.467	0	1
Mixed Electoral System	957	0.079	0.271	0	1
Mixed Executive	957	0.914	0.28	0	1
Federalist	957	0.228	0.42	0	1
European Union	957	0.437	0.496	0	1
European Convention	957	0.744	0.437	0	1
Ethnic Fractionalization	884	0.269	0.199	0.012	0.88
Change in GDP per Capita	915	993.567	1957.171	-7606.73	13439.64
Unemployment	932	6.835	4.554	0.1	30.4
Urbanization	911	72.852	12.282	42.1	97.2
Percentage of Women in Parliament	827	13.552	10.035	0	42.7
Rightist Party Executive	957	0.39	0.488	0	1
Centrist Party Executive	957	0.345	0.476	0	1
Eastern Bloc	958	0.081	0.274	0	1

Cases

The cases in the dataset were selected based on the limited applicability of a common goal structure of the transnational LGB movement to those states which were both sufficiently democratic that a movement could form and sufficiently industrialized for urbanization to have occurred and economic stability high enough to permit the cultivation of the LGB movement. Furthermore, advanced industrialized democracies are expected to have greater and growing concern with matter of equity, equality, and self-actualization, understood as post-materialism, that would promote the development of a movement whose goals match the policies defined here (Inglehart 1995). The level of democracy in states was evaluating using polity scores (Marshall & Jaggers 2002) and a threshold of a nine on the zero to ten polity scale was required for the state to be included in the dataset. Advanced industrialization is understood to be those states whose percentage of GDP derived from agriculture and manufacturing is relatively small (O’Neil

2005). For the purposes of this dataset the percentage of GDP from agriculture was added to the percentage of GDP from industry, for a state to be included in the dataset the combined value for both agriculture and industry had to be below the global mean for agriculture and industry combined.

In addition to the quantitative analysis, it is important to include case studies as that serve as a narrative that will give insight into how the process of policy change in response to a social movement occurs. The cases chosen follow neither a most different nor a most similar systems design because rather than constituting a separate test from the quantitative measures, they are intended to demonstrate the importance of the variables chosen. The Netherlands is an epitome of policy change that reflects the agenda of the LGB movement, and is thus one example used to demonstrate how the variables in the model play out. The second example case, the United States, is contrastingly an archetype of policy stagnation with regard to gay rights.

Additionally, because gay rights policy studies are still in early development, a narrative on the development of policy in general is necessary to inform the reader. The case studies provide an accompaniment to the quantitative analysis that reinforces the logic behind the variable selection.

Because the majority of the cases being drawn on are members of the European Union, I am also including a narrative on legal changes of the EU as a metacase. Changes in EU law have spawned changes in state law as well as in public opinion across the EU states. It is important to acknowledge the role of a supranational institution in domestic politics and policy if one is to really understand why policy change occurs when it occurs.

Chapter Overview

Each of the subsequent policy chapters addresses a different policy area of LGB rights. Chapter Three begins the policy chapters with an analysis of prohibitions on discrimination, as protection from discrimination provides a foundation for increased access to the polity. Chapter Four examines access to military service for LGB persons. As symbol of the nation-state, access to military service is an important marker of full citizenship status. The fifth chapter examines policies recognizing LGB partnerships. Because the state recognition of a relationship imparts not only symbolic status but also tangible economic and legal benefits and obligations, state recognition of same-sex couples is an important area of civil rights pursued by the LGB movement. Chapter Six reexamines the theory in light of the results from chapters three through five and provides suggestions for how these results should influence future research.

Does combining resource mobilization theory, political opportunity structure theory, and the policy process model provide a more thorough understanding of policy change as it relates to social movements in a democracy? The modeling described seeks to answer this question using the context the transnational LGB movement in advanced democracies. By examining three substantive areas of LGB-related policy, discrimination, military personnel policy, and partnership recognition, it will be possible to gain insight into the varying applicability of the theory over different types of policies deemed desirable by the same movement.

Chapter 3 Anti-discrimination Policy

Invidious discrimination is treating someone or some group differently and as inferior in comparison to others. Increasingly governments have had to address discrimination, often via policies that explicitly prohibit discrimination on certain grounds or promote discrimination for specific purposes. Governments that support anti-discrimination legislation base their support on two different but important rationales: correcting for market inefficiencies and pursuing human rights. Discrimination alters the delicate balance of the market and creates barriers to maximizing efficiency. Anti-discrimination policies seek to correct this while also acknowledging the existence of a particular prejudice in society that deters certain groups of people from fully participating in the market. Governments further support anti-discrimination policies on the grounds of protecting or promoting human rights, based on the premise that human rights are infringed upon when an individual or group is unable to fully engage in society due to invidious discrimination.

Ensuring equal access to employment is important on both of the bases for anti-discrimination policy. Equal access to employment is important to the fundamental premise of a market that maximizes exchanges . To truly maximize exchanges in the market, laborers must have freedom of choice to pursue employment that best utilizes their skills. When an individual suffers demotion or dismissal on the basis of discrimination, she is forced to either reduce her labor value below fair market value or incur the costs of migration to a jurisdiction in which she will not be discriminated against. Clearly this process, when repeated for all or most of the individuals in a particular subset of the population, skews the employment pool. Furthermore, discrimination also interferes in an individual's ability to pursue livelihood in the profession or

specific job of their own choosing. This undermines the ability to maximize individual utility as well as fiscally care for oneself.

Human rights are basic, universal, and egalitarian in nature. While a somewhat vague concept, this understanding has been adopted by the United Nations in the Declaration of Human Rights (1948) and includes the ideas that individuals are equal in dignity and rights are based on our endowed ability to reason, possession of a conscience and potential for fraternity.

Discrimination undermines the dignity of persons and infringes on individual rights to pursue individual interests. Insofar as states have an obligation to respect and protect the dignity of citizens, they have a parallel obligation to prevent citizens from denying that same respect to one another. Discrimination prohibitions target precisely this problem and seek to restore human rights to those whose rights have been infringed upon by the prejudice of others.

Thus, anti-discrimination policy is necessary when invidious discrimination infringes upon the market and/or human rights. I will emphasize its importance with regard to human rights, but it should be noted that economic reasons exist and are used to validate anti-discrimination laws.

The following aims to answer the question of what kinds of anti-discrimination policy exist in advanced industrialized democracies and analyze how differences in organizational resources and formal and informal institutions within countries impact the duration until such policy develops. Additionally, I will discuss the developments leading toward anti-discrimination policy in two states that serve as illustrative cases of the extremes on the spectrum of discrimination policy within the dataset. The United States and the Netherlands illustrate divergent paths that states may take in the development of LGB rights. Furthermore, I will

discuss the European Union's impact on its member states with regard to discrimination prohibitions.

Because one of the fundamental questions of this research is to find out how important social movement resources are in expediting policy change, it is important that the policies covered are those that are pursued by LGB organizations. Discrimination in general designates some citizens as more equal than others and is thus deserving of attention from both LGB organizations as well as this research.

Ending discrimination has been a major goal of LGB organizations who have tackled the issue both in terms of policy change and in terms of changing social norms and perceptions of lesbians, gay men, and bisexuals. Employment discrimination has been a key issue for lesbians, gays, and bisexuals because sexual orientation has often constrained the economic opportunities for individuals whose sexual orientation is known to potential employers. Furthermore, LGB persons have often suffered loss of employment based on their orientation and it was and is often the case that individuals have no recourse when such discrimination occurs. As a result the International Lesbian and Gay Association lists equality in employment among the LGBT issues it seeks to address as does its partner organization ILGA-Europe. In Ireland, for example, the Gay and Lesbian Equality Network (GLEN) was founded in 1988 on the premise of working toward LGB equality. GLEN played a crucial role in the development of Ireland's Unfair Dismissals Act of 1993 and the subsequent Employment Equality Act (GLEN 2008). Additionally, the Queer Business Women Association in Austria has a clear objective of eliminating employment discrimination against lesbians. Due to the persistent invisibility of lesbians in public life, QBA seeks to increase visibility while also eliminating the prejudices that face lesbian professionals

Given the premise that discrimination is harmful to human rights as well as the market and is thus worthy of government intervention, it should be expected that public policy change will occur as discrimination is more clearly understood. This chapter examines the policy change in discrimination prohibitions as a function of resources and political opportunity with the goal of understanding when states create policy to improve human rights and economic opportunities for the LGB population. In the first section of the chapter I will examine policies that prohibit discrimination. This section is subdivided into sections describing the policy evolution in the European Union as well as in both of the illustrative cases, the Netherlands and the United States. The following section briefly reviews the research design before presenting the results of the statistical models used to explain the duration until policy is adopted. Finally the chapter concludes by placing the findings into the context of the theory and prospects for future research.

After examination of the results from the models, both support for the theory as well as contrary findings that are cause to reconsider elements of the theory are discussed. In the results both are discussed as well as alternative hypotheses to explain those findings that fail to support the theory and hypotheses as outlined. While the models provide universal support for the assumed shape of the hazard, the results do not support the frailty assumption that prior policy adoption is an explanatory factor beyond the independent variables. There is not consistent support for political opportunity to be modeled as a system of intervening variables; rather the findings suggest the importance of direct effects of institutions particularly with regard to formal institutions.

Policies Prohibiting Discrimination

Laws prohibiting discrimination with regard to sexual orientation often take the form of an addition to a preexisting law prohibiting discrimination or a category, implied or explicit, in

an amendment guaranteeing equality and prohibiting discrimination. When such provisions specifically protect the right of LGB persons to employment, they often have specific limitations to the laws' competency. For instance, the military and public service positions that require a high level of security clearance have often been excluded from anti-discrimination policies. Often religious organizations are also given exemption from following some or all aspects of equal employment law that include sexual orientation explicitly as a protected category.

Article 4(1) of the Employment Equality Directive of the European Union is a pointed example of a clause that allows exceptions to laws prohibiting discrimination in certain circumstances (Waldijk and Bonini-Baraldi 2006). The second section of Article 4 allows organizations “whose ethos is based on religion or belief, to treat persons differently on the basis of their religion or belief” (Cormack and Bell 2005, 49). While not all member states have included this exception in their policies on discrimination, many have including Austria, Cyprus, Denmark, Greece, Hungary, Italy, Ireland, Latvia, Malta, the Netherlands, Poland, Slovakia and the United Kingdom (Cormack and Bell 2005).

Policy in the European Union

Discrimination policy in the European Union developed through a combination of the original Treaty of Rome and the Maastricht Treaty and interpretation via case law, subsequent treaties and their interpretation via case law, and European Commission directives.

The Treaty of Rome, also known as the Treaty of the European Community (EC Treaty) was the precursor to the Treaty of Maastricht. The provisions of the Treaty of Rome were economic, thus its impact on discrimination regulation were limited to those that directly impacted the integration of the European market. The preamble of the EC Treaty mentions a guarantee of social progress that the European Court of Justice has interpreted, in conjunction

with article 141 pursuit of both economic and social objectives, as supportive of anti-discrimination measures (Waldijk & Bonini-Baraldi 2006). As a result of the initial focus on economic unification, historically the measures regarding anti-discrimination have been those that would impact the development of the common market. Discrimination is clearly incompatible with the EU provisions for the free circulation of goods, services, capital and people and the European Parliament has long recognized this applies to discrimination based on sexual orientation (Reekie 1997). As discussed subsequently, the commitment by the European Parliament to end discrimination against homosexuals dates back to 1984 (HREA 2003).

The issue of lesbian and gay rights was introduced to the European Parliament as being under the competence of the European Union in the 1984 Squarcialupi Report on sexual discrimination in the work place that in conjunction with the 1992 Roth Report led to the 1994 Resolution on Sexual Discrimination at the Workplace urging member states to decriminalize homosexual acts (Sanders, 1996). Just prior to the Roth Report, the European Commission acknowledged the problem of harassment of gays and lesbians via extending its sexual harassment code to include protections for gays and lesbians.

The Treaty of Maastricht created the European Union in 1992, marking an opportunity for increased competency at the international level. This generated the foundation for all future treaties, directives, community decisions, and case law that address rights within the European Union. It mentions the principles of non-discrimination with regard to nationality (Article 12), producers and consumers of agriculture (Article 34), free movement of peoples (Articles 39, 43, 49, & 50), taxation (Article 90) and gender (Article 141). The treaty also takes an explicit interest in improving employment conditions and facilitating employment through the European

Social Fund developed in Article 130u, whose role in improving LGB employment opportunities will be discussed subsequently.

The Maastricht Treaty also instructs that those fundamental rights that are guaranteed by the European Court of Human Rights also be secured by the European Union. Based on the freedom of movement provided for in the treaties of the EU, the 1992 Roth Report indicates that without European Parliamentary control, the differentials in the legal rights of homosexuals across member states equates to a restriction in their ability to migrate for the purposes of employment (Roth 1994). In October of 1995 the European Parliament, voting on this argument, adopted a resolution encouraging the European Commission to formulate directives in the area of discrimination (Due 1996).

Despite the sporadic support for LGB rights from the European Parliament, EU competences failed to cover discrimination based on sexual orientation until the Amsterdam Treaty was signed in 1997. The Amsterdam Treaty, which went to effect in 1999, permitted the European Council to take positive measures to ensure equality and specifically mentioned the need to ensure equality in the workplace between men and women, but not sexual orientation. In the interim between the signing of the treaty and its coming into effect, an important ECJ case tested the applicability of EU laws regarding gender discrimination to cases of discrimination based on sexual orientation. *Grant v South West Trains Ltd.*²⁰ set precedent for sexual orientation to be sufficiently distinct from gender that discrimination based on sexual orientation is not covered in any way by gender discrimination law.

²⁰ Grant was an employee of South West Trains Ltd. who applied for spousal travel concessions for her same-sex partner. South West Trains Ltd. denied request on the basis that concessions for non-married partners were only available to opposite sex partners. Grant sued on the grounds that the refusal constituted sex discrimination citing that her predecessor had been given travel concession for his partner who had been a woman (*Grant v South West Trains Ltd.* 1998).

Following the treaty and the landmark *Grant* case, the European Commission developed two relevant directives: one regarding race and gender and another regarding a list of other minority group categories including sexual orientation. Sexual orientation was a much debated inclusion in the Equal Employment Directive as its inclusion meant that that member states were required to enact anti-discrimination measures at the national level. The Equal Employment Directive prohibits both direct and indirect forms of discrimination and instruction to discriminate as well as harassment based on sexual orientation. The directive, as a compromise, is more limited in its scope than the directive on race and gender. The Equal Employment directive applies only to employment, self-employment, and membership in professional organizations while the Racial Equality Directive on the other hand covers employment as well as provision of goods and services. These directives and debates culminated in the Nice Summit in 2000 with Article III of the Treaty of Nice prohibiting discrimination based on sexual orientation in employment.

Member states had until either 2003 or 2004 to transpose the Directive into national law depending on when they had joined the EU (Cormack & Bell 2005). States seeking accession had until 2005 to transpose the law. Initially there were difficulties for many member states in transposing the directive through their national legislatures. These problems were derived from the social marginalization and prejudice that made such legislation unpopular among the public in some states (Waldijk & Bonini-Baraldi 2006). “By the summer of 2005, the European Commission had started four infringement procedures based on the Directive” (Waldijk & Bonini-Baraldi 2006, 90). Infringement procedures occur when a state fails to implement a directive. Of these four procedures, two were for failure to implement the Directive at all

(Germany and Luxembourg) and two were for failure to implement in some regions (Finland and Austria) (Waldijk & Bonini-Baraldi 2006).

In same year as the Nice Summit, the EU also adopted the Lisbon Strategy with a goal of advancing skilled labor across the member states. This included employment targets for the general population, employment targets for specific subpopulations, and importantly the 2000-2008 EQUAL initiative. The EQUAL initiative sought to develop strategies to create a more inclusive workforce via combating discrimination on various grounds including sexual orientation (European Commission 2008).

Despite the beleaguered timeline for EU action on sexual orientation discrimination and the problems of transposition, most states' anti-discrimination laws go beyond the scope of the directive either in terms of the grounds for discrimination, the scope of protection or the competence of the equality body (Cormack & Bell 2005). Some states have chosen to adopt the wording of the Directive nearly verbatim, while others have added clauses into the existing legal framework. Despite variations in the wording of national laws, the national courts are under obligation to interpret those laws in accordance with the nature and intent of the Directive.

Since implementation of the Employment Equality Directive, the EU has continued to focus on eliminating discrimination. The 2007 "European Year of Equal Opportunities for All" adopted by the Council of the EU focused on both strong implementation of anti-discrimination measures within member states as well as reform of social norms regarding prejudice and stereotypes (Morales 2006).²¹ In the summer of 2008 the European Commission issued a new directive on discrimination that would expand the scope of anti-discrimination measures to the provision of goods and services. The inclusion of sexual orientation in this new directive was

²¹ The Morales citation precedes the "European year of Equal Opportunities for All" because he is writing regarding the Council of the European Union announcement in advance of the year's scheduled events.

heatedly debated with concerns over whether or not such a directive could pass in a Council that included the new member states from Eastern Europe. Ultimately, the directive did include sexual orientation among its protected categories and was passed by the European Council.

These policy changes at the level of the European Union are important because they represent the policy progress of a supranational institution and place requirements on member states to establish or reform laws in accordance with the treaties as well as the European Commission directives. Furthermore, the European Commission monitors compliance with these directives in the member states and can take legal action in the European Court of Justice (ECJ) for noncompliance. European Union law takes precedence over national in many areas, especially those that affect the free movement of goods, services, or labor. The procedure for bringing such legal action is an arduous process involving a great deal of requests, responses, and time allotments for change, but should the state continue to fail to comply they are subject to penalties from the ECJ.

The process of incorporating sexual orientation into the protected categories covered by EU directives and treaties has been a process requiring debates, reports, and non-binding resolutions to ultimately build toward enforceable policy. The Treaty of Nice and 2008 European Commission directive's inclusion of sexual orientation as protected grounds is the culmination of a process that began in 1984. Policies adopted via treaty and directive at the EU level compel states to take more seriously issues of discrimination based on sexual orientation *and* take steps to prevent such discrimination. As the EU has expanded its membership and competence, its impact on LGB rights has become increasingly clear.

Policy in the Netherlands

Although the European Union's discrimination policy is quite recent, individual states within the union have adopted anti-discrimination provisions and applied them to LGB persons that predate EU policy. The Netherlands is an example of a member state in which the route to an anti-discrimination policy was considerably less complicated than in the European Union. The Dutch Constitution (Article I) has prohibited discrimination since 1983 when it was rewritten to include more social rights. Article I does not explicitly mention sexuality, but because it prohibits discrimination "on any ground whatsoever" it has been interpreted to imply inclusion of sexual orientation²² (*The Constitution of the Kingdom of the Netherlands* 2002, 2).

Discrimination based on sexual orientation with regard to employment is prohibited specifically by the Equal Treatment Act of 1994 (CGB 2006). The Equal Treatment Act not only specified sexual orientation as protected from discrimination, it also created the Equal Treatment Commission, which is responsible for addressing acts of discrimination throughout the Netherlands.

The Equal Treatment Commission (CGB) is charged with the duty of investigating alleged acts of discrimination based on any of the grounds covered under the Equal Treatment Act. At its inception, the CGB was constrained to only investigating cases that were presented to a Commission office. Victims or interested third parties who were neither the individual/organization perpetrating an act of discrimination nor the party being differentiated based on sexual orientation could report discrimination to the CGB, but this still limited reports of discrimination to far fewer than the actual frequency with which discriminatory acts occurred

²² Waaldijk (1993) notes that the parliamentary debate surrounding the wording of the discrimination protections in the revised constitution focused on whether or not include sexual orientation. The addition of "any grounds whatsoever" was a compromise position between exclusion and inclusion of sexual orientation. Mattijssen and Smith (1996) have subsequently interpreted the phrase to specifically and especially apply to sexual orientation. In *Van Zijl v Goeree* (1987) the County Court of Appeals ruled that "any ground whatsoever" cover sexual orientation with sufficient strength that the defendant's right to freely publish anti-gay propaganda based on his religion was overridden by the Plaintiff's right to be protected from discrimination based on "any ground whatsoever."

(Dominici 2007). Beginning in 2005, the CGB was given the power to conduct independent investigations that has greatly expanded the scope of the Commission in addressing discrimination within in the employment sector. Further, prior to 2005 CGB initiated investigations had to be related to an entire economic sector rather than a specific firm or individual (*Simply Gay* 2007).

The CGB is an important institution for discouraging and policing discrimination, but its power is limited to arbitration and recommendations to the court. The commission is limited by the scope of Dutch policy, thus it cannot take independent punitive action and is limited to the employment sector. The CGB relies heavily on its influence within the courts and the negative publicity that firms may incur if it is discovered that they are under investigation by the CGB.

While it is clear that both direct and indirect discrimination are prohibited, there are certain exemptions from these laws with regard to employment. Religious institutions are a notable example of the limitations on employment discrimination policy. Religious schools, institutions, and organizations may discriminate based on sexual orientation if the employment position includes educating others about the religion and the religion does not condone homosexuality or bisexuality. The CGB must also distinguish between cases in which discrimination has occurred and the law is violated and cases in which discrimination has occurred but does not violate the law.

In addition to the Equal Treatment Act and the CGB, the Dutch government studied discrimination based on sexual orientation via policy memorandums and surveys conducted by the Social and Cultural Planning Bureau. Studies such as *Acceptance of Homosexuality in the Netherlands* (2006), *Homosexuality in the Dutch Armed Forces* (2006) *Simply Gay* (2007), *Increasingly Normal, Never the Norm* (2010), and *Just Getting On With the Job* (2011) study

homosexuality, social norms, and homophobia within the Netherlands and provide policy suggestions for reducing homophobia and increasing the social inclusion of LGB identifiers. Additional studies, for example *A Yellow Card for Sport* (2007), that are not narrowly targeted at addressing LGB issues still address sexuality in the context of the broader report. This allows targeted policy making and closer tracking on the part of the CGB, who can thus be more effective in pursuing independent investigations. Furthermore, it establishes a tone of cooperation and support between the Dutch government and the LGB community.

As a result of the research commissioned by the Dutch government and its relationship to the Center for Culture and Leisure (COC), the oldest LGBT organization in the world, a broader more concerted effort to change social norms that facilitate discrimination has also been adopted (COC 2012). For instance, the government has identified the primary sectors of society in which discrimination based on sexual orientation persists, namely the youth and immigrant populations. The Ministry of Education, Culture and Science is charged with emancipating the LGBT community and Minister Dr. Ronald Plasterk, has been particularly active in promoting equality and ending discrimination.

The history of LGB protections in the Netherlands contrasts with EU policy in both duration and contention. Aside from early debates on explicit inclusion of a discrimination protection in the constitution, the Dutch government has repeatedly made efforts to incorporate the LGB community into Dutch society. By interpreting the “any grounds whatsoever” clause to protect homosexuals from discrimination, the Dutch government has provided agencies like the CGB and interest groups like the COC with the competency to improve the social situation for the LGB population. As is evidenced by the government’s own reports, sexual orientation discrimination is becoming less common in Dutch society with few exceptions.

Policy in the United States

Where the Netherlands provided an example of leader state with regard to anti-discrimination policy, the United States stands as a contrasting laggard state. Anti-discrimination policy regarding the LGB community in the United States has been piecemeal at best. The United States lacks national legislation protecting the LGB community from discrimination, despite efforts dating back to 1974 and Congresswoman Bella Abzug (Feldblum 2000). In fact, national legislation in the United States has historically encouraged the dismissal of LGB persons from their jobs within the federal workforce (Hirsch 2000). So while the Equal Employment Opportunity Commission could be seen in some ways as being comparable to the Dutch CGB, it does not protect LGBs from discrimination because sexual orientation is not a protected category in the United States. Anti-discrimination policies in the United States have been enacted at the local or state levels in the form of municipal ordinances and state laws that prohibit discrimination. While each ordinance and law passed is seen as a gain within the movement, the result has been that only a portion of LGB persons are actually protected from discrimination.²³

National legislation protecting the employments rights of LGB persons is limited to two executive orders. In 1995 President Clinton issued an executive order removing sexual orientation as a consideration in the granting of security clearances, an important first step in permitting employment advancement for LGB federal employees and employees of companies holding military contracts (Hirsh 2000). Then in 1999 President Clinton signed Executive Order 13087 incorporating sexual orientation into the list of categories protected from discrimination within the federal workforce (Executive Order 13087).

²³ See van der Meide (1999) for a thorough review of subnational legislation in the United States and www.taskforce.org and www.hrc.org for updated information since the van der Meide report.

The National Gay and Lesbian Taskforce and other LGB organizations have long pushed for national legislation that would add sexual orientation to the categories of minorities protected from discrimination. Such legislation with national scope would be a significant gain for gay rights, but requires legislation. While Clinton was able to incorporate protections for LGB identifiers for federal employees via executive order, a public sector discrimination prohibition is beyond the scope of an executive order. As mentioned above, such legislation has been introduced regularly in Congress since the mid-seventies but has yet to pass. Beginning in 1994 the bill retitled the Employment Non-Discrimination Act (ENDA) and has progressively gained larger numbers of co-sponsors with each introduction to Congress (HRC 2010). In 1996 ENDA came its closest to passage but failed in the Senate by a single vote. Subsequently debate regarding ENDA in Congress became dominated by the power of the religious right's grip on the Republican party and interpretation of the bill as an endorsement of immoral, and thus un-American, behavior (Feldblum 2000). Thus despite Clinton's support for LGB rights, the progress of ENDA and success of LGB advocates at the national level was severely constrained.

Despite the seeming opportunity of the years of the Clinton administration, ENDA was never passed so Clinton's support for the bill was never tested. During the subsequent George W. Bush presidency the bill continued to be introduced but with less potential for success. While the number of cosponsors grew during this period, Bush's determination to veto ENDA remained steady. LGB rights groups turned their lobbying attention to the state level during the period as the political opportunity had clearly contracted under Bush and some states were more amenable to increasing the civil status of LGBs.

The state strategy proved fruitful with several states adopting discrimination prohibitions between 2000 and 2008. Maryland (2001) and New York (2002) adopted laws banning

discrimination based on sexual orientation. Rhode Island (2001), New Mexico (2003), California (2003), the District of Columbia (2005), Illinois (2005), Maine (2005), New Jersey (2006), Washington (2006), Iowa (2007), Oregon (2007), Vermont (2007), and Colorado (2007) all adopted laws prohibiting discrimination based on sexual orientation and gender identity or expanded previously legislation covering sexual orientation to also include gender identity/gender expression (NGLTF 2011). State level success is important and worthwhile, but the goal of passing ENDA remains as national coverage removes the impairment on gays who are unable to pursue employment opportunities in the many states that do not offer protections against discrimination. In these laggard states LGB organizations opt for pursuing discrimination protections in cities that may be more liberal and amenable to anti-discrimination laws than the state as a whole. For example, in the clearly laggard state of Louisiana the city of New Orleans has passed a non-discrimination act. The political capital expended to make these policy gains with such narrow jurisdiction highlight the closed nature of the political opportunity structure of many states.

More recently ENDA has found renewed support at the national level as President Barack Obama has publicly announced his willingness to sign ENDA into law once passed by Congress. When introduced in 2009 the bill had 209 cosponsors in the House but when it was reintroduced in the 112th Congress the number of cosponsors dropped significantly to only 111, likely as result of the influx of Republican and Tea Party freshman congresspersons (HRC 2011).

The overall picture of the United States is dismal for LGB protections at the national level and considerably mixed at the subnational level. The lack of policy success for LGB protections in Congress and the minimal success with Presidential orders have moved much of the focus to subnational levels. It is only recently with the Obama administration that hopes for

national level discrimination protections have risen. Increasing support for ENDA and changes in public opinion may open the door for protections, but the US government is certainly not leading the way for such changes.

While the importance of curtailing discrimination and the mechanisms for doing so may be nearly uniform across the democracies of the Global North, the extent to which individual states see sexual orientation as a category worthy of protection varies considerably. Whether considering general prohibitions on discrimination or looking at legislation specifically protecting LGB persons, there are wide gulfs between states like the Netherlands, a leader state, and the United States, a laggard state. Additionally, it is no longer feasible to examine only the state and its domestic institutions and politics to understand such differences. The European Union's growing competency in social policy as well as the precedents set by the European Court of Human Rights have come to impact those nations who are members of either or both institutions. The cases described above provide a context with which to understand the subsequent statistical analysis that expands the research to include up to thirty-six countries.

Anti-Discrimination Policy Modeled

When and where can anti-discrimination policy adoption be expected? In Chapter Two policy change was formulated as a function of resource mobilization, political opportunity structure, and punctuations in the equilibrium of the existing policy paradigm. Therefore, anti-discrimination policy should occur when organizational resources are available, formal institutions facilitate organizational involvement, and informal institutions are favorable.

Anti-discrimination policy is a goal for LGB movements, thus such policy is expected to be more likely when and where LGB movements have greater resources to advance their goals. Resource mobilization theory sees social movements as the rational result of groups responding

to reductions in the costs of mobilizing or increases in either the benefits to be gained or the likelihood of success (Jenkins 1983, Valocchi 1993). Anti-discrimination policy has an inherently high level of benefit so it is expected LGB organizations would see deployment of resources as cost effective. The high level of benefit is two-fold. There is the obvious benefit of improving the daily situation of LGB persons in terms of ability to carry out functions of daily life including retaining employment, maintaining an adequate living arrangement, and being able to take part in society.

A secondary benefit that follows from the first is that preventing discrimination will produce greater resources for social movement organizations. As more LGB persons are able to be out, they also provide additional resources for the social movement either directly or indirectly. Directly, those who are out face fewer barriers to participation in an organization directed at LGB rights. Indirectly, LGB persons who are open about their sexuality may influence social norms by challenging stereotypes and increasing the exposure of the hetero-majority to the LGB population. For a visual representation of this model, please refer to chapter two.

Anti-discrimination provisions in the law vary in scope. In this analysis discrimination prohibitions are characterized as fitting into one of two categories depending upon the applicability of the law to the LGB community. Policies that prohibit discrimination generally or provide a list of covered categories with a clause indicating the list is not exhaustive are considered to be of a lower level than policies that explicitly list sexual orientation as a protected category under the law. Legislation that prohibits discrimination in general or includes a clause indicating that a list is not exhaustive leaves the extension of scope to LGB persons up to the court system. For the reason, an anti-discrimination law that *could be interpreted* to cover sexual

orientation is considered a policy success but certainly less of a success than a policy that explicitly lists LGB persons as protected from discrimination based on sexual orientation. Using the constitutions, civil codes, and criminal codes of the individual states in the dataset, I identify states as falling into one of three policy categories in any given time: states that do not have a discrimination policy that could be interpreted to include LGB persons, states whose policies prohibit discrimination on a non-exhaustive list of categories but do not include sexuality explicitly, and states with a policy that specifically protects individuals from discrimination based on sexuality.

Ten models are used to examine hypotheses connecting movement resources, formal institutions, and informal institutions to the probability of anti-discrimination policy adoption. When LGB organizations and/or publications increase in the context of formal institutions that facilitate the influence of the movement, it is expected that the probability of policy adoption will increase and thus the duration until policy adoption decrease. States with proportional or mixed representation systems should be more amenable to the LGB movement than states with a majoritarian system, thus policy is more likely to be adopted in these. Similarly, states with a mixed executive structure are also anticipated to be more amenable to LGB policy change compared to states with a presidential system. Unitary states are more likely to pass national legislation sooner than their federalist counterparts, so the probability of policy adoption should be higher and duration until policy change shorter in unitary states. The European Union and the European Convention on Human Rights encourage the adoption of greater minority rights policies, thus member states are anticipated to have a greater probability of adopting anti-discrimination policy than non-member states. Where LGB movement resources, in the form of organizations or publications, are greater in the context of an amenable institution as described

above, the probability of policy adoption is expected to increase compared to where organizations and/or publications function in the context of a closed institution.

Informal institutions are similarly expected to influence the probability of anti-discrimination policy adoption and filtering the impact of national LGB movement resources. States with more amenable public officials, measured as the percentage of women in the legislature and a centrist or leftist party leaning, will be more likely to adopt anti-discrimination policies. Thus amenable officials should increase the positive impact of LGB resources on the probability of anti-discrimination policy adoption. Where economic distress is lower, anti-discrimination policies should be easier to adopt, therefore positive change in GDP per capita is hypothesized to be positively related to anti-discrimination adoption. Relatedly, lower unemployment rates should also increase the probability of anti-discrimination policy adoption. Recall from Chapter Two that diversity is expected to increase the probability of minority rights policy adoption, thus higher levels of ethnic fractionalization and urbanization are anticipated to increase the probability a state will adopt an anti-discrimination policy. Furthermore, when LGB movement resources are functioning in the context of informal institutions that encourage anti-discrimination policy change, the probability of policy adoption should increase.

Event History Modeling

Event history modeling, or duration analysis, is used to examine the theory that was explained in Chapter Two and briefly reviewed above. The model tested here envisions the impact of movement resources on policy as filtered through formal and informal institutions. To examine this using duration analysis, it is necessary to validate the assumption of time dependency, analyze the model fit of the appropriate parameterization for the policy, and then analyze the relationship between the independent variables in each of the three categories to the

duration until policy change. Finally, following the interpretation of the last model, an explanation is offered.

As previously mentioned, and explained more thoroughly in Chapter Two, this analysis necessarily begins by examining the assumption of time dependency of duration until the adoption of a policy prohibiting discrimination. More specifically, non-parametric estimations of the survivor and hazard functions will be used to assess whether the time dependency is negative or positive. The Kaplan-Meier estimate (FigureB1) shows that the probability of survival, ranging from 0-1, declines over time which indicates that the likelihood of a state adopting a policy increases over time. The Kaplan Meier survival estimate shows that after an initial decline at the beginning of the dataset, 1972, the survival rate is relatively stable for nearly the first 20 years of analysis time at which point there is a great deal of policy adoption quite rapidly. The Kaplan-Meier shows the probability that the states that have not already adopted a policy will adopt one in the next time slice, in this case the following year.

Figure B

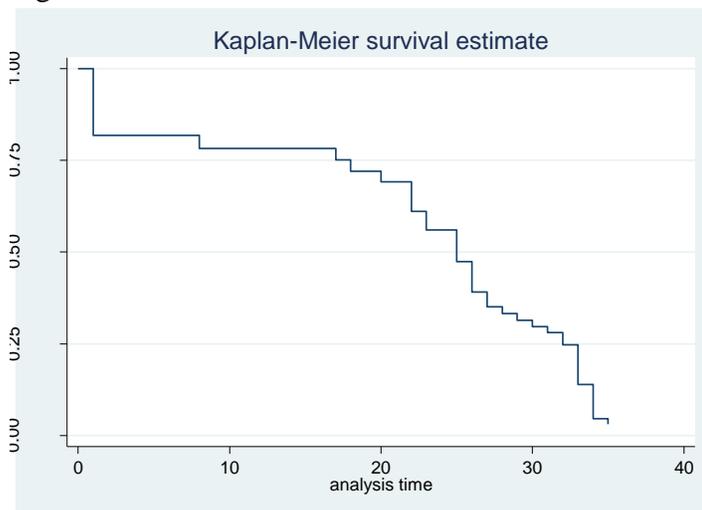
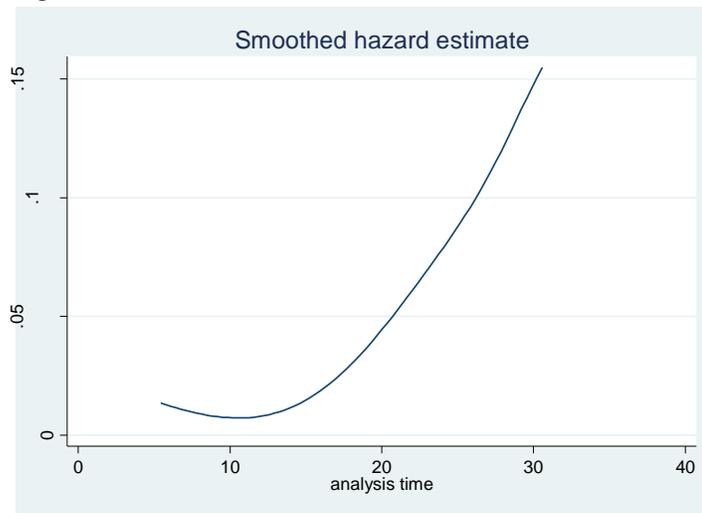


Figure C



Several parametric models were considered as each parameterization assumes a particular form for the baseline hazard. It is important to note that the hazard function above (Figure C) shows the shape of the hazard without the impact of the independent variables and it should not be assumed that the hazard function when covariates are incorporated is the same as the hazard function without covariates. Kaplan-Meier relies solely on time and the remaining number of states that have not yet adopted a policy to estimate the hazard function. The Kaplan-Meier estimates produce a nearly monotonic function. When covariates, such as movement resources, formal institutions and/or informal institutions, are included, the hazard function predicted for discrimination prohibitions is also anticipated to be monotonically increasing. While the baseline shape of the hazard is similar both with and without the independent variables, the independent variables impact the duration until policy adoption for individual states. Furthermore, the independent variables impact the speed at which the hazard is increasing.

There are multiple parameterizations, assumptions about the baseline hazard, which are monotonically increasing. If movement resources are working through institutions, then the likelihood of a policy developing should be monotonically increasing provided that movement

resources are also either static or increasing. Furthermore, informal institutions that are anticipated to positively impact the probability of policy adoption are also increasing over time, for example urbanization and GDP per capita, which reinforces the expectation of a monotonically increasing baseline hazard.

There are three distributions that fit a monotonically increasing hazard, the Weibull, the gamma, and the Gompertz. Of these three the gamma cannot be utilized because it is incompatible with a model that also incorporates shared frailty, the expectation that a country's prior policy record is related to its probability of policy adoption for subsequent years. The Gompertz and the Weibull distributions are appropriate when the hazard rate, or risk of adopting a policy, is expected to increase monotonically over time so both fit the theoretical expectations.

While both the Weibull and the Gompertz are monotonic functions, they are estimated differently and have slightly different implications. The Weibull is a two-parameter model in which p is the parameter that determines whether the hazard is monotonically increasing, monotonically decreasing or constant, in which case the Weibull parameterization is identical to the exponential parameterization and the exponential parameterization should be used. When \hat{p} is less than one, the hazard is monotonically decreasing, which would be contrary to the theory. When \hat{p} is greater than one, the hazard is monotonically increasing, as the theory indicates. When \hat{p} is one, the hazard is constant. The Gompertz is monotonic as well and increases or decreases exponentially depending on the shape parameter. The shape parameter for the Gompertz is γ . Similar to \hat{p} for the Weibull, when $\hat{\gamma}$ is less than zero the hazard is monotonically decreasing, when $\hat{\gamma}$ is greater than zero the hazard is monotonically increasing, and when $\hat{\gamma}$ is equal to one the hazard is flat. An important difference between the two is that the Weibull can

be estimated as either a proportional hazards model or as accelerated failure time model whereas the Gompertz is exclusively a proportional hazards parameterization (Jenkins 2008).

Because the theory alone does not specify which of the monotonic functions is preferable, analysis of each model began by assessing the relative model of fit of the Gompertz and the Weibull. The model fit results consistently indicated that the Gompertz parameterization was preferable to the Weibull based on both the Akaike Information Criterion and the Bayesian Information Criterion. In addition to comparing the Gompertz to the Weibull, I also compare the model fit of both to the Cox. Recall from Chapter Two that the Cox is used as a comparison because it is a semi-parameterized hazard and thus allows the hazard to fluctuate rather than follow a fixed functional form. The Cox is less efficient than a parameterized model, but its flexibility places fewer assumptions on the data. This comparison thus serves as a check on whether it is more appropriate to leave the hazard unparameterized. The Gompertz and Weibull parameterizations are both preferable to the Cox according to the results from both the AIC and BIC tests, thus the Gompertz parameterization will be used for the models below.

As mentioned previously, discrimination prohibitions are modeled as multiple failure data in which a country may adopt one level of a policy and then subsequently adopt another policy at another, higher, level. Modeling this data as multiple failure without taking into account that some policy adoption is related to a previous policy adoption would insufficiently model the iterative and recursive nature of policy making. I incorporated shared frailty to the model to test for whether previous policy in a state impacts subsequent policy development. The frailty for the discrimination policy models is parameterized as having a gamma distribution.²⁴

²⁴ See Chapter 2 for an explanation of frailty distributions considered for this analysis and the process for selecting the inverse Gaussian over the gamma.

Table 3.1

Formal Institution Interaction Event History Models for Antidiscrimination Policy					
	Model 1 PR interaction	Model 2 executive interaction	Model 3 federalism interaction	Model 4 EU	Model 5 ECHR
Organizations	0.979 (0.08)	1.017 (0.044)	1.048 (0.053)	1.025 (0.055)	1.02 (0.043)
Publications	0.903 (0.903)	0.653 (0.303)	0.89 (0.053)**	0.897 (0.052)*	0.835 (0.078)*
Proportional Representation	0.043 (0.042)***	0.094 (0.073)**	0.107 (0.087)**	0.075 (0.064)**	0.089 (0.067)***
Mixed Electoral System	0.049 (0.048)**	0.071 (0.063)**	0.086 (0.081)**	0.052 (0.053)**	0.064 (0.056)
Mixed Executive	0.241 (0.311)	0.019 (0.043)*	0.4 (0.512)	0.343 (0.449)	0.18 (0.213)
Federalist	1.118 (0.481)	1.085 (0.459)	0.935 (0.505)	0.995 (0.418)	1.017 (0.423)
European Union	0.799 (0.326)	0.723 (0.294)	0.747 (0.304)	0.678 (0.295)	0.692 (0.285)
ECHR	5.05 (4.206)*	5.476 (4.48)**	4.423 (3.701)*	5.631 (4.787)*	2.408 (2.149)
PR* Orgs	1.035 (0.102)	--	--	--	--
PR* Pubs	1.082 (1.082)	--	--	--	--
Exec*Pubs	--	1.456 (0.674)	--	--	--
Fed*Orgs	--	--	0.957 (0.088)	--	--
Fed*Pubs	--	--	1.073 (0.097)	--	--
EU * Orgs	--	--	--	0.975 (0.093)	--
EU * Pubs	--	--	--	1.085 (0.125)	--
ECHR * Pubs	--	--	--	--	1.137 (0.099)
gamma	0.17	0.167	0.16	0.163	0.171
chi-squared theta	0.000	0.000	0.000	0.000	0.000
N	706	706	706	706	706
Chi-squared	17.07**	18.68**	15.18*	15.51*	17.66**

* $p \leq 0.1$ ** $p \leq 0.05$ *** $p \leq 0.001$

Note: hazard ratios reported based on Gompertz parameterization; standard errors in parentheses

Table 3.2

	Informal Institution Interaction Event History Models for Antidiscrimination Policy				
	Model 1 Ethnic interaction	Model 2 GDP interactions	Model 3 Unemploy. Interaction	Model 4 Women Interaction	Model 5 Right Exec. Interactions
Organizations	1.121 (0.093)	1.043 (0.065)	0.994 (0.112)	0.714 (0.126)*	1.03 (0.075)
Publications	1.004 (0.061)	0.976 (0.053)	0.994 (0.042)	1.046 (0.125)	0.997 (0.044)
Ethnic Fractionalization	770.369 (11511.847)* **	16.587 (18.926)**	16.43 (18.714)*	37.701 (45.835)**	15.37 (17.936)**
Change in GDP	1.000 (0.0001)	1.000 (0.0002)	1.000 (0.0001)	1.000 (0.0001)	1.000 (0.0001)
Unemployment	1.086 (0.058)	1.103 (0.059)*	1.088 (0.095)	1.149 (0.066)**	1.114 (0.06)**
Urbanization	0.975 (0.023)	0.963 (0.022)	0.962 (0.022)*	0.962 (0.025)	0.961 (0.022)*
% Women in Parliament	1.05 (0.028)*	1.052 (0.029)*	1.059 (0.028)**	0.963 (0.044)	1.059 (0.028)**
Rightist Executive	1.014 (0.759)	1.198 (0.913)	1.16 (0.932)	0.638 (0.495)	1.688 (1.556)
Centrist Executive	1.034 (0.664)	1.235 (0.816)	1.197 (0.811)	0.709 (0.463)	1.21 (0.8)
Ethnic*Orgs	0.622 (0.13)**	--	--	--	--
GDP*Orgs	--	1 (0.00004)	--	--	--
GDP*Pubs	--	1.000 (0.00004)	--	--	--
Unemployment* Orgs	--	--	1.003 (0.011)	--	--
Women *Orgs	--	--	--	1.017 (0.009)*	--
Women*Pubs	--	--	--	1.001 (0.007)	--
Rightist Exec. * Orgs	--	--	--	--	1.004 (0.11)
Rightist Exec* Pubs	--	--	--	--	0.956 (0.091)
gamma	0.142	0.144	0.146	1.08	0.142
chi-squared theta	5.2e-7	1.000	1.000	--	1.000
N	564	564	564	564	564
Chi-squared	17.72*	12.73	11.84	21.27**	12.43

* $p \leq 0.1$ ** $p \leq 0.05$ *** $p \leq 0.001$

Note: hazard ratios reported based on Gompertz parameterization; standard errors in parentheses

Results

Iterative policymaking that is related to the demands of social movement should not be analyzed in the context of the power of the movement alone. Nor should policymaking be examined purely in the context of the structures of government or the informal institutions that inform policy decision making. Capturing a complete picture of the policy making that occurs related to the LGB movement requires that all of the above be considered, particularly where primary interest is in when policies are adopted by advanced democratic states.

Recall from the model visually represented and discussed in Chapter Two that that movement resources are believed to work indirectly through formal and informal institutions. Thus it is necessary to examine the interaction effects of movement resources and institutions. In order to avoid serious multicollinearity problems, the interactions are run separately in a series of models. This also allows comparison across models that contain a stable set of independent variables and different interactions terms. Furthermore, the model proposes informal and formal institutions as separate filtering mechanisms, thus two sets of models are examined, one set of formal institutions and their interactions and one set of informal institutions and their interactions

Interactions Between Formal Institutions and Movement Resources

The formal structures of government impact the probability that an anti-discrimination policy will be passed and it was theorized that the impact was a function of the filtering power of institutions on movement resources such as organizations and publications. In the findings discussed subsequently and evident in Table 3.1, the impact of some formal institutions is indeed statistically significant. However, the findings support a reformulation of the theory in which the impact of formal institutions is independent from that of movement resources given that the interaction terms are statistically insignificant across all formal institutions.

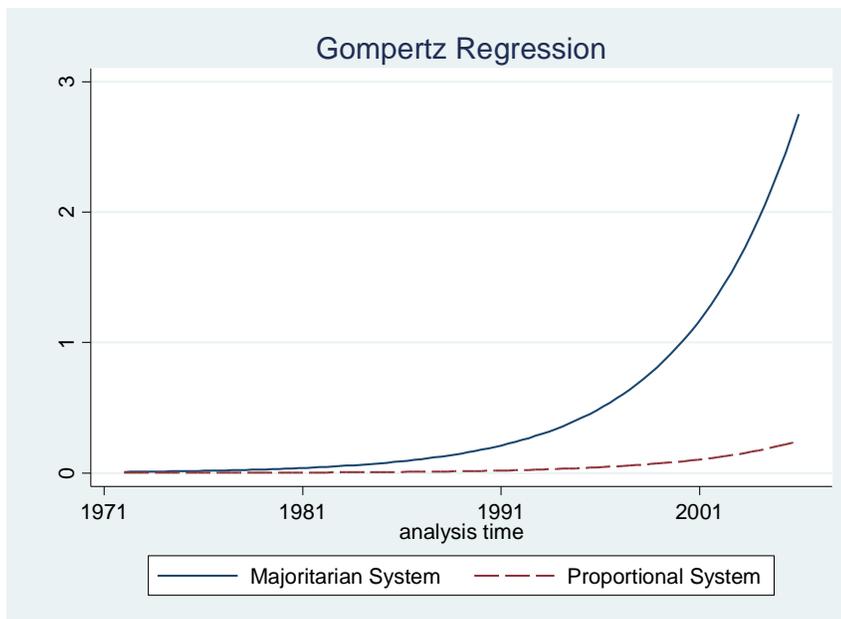
The models show consistent support for the assumption that the baseline hazard is monotonically increasing. Because gamma is positive in all five models, there is support for the assumption that the probability of policy adoption is increasing over time across all states. Frailty, the assumption that previous policy history predicts future policy, is not statistically significant. While frailty was expected, it speaks to the specification of the model that it is insignificant. Policy adoption is sufficiently predicted by the independent variables that frailty does not add explanatory value beyond that already provided by the formal institutions and movement resources.

Across all five formal institution models, proportional representation is statistically significant and decreases the probability of policy adoption as indicated by hazard ratio below one (see Table 3.1). It had been hypothesized that a proportional representation system would increase the probability of policy adoption and thus reduce the duration until policy change so this finding is surprising. The impact of a proportional representation system ranges from a 92.5% reduction in the probability of a state adopting a discrimination policy to an 89.3% reduction in the probability of policy compared to state with a majoritarian system.²⁵ I examine the precise impact utilizing the hazard ratio from model five because it is both closest to the mean impact of proportional representation across models and the most statistically significant result for proportional representation across the models. Figure D below uses the results from model five and shows that the hazard, the likelihood that policy will be adopted, increases far more rapidly when the electoral system is majoritarian rather than proportional when holding the number of organization at the mean and rounded to a whole number (7). Furthermore, the average predicted duration until policy adoption when all states are assumed to be majoritarian

²⁵ The hazard ratio for a proportional representation system in Model 1 should not be interpreted as a direct effect because the interaction terms use proportional representation as a constituent term.

would be 14.527 years after entering the dataset but if all states were assumed to have a proportional representation system the average predicted duration until policy adoption is 32.013 years. For the assumption of proportional representation for all states this is an increase of 5.711 years over the actual predicted duration until policy adoption of 26.302 years. The assumption of a majoritarian electoral system, in contrast, reduced the average predicted year of adoption from that given the actual electoral systems in the data by 11.775 years.

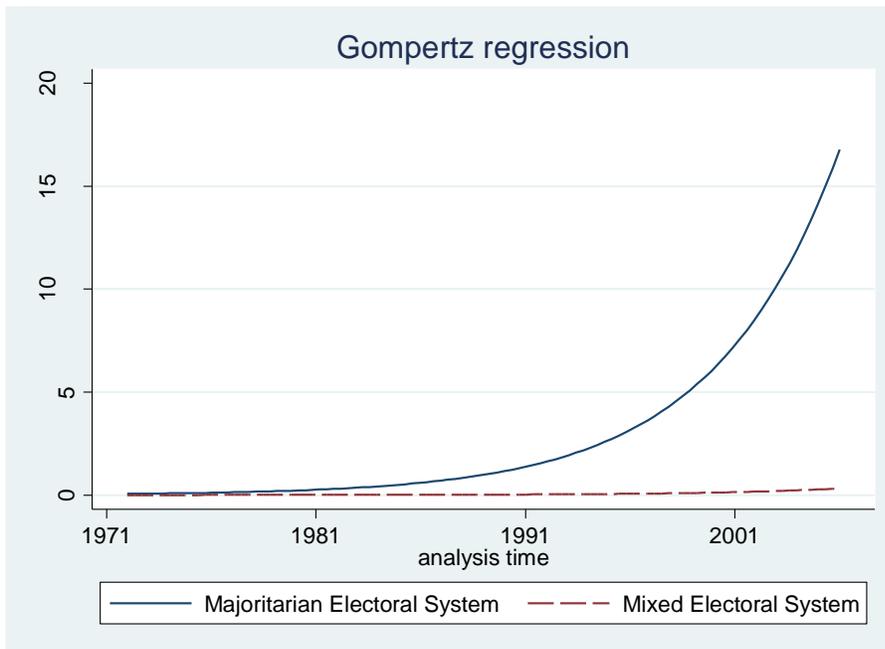
Figure D



A mixed electoral system is statistically significant across four of the five models for formal institutions; it is not statistically significant in the model that includes the interaction between the European Convention on Human Rights and LGB publications. Although it was hypothesized that a mixed system would increase the probability of policy adoption compared to a majoritarian system, the results find that a mixed electoral system reduces the probability of policy adoption compared to a majoritarian system. The impact of a mixed electoral system ranges from a 95.1% to a 91.4% reduction in the probability of policy adoption. Figure E below

shows the difference between the probability of policy adoption for states with a majoritarian system over the timespan of the analysis versus the probability of policy adoption for states with a mixed electoral system when LGB publications are held constant at six, which is the mean and rounded to the nearest whole number.²⁶ If all cases in the dataset were to have a majoritarian electoral system and six publications, based on the results from model 2, the average predicted duration until policy adoption would be 17.248 years. In contrast, if all states in the dataset were to have a mixed electoral system and six publications, the average predicted duration until policy adoption would be 34.017 years.

Figure E



Across the models a mixed executive is negatively related to the probability of policy adoption, reducing the probability of policy by 60% to 98.1%. This finding is only statistically significant in the model in which an interaction term examining the impact of publications in states with a mixed executive is also included. The interaction term is also statistically

²⁶ Publications rather than organizations are used as the measure of movement resources here because the interaction term for organizations was not included in the model due to multicollinearity.

significant, and confirms the hypothesis that when LGB resources, in this case publications, is filtered through a mixed executive, the probability of policy adoption increases by 45.6% compared to presidential system. Thus in 1971 a state with actual values identical to Italy, specifically a mixed electoral system but lacked a national LGB publication, the predicted year for an LGB specific discrimination policy to be adopted was 1984 whereas in the same year a state with values identical to the United States, specifically with a presidential system and two nationally distributed publication, the predicted year for the adoption of any discrimination prohibition is 1976. Thus, when the interaction term is equal to zero, states with a mixed executive are anticipated to adopt policy later. Compare this to a state with identical values to Sweden, that is with just one national publication and a mixed executive, the predicted year for failure is 1981, three years sooner than the predicted year for policy adoption in a state with values identical to Italy.²⁷

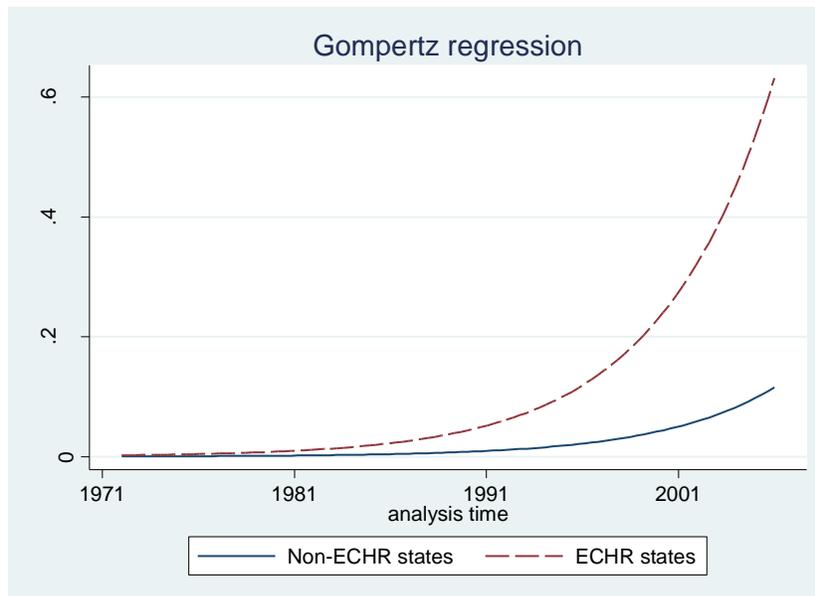
The statistical insignificance of federalism as well as membership in the European Union is also consistent across all five formal institutions models, indicating that federalism and the EU are not as important in predicting discrimination policy adoption as hypothesized. As mentioned previously, the interaction terms including either federalism or the European Union are not statistically significant. The impact of federalism on the probability of policy adoption is inconsistent across the models in addition to being statistically insignificant. The European Union was hypothesized to increase the probability of policy adoption, but in all five models the EU reduces the probability of policy adoption.

The European Convention on Human Rights increases the probability of policy adoption as hypothesized across all five models and is statistically significant in four of the five models

²⁷ These predictions are intended to be illustrative and do not take into account changes in the states that actually occurred between 1971 and the predicted year for adoption. Predictions would update as values change over time in the intervening years between 1971 and the predicted year for adoption.

for formal institutions. The ECHR is not statistically significant in the model in which the interaction between the ECHR and the number of LGB publications is also included. Using the results from model 2 in which the ECHR is most significant, states who have signed the ECHR are 4.476 times more likely to adopt a policy prohibiting discrimination than their counterparts who have not signed the treaty. For example, in 1971 Denmark was a member of the ECHR and the predicted year of policy adoption is 1982 while Finland, which was not a member of the ECHR, has a predicted year of policy adoption of 1991 based on the figures from 1971.²⁸

Figure F



Formal institutions prove to be statistically significant independent of movement resources but not when interacted with movement resources. This may be the result of society organizing around institutions that are fixed in advanced industrialized democracies. This is reason to reconsider whether formal institutions act as a filter, as theorized, or instead structure the forms of organizations deployed by social movements. What is clear from the models is the importance of some formal institutions. The electoral system in a state impacts the probability of

²⁸ See important caveat in note 8

policy adoption, with majoritarian systems surprisingly beneficial for social movements pursuing policy change. Of the two supranational institutions included in this research, only the ECHR has a significant impact on the adoption of discrimination prohibitions. Analysis in subsequent chapters will provide greater insight into the consistency of the impact of formal institutions across types of LGB rights policy.

Interactions Between Informal Institutions and Movement Resources

Informal institutions are theorized to be an important filter on social movement resources in advanced democracies where public officials must be responsive to social norms as well as interest groups. Unlike the findings for formal institutions, the results for the models of informal institutions indicate that interactions between informal institutions and social movement resources impacts policy. This supports the theorized understanding of informal institutions as a filter for social movement resources. Of the informal institutions included in the five models in Table 3.2, ethnic fractionalization is the most consistent in terms of both statistical significance as well as impact on policy adoption.

All five models support the assumption of a monotonically increasing hazard, which means that the probability of policy adoption is increasing over time across all states (see gamma values in Table 3.2). As in the formal institutions models, a measure of shared frailty based on the theory that prior policy will impact future policy beyond the impact of the independent variables was also included in the model. Across the models frailty is not statistically significant, which indicates that the frailty parameter does not capture anything that is not already captured in other explanatory variables.

Of the two measures of social movement resources used in all five models, only organizations is statistically significant and that is only true for Model 4 which includes the

interaction between women in parliament and both measures of movement resources. The impact of organizations and publications on policy change is inconsistent across the models, increasing the probability of policy in some models while decreasing it in others.

Ethnic fractionalization is statistically significant and positively related to the probability of policy adoption across the five models in Table 3.2. This indicates that the more ethnically diverse the state, the more likely it is that it will adopt a discrimination policy. The average predicted year for policy adoption when ethnic fractionalization is below the mean is 2004, whereas the average predicted year for policy adoption when ethnic fractionalization is above the mean is 2002. Figures G and H below show the disparity between the predicted year of policy adoption and the actual year of policy adoption.

Figure G

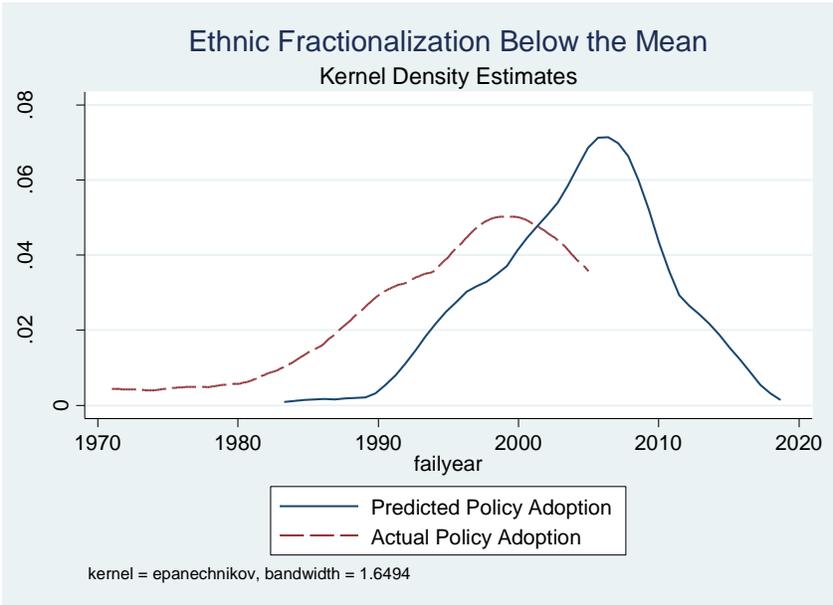
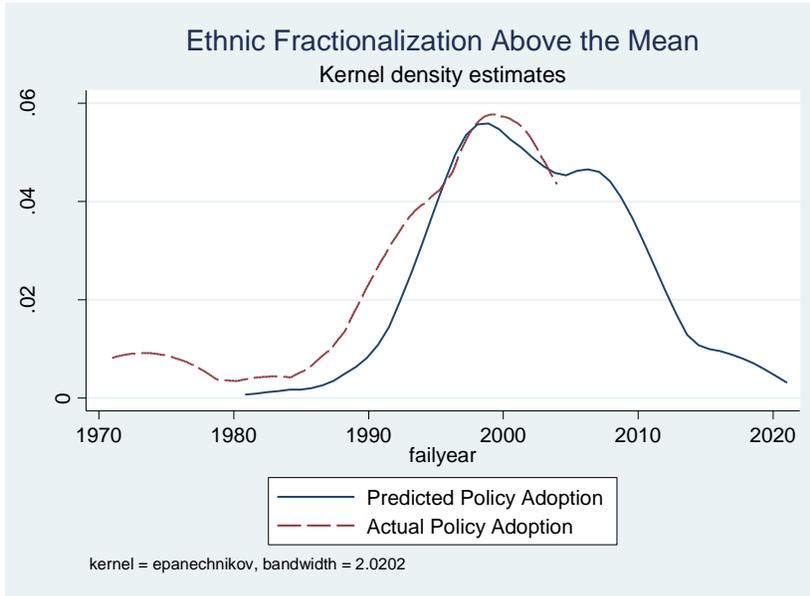
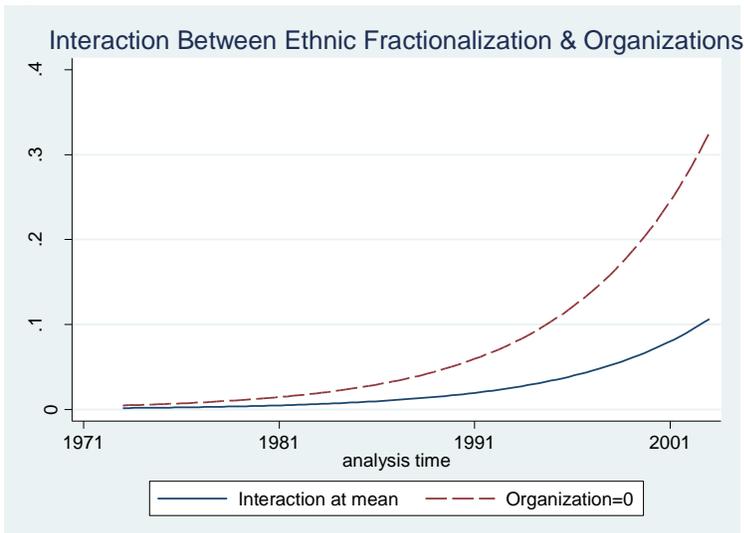


Figure H



Although ethnic fractionalization is positively related to policy adoption and statistically significant when organizations are at zero, when organizations are present the interaction between ethnic fractionalization and organizations reduces the probability of policy adoption. This is surprising given the theory that informal institutions filter social movement resources which hypothesized that increases in the number of organizations in a state would make policy more likely in states with greater ethnic fractionalization.

Figure I



Unemployment was hypothesized to be negatively related to discrimination policy adoption because feelings of economic threat should make it more difficult to pass legislation providing protections to minorities. The findings show that unemployment increases the probability of policy adoption across all models and is statistically significant except when the model includes either an interaction term that include unemployment or the interaction between ethnic fractionalization and LGB organizations to the model. Using the results from Model 2 (see Table 3.2), as unemployment increases in a state, the probability of discrimination policy adoption increases by 14.9%. For example, in 1988 Greece had an unemployment rate of 6% and a predicted year of policy adoption of 2004. If the data are manipulated to increase the unemployment rate in Greece in 1988 by 1%, to 7%, Greece would be expected to adopt a discrimination policy 2 years earlier in 2002.²⁹

Although urbanization was hypothesized to be positively related to the probability of policy adoption, the findings show that decreases the probability of policy adoption in the five informal institutions models examined by 2.5% to 3.9%. In three of these models the impact of urbanization is statistically significant. As mentioned above, in 1988 one would predict Greece to adopt a discrimination policy in 2004. In 1988 58.6% of the population of Greece was categorized as residing in a urban area. If 10% more of the population had been residing in an urban area in 1988, discrimination policy adoption is predicted to occur three years later in 2007.³⁰

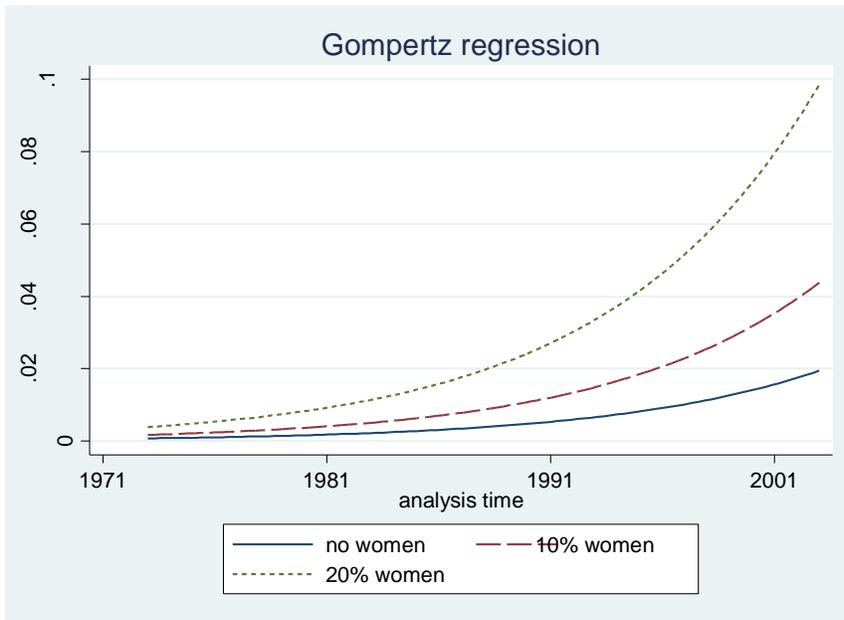
The percentage of parliamentary seats held by women is statistically significant and positively related to discrimination policy adoption in every model except when interaction terms

²⁹ As was the case with the previous prediction examples, this is intended to be illustrative of when Greece would be predicted to adopt a policy given differing values for unemployment. This prediction would update over the intervening years between 1988 and the predicted years as the actual values for the variable change.

³⁰ See previous footnote for important caveat to these predictions

between women in parliament and social movement resources are included. When these interactions are included in the model, the interaction between women in parliament and movement resources increases the probability of policy adoption and the interaction with organizations specifically is statistically significant. Figure J below shows the hazard functions for when the average number of LGB organizations attempt policy change when there are no women in the legislature versus when 10% and 20% of the legislature is made up of women. The greater the percentage of women in the legislature, the greater the hazard function is and the more quickly it increases over time.

Figure K



Informal institutions impact the probability a state will adopt an anti-discrimination policy. The diversity within a state makes a substantial difference when attempting to predict when policy adoption will occur. More diverse states are much more likely to adopt discrimination protections than states with less diversity. The percentage of the legislative seats held by women also proves to be important with gains for women’s representation in governance associated with increases in the probability discrimination policy will be adopted.

The results from the ten models presented have some important consistencies that have implications for the theory. All of the models validate the assumption of monotonically increasing hazard, indicating that the probability of policy adoption is generally increasing over time as anticipated. Across the ten models the findings consistently show that the frailty parameter is insignificant, which indicates that there is not a relationship between policy history and the probability of subsequent policy adoption that is not captured by the independent variables in the models. These findings support the specification of the model and the premises of the theory.

The findings for the informal institutions provide some support the theory's conceptualization of institutions as filters on movement resources while the findings for the formal institutions show an independent rather than interactive effect on the duration until policy change. The five models that examine the interactions between formal institutions and movement resources indicate that the institutions independent of organizations or publications have an effect on the probability of policy adoption while the interactions do not. In the informal institutions models I find support for a filter effect in which LGB organizations interacted with ethnic fractionalization or the percentage of women in parliament are both statistically significant. It is thus worth considering the possibility that some informal institutions may indeed act as filters on social movement resources while formal institutions structure society and the more specific tactics social movements deploy. It is beyond the scope of this research to examine how social movement tactics vary by institutions structure, but this should be considered an apt avenue for future research.

Conclusion

When do states adopt policies prohibiting discrimination? With regard to LGB persons, it was theorized that such policy is a function of the resources of the LGB movement filtered by formal and informal institutions. When movement resources exist in the context of amenable informal institutions and formal institutions are structured to be more responsive, the duration until a policy is adopted will be shorter. This theory was developed in the contextual framework of resource mobilization theory, political opportunity structure models, theories on the policy process as well as the literature on policy diffusion. The results from the models examining how the duration until policy change varies by the interactions between movement resources and institutions provide mixed support for the theory. Informal institutions such as women holding seats in the legislature as well as the diversity within the state interact with movement resources in their impact upon the probability of policy adoption whereas formal institutions appear to only have direct independent consequences for policy adoption.

The Netherlands and the United States were used earlier in the chapter to illustrate the development process for LGB discrimination policy in the extreme cases of a leader and laggard state respectively. Because these cases were chosen as the extremes, they are not necessarily typical of the dataset but the countries included here are sufficiently narrowly constrained that even these extremes of the spectrum remain characteristic of the sample. Previously these two countries were used to illustrate the reasonableness of the theory, thus it is important to now reconsider the narrative of these two cases in the context of the findings of the statistical analysis of the complete dataset.

The finding in some models that movement resources decrease the probability of policy adoption was inconsistent with the theory, but parallels observations in the two illustrative cases.

The Netherlands was an early adopter of discrimination prohibitions that specifically protect LGB persons while the United States had yet to adopt a national policy that would protect LGB persons from discrimination, yet the United States has consistently had greater LGB resources measured as the number of national organizations and publications that exist. It is likely that the findings for organizations and publications are linked to the fact that not all organizations are equal in terms of resources. For example, the COC in the Netherlands receives large grants from the Dutch government and thus has considerable resources in addition to obvious institutional access while the HRC in the United States must raise its own funds, cannot offer contributors tax benefits for contributions, and has considerably less institutional access. Additionally, Baumgartner and Leech (1998) note that the US system facilitates the rise of many interest groups, thus the larger numbers of interest groups may demonstrate that the structuring nature of formal institutions as an alternative understanding to the filtering conceptualized in the hypotheses.

Across the models examining formal institutions, the findings support the importance of the electoral system in determining the probability of policy adoption. Contrary to the hypotheses as well as the history for both the Netherlands and the United States, a proportional representation or mixed electoral system decreased the probability of policy adoption. While the model anticipates that the United States should be the leader state based on the electoral system, history shows that the United States is clearly a laggard particularly in comparison to the Netherlands. It is possible that this is a function of the size and scope of the dataset in which very few cases have majoritarian systems which served as the null category. In future research that considers a wider variety of countries, it is possible that the implications of the electoral system will correspond to the hypotheses.

An alternative explanation for the findings that proportional and mixed electoral systems decrease the probability of policy adoption is that the bargaining in such systems has a negative impact on a policy adoption. Although a minority party may gain disproportionate influence in a government based on the need to form a coalition, minority parties will still need to engage in the bargaining process. It could well be that minority parties who include LGB rights in their platforms are also more likely to bargain away these rights in favor of other policy priorities or greater power within the coalition. This would be particularly true where social norms make such trade low cost for the party in terms of votes. It is beyond the scope of this research to examine to what extent parties exchange commitments to LGB rights for other policies or power, but this should certainly be considered in the future to provide a more nuanced understanding of the relationship between the electoral system, party structure, and placement of LGB rights on the policy agenda.

The European Union was examined as a metacase to illustrate the role of this particular supranational institution and it was hypothesized that membership in the EU would increase the probability of policy adoption. Although the EU has encouraged increasing tolerance, social acceptance, and equality in member states, actual policy making in the EU and cases in the ECJ can be notably slow as explained in the discussion of the European Union. It is thus understandable that the impact of the European Union is not as hypothesized. Furthermore, the European Convention on Human Rights is also included in the statistical analysis as an additional supranational institution relevant to LGB rights. The ECHR began ruling in favor of LGB rights well before the EU adopted the 2008 directive on sexual orientation discrimination, thus it is the ECHR that is statistically significant rather than the EU. This does not necessarily diminish the value of examining the European Union as an illustrative metacase that provides

context for the development of policies in member states, furthermore the impact of the EU may be more relevant in other policy areas.

According to the results for the role of ethnic fractionalization in statistical models for informal institutions, the United States should have adopted discrimination protections for LGB persons by now yet ENDA is still merely a bill rather than a law. When examining the interaction effects between ethnic fractionalization and LGB organizations, it is necessary to shift expectations to the Netherlands as the more probable early adopter. When organizations are working in the context of a more ethnically diverse society the probability of policy adoption decreases, as is borne out in the case of the United States. This poses an interesting puzzle because the findings for the interaction contradict the hypotheses but are congruent with the historical record for the two illustrative cases while the findings for the direct effects of ethnic fractionalization support the hypotheses and are contrary to the illustrative case studies. The impact of ethnic fractionalization across the models in future chapters will provide greater insight into the role of diversity in the probability of policy adoption.

The findings indicate that contrary to the expectations, unemployment is positively related to policy adoption. It was hypothesized that unemployment would decrease the probability of policy change as it increased individuals' feelings of economic threat. Perhaps this is counterbalanced by the mobilizing power of economic threat within marginalized communities. As unemployment increases, awareness of one's vulnerability to employment discrimination may act as a catalyst for greater pressure. The finding for the interaction between unemployment and LGB organizations, though statistically insignificant, supports this alternative hypothesis.

The findings for urbanization were also contrary to the expectation. The literature on the impact of urbanization on LGB community and LGB rights affirms the hypothesis that increases

in urbanization should increase the probability of LGB rights policies, including an anti-discrimination policy. The possibility that urbanization should be measured as a threshold dummy variable rather than a continuous variable was considered, but rejected this alternative operationalization as the resulting models were not as good of a fit to the data based on the AIC and BIC. Furthermore, using a dummy variable did not result in statistical significance and thus the loss of information fails to improve the model or alter the statistical significance of urbanization. Another possible explanation is that the lack of impact for urbanization as well as its negative impact on policy adoption applies exclusively to anti-discrimination policy and is a function of city governments' adoption of anti-discrimination policy. For example, in the United States many municipalities and counties have adopted anti-discrimination laws that specifically protect LGB persons but the U.S. has yet to adoption national legislation. Similarly, the Japanese government has yet to adopt a national anti-discrimination policy, but cities such as Tokyo have adopted municipal laws prohibiting discrimination based on sexuality. It may be the case the LGB persons whose city laws protect them from discrimination are less likely to mobilize for national protections from discrimination. Given that LGB persons are likely to migrate to urban areas, states in which more of the population is located in urban areas would also have fewer LGB persons outside urban areas and thus fewer LGB persons advocating for a national anti-discrimination policy.

As discussed above, the percentage of women in parliament is positively related to the probability of policy adoption thus more women in parliament translates to a shorter duration until discrimination prohibitions are adopted. This is compatible with the hypotheses and also corresponds to observations of the Netherlands and the United States as case studies. The Dutch legislature consistently includes a greater proportion of women than the United States legislature,

which has translated into the Netherlands early adoption of discrimination protections and the failure of the United States to adopt any national protections against discrimination for LGB persons.

Discrimination policy is a crucial goal for the LGB movement because it lays a foundation for broader recognition of LGB persons as legitimate members of the polity. Protection from discrimination promotes greater openness about sexual orientation and thus lends strength to the movement as well. Discrimination is also detrimental to the state as it reduces the efficiency of the market, thus it is in the state's interest to respond to calls for policy prohibiting discrimination. Although anti-discrimination policy in many ways seems to be rational policy, many states have been difficult to persuade into policy adoption.

When a state should be expected to adopt a discrimination policy depends on the resources of the LGB movement, the formal institutions of the government, and the informal institutions of society. Here it was theorized that institutions serve as a filter on the effectiveness of the LGB movement in achieving policy change and tested the associated hypotheses using event history modeling on thirty-five countries between 1971 and 2005. With regard to discrimination policy, informal institutions are more likely to act as filters on the LGB resources while formal institutions have independent effects but not interactive effects. Furthermore, the impact of some institutions, for example the electoral system and the political party of the executive, is contrary to the expectations. Subsequent chapters examine the same set of variables and thus will provide additional evidence on the generalizability of these findings to other areas of policy.

Chapter 4 Military Personnel Policy

Military service requires a great deal of the individual soldier, while at the same time generating opportunities and unique learning experience as well as a sense of civic pride. For these very reasons, exclusion from the military amounts to a declaration of incomplete citizenship. While homosexual and bisexual individuals have served in their nations' military throughout history (often with little attention to that particular aspect of the soldier), in the modern military era they have been excluded from service. As Binkin and Eitelberg (1982, 26) point out, this creates an "overt stigma of civic inferiority." It is because of these connotations for citizenship the LGB community has fought, with success in many countries, for the right to serve openly in the military.³¹

Prohibitions on discrimination based on sexual orientation as discussed in chapter three apply to employment, but military employment is often exempt from such legislation and thus must be considered separately from general prohibitions on discrimination. Northern Ireland provides an example of exemptions with regard to the military. Northern Ireland has incorporated into its discrimination legislation an exception for acts safeguarding national security, public safety or public order. In other countries, such as Portugal, the state courts have assumed an implicit exception within the European Union Employment Equality Directive to security matters. The United States "Don't Ask Don't Tell" (DADT) military policy on sexual orientation discrimination merely placed parameters on discriminatory practices, and considered this sufficient to protect privacy.

³¹ See the work of the Palm Center (www.palmcenter.org) for a regularly updated list of countries that allows homosexuals to serve openly in the military as well as a list of the those countries that ban homosexuals from service. For regularly updated news stories on legislation as well as jurisprudence regarding sexuality and military service around the world see the International Gay and Lesbian Association (www.ilga.org)

This chapter examines the policy change in access to military employment as a function of resources and political opportunity with the goal of understanding when states create policy to improve human rights and economic opportunities for the LGB population. The first section of the chapter examines military policy with regard to LGB persons and follows the same structure as chapter three examining the European Union's relevance to military policy followed by the policy evolution in the Netherlands and the United States. Finally the chapter concludes by placing the findings into the context of the theory and prospects for future research.

Military Service Policy

Until the transformation of sodomy from aberrant behavior to orientation or identity (Foucault 1976), militaries lacked policy specifically regulating sexuality apart from existing criminal codes which soldiers and civilians alike were subject to. Since the early twentieth century, nations have added specific provisions to military regulations regarding homosexuality. When such additions to military code were adopted, they were uniformly opposed to LGB *persons* in the armed forces rather than prohibiting specific *behaviors*. The seemingly worldwide spread of military codifications banning homosexuality among the ranks, interestingly also had nearly uniform justifications. Countries seemingly move from rationale to rationale for why homosexuality, as opposed to homosexual acts, is grounds for exclusion in a nearly identical pattern across those states that maintain a ban. The pattern thus begins with bans on homosexual activities based on national laws against sodomy.

Until the 1970s homosexuality was characterized as a disorder within the medical community, thus many states prohibited homosexuals from serving in the military because they could not pass the requisite medical requirement. In this manner being gay was comparable to having asthma or poor eye sight in the view of the military (Herek 1996). Some countries still

rely on this rationale despite the changes amongst the medical establishment regarding sexuality. For instance, the Polish military directs soldiers who are discovered to be homosexual to psychiatric treatment followed by discharge on the basis of personality disorder if the serviceperson is proven to be homosexual (Dalvi 2004). As recently as 2003 Russia regarded homosexuality as comparable to drug addiction when considering potential enlistees, and official policy is to draft such persons only in times of war (Dalvi 2004). While Portugal does not have a formal policy barring LGBs from military service, in practice many are screened out as part of the medical examination portion of the induction process, creating an informal understanding of homosexuality as a medical deficiency.

As it became less and less acceptable for nations to equate homosexuality with medical deficiencies, new arguments for exclusion arose. For instance, during the Cold War the United States justified discharges on the basis of homosexuality, as well as limitations on security clearances, via security risk. The foundation for the security risk rationale was that homosexuals were at a higher risk for blackmail than their heterosexual counterparts. This was similarly the motivation for Israel's limitations on homosexual soldiers, who were permitted to serve but not allowed to hold positions that required higher levels of security clearance (Belkin and Levitt 2000).

Anglo-Saxon countries in particular, have justified banning homosexual persons from military service via a cohesion and effectiveness rationale. Australia, Canada, the United Kingdom and the United States all relied on morale based justifications for discharging homosexuals. Remarkably nearly identical phrasing was used across these countries, all of which proposed allowing homosexuals to serve openly would generate problems in cohesion, morale, discipline, recruitment, personal privacy of soldiers, and public perception (GAO 1992, Belkin

and McNichol 2000a, D'Amico 2000, Dalvi 2004). Despite these arguments for prohibiting homosexuals from military service, or prescribing that they be closeted and celibate, many countries do allow LGBs to serve openly.

Australia (1992), Canada (1992), and United Kingdom (2000) have all lifted their guidelines that prevented homosexuals from serving openly in the military and found that it did not have an adverse effect on overall morale, unit cohesion, recruitment or retention³² (D'Amico 2000). In fact, in 2003 over a quarter of NATO participating countries allowed LGBs to serve openly and by 2010 only six of the 43 NATO and ISAF nations excluded LGB persons from serving in the military as of 2010 (Europa 2005; Goodwin et al 2010).

Militaries are symbols of a country so to be systematically excluded from military service is to be excluded from an important part of the national identity and notions of citizenship. Before sodomy laws were lifted, LGB persons were able to serve as long as they were celibate but as these laws were lifted LBG persons became excluded as a category of persons rather than based on any action. Initially justifications for such exclusion were medical in nature and thus had broad support, but as the medical community's views on sexuality evolved, military views did not in many countries. Exclusions became based on security threats and interpretations of homosexuals as de facto communists. Once this rationale could no longer hold, states justified military bans based on concerns of unit cohesion or morale in which the LGB person was not the problem but their impact on other soldiers warranted their exclusion.

Policy in the European Union

As part of the unification process, the European Union has established the Common Foreign and Security Policy and the European Defense Agency. The European Defense Agency

³² The United States also lifted its ban on LGB persons serving openly on September 20th, 2011. While preliminary statements have been made that indicate there has been no effect since DADT was lifted, systematic research has not yet been conducted as of this writing.

is responsible implementing the European Capabilities Action Plan (Europa 2005). One of the purposes of the Plan is for the EU to be able to carry out the Petersburg tasks, which include a wide range of military responsibilities (Annex IV EU 1999, Europa 2005). To this end the EU has adopted competency goals for intelligence and command and control as well as capability goals for troop deployment (Annex IV EU 1999, Europa 2005).

Despite this policy, the EU lacks a standing army and primary responsibility for security matters remains with the member states leaving personnel policies under each state's control (Frattoni 2007). The EU relies on member states to contribute troops for missions, which are limited to peacekeeping, crisis management, and humanitarian efforts (Europa 2005). Thus, the European Defense Agency forces are akin to multinational forces on behalf of NATO or the UN rather than being comparable to the military of single nation.

The European Union does not directly decide whether or not homosexuals are allowed to serve in the European Defense Agency because service persons are provided and chosen by member states. The aforementioned Equal Employment Directive does not address military service, thus EU membership is not directly relevant to the national policies on conscription or enlistment. Because of the European Defense Agency does not intervene in member state's military personnel policies, national LGB movement resources have focused on the policies in their state rather than EU policy.

While the EU plays little or no role in military guidelines amongst its member nations, the European Court of Human Rights may play a significant role in the development of LGB-friendly military guidelines. In 2000 the European Court of Human Rights heard two cases involving the dismissal of homosexual service persons from the armed forces of the United Kingdom. In both *Smith & Grady v United Kingdom* and *Prean & Beckett v United Kingdom*, the

court ruled that discharging homosexual individuals for identity rather than specific conduct amounts to a majority encroachment on minority rights. The court found that the policy violated Article 8 of the European convention for the Protection of Human Rights and Fundamental Freedoms, which declares that citizens have a right to privacy (Dalvi 2004, Waaldijk and Bonini-Baraldi 2006).

The influence of the European Union on military personnel policy is limited, but cases in the European Court of Human Rights have forced changes in member states. Because member states retain control over military personnel decisions, the following examination of the Netherlands juxtaposed with the United States, clearly not a member state, provides more insight into bans within the military than does an examination of the EU. Furthermore, the lack of involvement ILGA-Europe in particular but LGB movement resources to pressure the EU into taking a stronger stance on military personnel policy indicates that a reformed expectation regarding the statistical significance of the interactions between movement resources and supranational organizations.

Policy in the Netherlands

Like other nations, the Netherlands ban on homosexuals in the military began with a medical basis. Unlike other nations, once the Dutch medical community no longer classified homosexuality as a mental disorder, the military no longer barred homosexuals from serving in the military. The Dutch military has allowed LGBs to serve openly since 1974 and the Dutch government take pride in having been the first nation to remove its ban on gays in the military (Adolfson & Keusenkamp 2006, Breznik 2007, Simply Gay 2007).

Because of the over thirty-five year history of open service for LGB persons, the post-1975 history of Dutch military policy regarding LGBs is one of integration rather than access.

While the ban was lifted in 1974, the taboos in the military culture remained (Adolfson & Keusenkamp 2006). The machismo cultural norms of defense forces make coming out difficult and the rotational nature of the personnel makes the norms more difficult to change as well as more problematic. Military personnel are rotated every two to three years, which requires LGB personnel to nearly constantly assess whom to be out to and when to come out (Keuzenkamp and Bos 2007).

Thus a paradox was created that while “the Netherlands is considered one of the [nations] most tolerant towards homosexuality ... even here it seems that sexual orientation in the military is a silent right” (Heinecken 1999, 1). To improve this situation, the COC developed a working group on homosexuality and armed forces in 1980. This proved unfruitful though because the group was never able to open a dialogue with the Ministry of Defense (SHK 2010). In 1987 a group of homosexual career officers and noncommissioned officers decided to create the Homosexuality and Armed Forces Foundation (SHK) out of the working group. The SHK organized itself akin to a trade union and sought to represent gay and lesbian personnel (Breznik 2007). Soon after, the State Secretary for Defense called for formal research on the position of LGBs within in the military (Adolfson and Keusenkamp 2006, Breznik 2007). The subsequent research was the basis for the development of training sessions on the Ministry of Defense’s policy of nondiscrimination for all three branches (Adolfson and Keusenkamp 2006). The SHK and the Dutch Ministry of Defense have sought to improve the situation for LGB persons in the military and remove the paradox of closeted service.

Because the Dutch military sees integration of LGB soldiers as part of its duty to provide the conditions for the optimal function of each individual, the Ministry of Defense subsidizes the SHK and promotes further study of personnel experiences and opinions. Despite these efforts,

even now approximately 25% of gay service men are still closeted at work.³³ A recent study, *Uniform Out of the Closet* (2006), provides important insights into how successful the inclusion of LGBs in the military actually is. In this report the Dutch Social Planning Bureau found that while LGBs see the MoD as gay-friendly, they also report discriminatory experiences such as nasty comments, insults, or inappropriate jokes (Adolfson & Keusenkamp 2006). Then State Secretary Cees van der Knaap responded to the findings by noting challenges still existed for professional soldiers who also happen to be gay (ACOM 2009).

The story of LGB persons gaining access to the military in the Netherlands is notably brief due to the immediate policy change after homosexuality was removed from the medical community's list of mental disorders. The focus for Dutch LGB persons interested in the military has instead been on issues of inclusion and privileges. LGB movement resources through the COC and SHK have worked on creating a more open environment in the military and the development of policies focused on integration rather than access. The Dutch Ministry of Defense has created a concerted effort since the establishment of the SHK in 1987 to integrate LGB persons into military service and maximize their opportunities to be effective soldiers.

Current policy in US

The earliest signs that the United States military was cognizant of and concerned about homosexuality within its ranks came long before current debates or even the modern LGB movement. In 1919 the Newport, Rhode Island naval base underwent an investigation by the Admiral of the Second Naval District for "immoral behaviors" after Chief Machinist's Mate Ervin Arnold presented his personal investigation into the gay subculture taking place at the Army and Navy YMCA in Newport. The Admiral's investigation resulted in the dishonorable

³³ Of the LGB personnel surveyed for *Uniform out of the Closet* (2006) all those who reported being in the closet at work were gay men.

discharge of sailors, an additional Senate investigation, and the development of a policy toward homosexuality within the military (Murphy 1988, Haggerty 2003). The subsequently developed policy was that all “sodomists” were to be court-martialed under the Articles of War (Haggerty 2003). At this time the policy was notably focused on the sexual act rather than on orientation and generally referred to male to male anal intercourse rather than all forms of sodomy.

Following World War II, the military developed a uniform policy on the matter of gays in the military that changed the focus from “sodomists” to homosexuals. This change was predicated on the new understanding within the psychological literature of homosexuality as a mental disorder (D’Amico 2000). This was also a convenient way to demobilize and reduce military costs by removing soldiers that were no longer necessary from the ranks. Persons discharged for homosexuality received “blue discharges” that precluded them from receiving military benefits (Berube 1989).

McCarthyism made discharging homosexuals from the government patriotic and ushered in an understanding of homosexuality as dangerous (Hirsh 2000). Homosexuals were framed as posing the same threat to society as communists. Because homosexuals could not reproduce, they supplemented the ability to reproduce with extensive recruitment using codes, passwords, secret meeting places and more, according to McCarthyists (Haggerty2003). This proved useful when American Psychiatric Association removed homosexuality from the list of mental disorders. Though the military could no longer rely on medicine, they could still claim danger. Even if homosexuals were not communists themselves, their susceptibility to blackmail based on their lifestyle became the new basis of exclusion of LGBs from the military (D’Amico 2000).

In 1982 the Department of Defense revised the policy towards homosexuals in the service in order to clarify and make it uniform across all branches of the military (Herek 1996). The new

Department of Defense directive (DoD directive 1332.14) stated explicitly that homosexuality is incompatible with military service. The Directive also marked a new shift in rationale as it went on to outline all the ways in which homosexuality would be detrimental to morale, discipline, and maintenance of order.

In 1986 the military ordered an investigative report on personnel issues by the Personnel Security Research and Education Center (PERSEREC). The agenda for this report was to examine policy toward security clearances, in particular the correlation between homosexuality and security violations (GAO 1992, Haggerty 2003). The report exceeded its directive and went on to assess the military's ban on homosexuality at all levels. The report concluded that sexual orientation was "unrelated to job performance in the same way as being left- or right-handed" (GAO 1992, 33). Despite having commissioned the report, the Department of Defense rejected the report as a position paper (Haggerty 2003). The assistant defense secretary for manpower issued a statement declaring that the report would have no effect on the policy because the ban was a matter of "military judgments about overall combat effectiveness [which] are inherently subjective nature" (Lancaster 1992, A2). In 1992 Representative Patricia Schroeder (D-CO) and Senator Howard Metzenbaum (D-OH) used the report to introduce legislation that would overturn the ban in the military (Herek 1996). The legislation did not pass, but it did place the issue on the agenda for then presidential candidate Clinton.

Clinton campaigned on lifting the military ban, which could be done with an executive order at the time and indeed nine days after the election Clinton froze all discharge procedures based solely on homosexuality while the policy could be evaluated (Herek 1993). Following Clinton's action, Senator Sam Nunn (GA-D) proposed a bill in Congress to make the ban on homosexuals in the military a law and thus supersede Clinton's potential executive order (Herek

1996). Ultimately, the policy that was written into law was a compromise that purported to allow LGBs to serve provided they were not open about their sexuality.

The new “Don’t Ask, Don’t Tell” (DADT) policy varied from previous bans on gays and lesbians in the military in that sexual orientation no longer proscribed whether one was eligible for service or not. Homosexuals and bisexuals could technically serve in the military under this policy, provided they did not identify themselves as homosexual, did not disclose intent or desire to engage in a same-sex sexual act and remained celibate. Questions about sexuality were removed from the induction procedure and commanding officers were order not to ask personnel about their sexuality (Service Members Legal Defense Network 2005). DADT if anything made discharge policy more confusing those accused of homosexual behavior, thus in 1993, the same year DADT was enacted, the Service members Legal Defense Network (SLDN) began representing LGB service members. Since the SLDN has engaged the President to create policy prohibiting discrimination based on sexual orientation in the military (Servicemembers Legal Defense Network 2012).

Despite DADT’s supposed intent to decrease discharges, significant numbers of service men and women continued to be discharged for homosexuality. Over 14,500 troops have been discharged under DADT, including 757 soldiers with mission critical skills³⁴ just between 1994 and 2003 with 58 Arabic languages specialist discharged in 2003 alone despite military shortages in Arabic translators (SLDN 2011, Frank 2010, GAO 2005). The enforcement of DADT has also placed a heavy financial burden on the US military with cost estimates ranging from \$190.5 million to \$363.8 million in just the first ten years of the policy (Barrett et al 2006, GAO 2005). Subsequent analysis by Williams Institute estimates the total cost through 2010 to be \$555

³⁴ Mission critical skills are defined by those particularly necessary for current military engagements including the conflicts in Afghanistan and Iraq. These skills include interrogations specialization, translators, explosives disposal expertise, signal intelligence analysis, and missile and cryptological technical skills.

million accounting for recruiting and training replacement troop costs, but excluding administrative costs associated with enforcement (Gates 2010).

In response to DADT and the continued discrimination of LGB servicepersons, the Center for the Study of Sexual Minorities in the Military (CSSMM) was founded in 1998 and later renamed the Palm Center and subsequently incorporated as part of the Williams Institute at the University Of California Los Angeles School Of Law. The intent of the CSSMM was to provide research materials on sexual minorities in the US military and developments abroad as well as raise public awareness of the problematic nature of the DADT policy (Palm Center 2009).

Military officers' opinions have shifted significantly regarding DADT in recent years. Following President Obama's 2010 State of the Union Address remarks that Congress must end DADT, Chairman of the Joint Chiefs of Staff and the highest uniformed official in the United States, Michael Mullen addressed the Senate Armed Service committee expressing his view that DADT be repealed. Following this meeting he tweeted "Allowing homosexuals to serve openly is the right thing to do to. [It] Comes down to integrity" (Montopoli 2010, 4). This set an important precedent within the military due to the importance of chain of command. If the highest officer in the land publicly supports allowing homosexuals to serve openly, lower level officers can make similar statements in support of repealing DADT.

By the end of 2010 the House and Senate both passed a bill repealing DADT and Obama signed this into law on December 22nd, 2010. The bill was certified by President Obama and Secretary of Defense Panetta and Adm. Mullen on July 22nd, 2011 which gave the armed forces 60 days to prepare for and transition to the new policy. The repeal took effect on September 20th, 2011 following the period of transition. In the interim time the Servicemembers Legal Defense

Fund offered guidelines for LGB troops for rules and regulations during the transition as well as the guidelines for behavior after September 20th, 2011 (SLDN 2011). The final version of the bill did not include the original provision prohibiting discrimination based on sexual orientation in the military, thus the SLDN continues to pressure the President to issue an executive order ending such discrimination and representing the legal interests of LGB, but recently transgendered, persons (Servicemembers Legal Defense Network 2012).

In comparison to the policy developments in the Netherlands, the US policy on LGB persons serving the military has been a considerably more complicated and certainly more lengthy process. The US military designated homosexual behaviors as immoral behaviors warranting a dishonorable discharge dating back to 1919. From this point forward the need to exclude LGB persons from military services persisted, though the rationale changed over time. After a decade of research into the costs of DADT and the validity of the arguments the policy was based on, the US government has now ended all legal barriers to military service. Whether or not the US military will take a similar path to the Dutch military in promoting inclusion and addressing individual soldier prejudice is yet to be seen.

The military for any state serves as more than simply an organization for defense; the military is also the bearer of the state's symbols including a symbolic understanding of citizenship and inclusion in society. Furthermore, the military in some states is compulsory and thus an absence of military service is an indicator that one is not fully a part of the nation. While the European Union utilizes personnel from the militaries of member states to carry out the Petersburg tasks, it does not place parameters on member states regarding military personnel policy leaving competency for whether or not exclude LGB persons to the states. While the Dutch military policy on homosexuality began much like other states, with bans based first on

criminality and then medicalized, the Netherlands was also the first state to remove bans on LGB persons serving in the military. The United States, by contrast, had long been considered a laggard in opening up military services to LGB persons who wished to open regarding their sexuality, until 2011 when the ban was finally lifted. What factors encourage some states to remove policies prohibiting LGB persons from serving in the military earlier than others? The case studies above illustrate how the policies have changed in the Netherlands and the United States as well as the role of the EU and ECHR in military personnel policy and provide context for the subsequent statistical analysis of thirty-five states.

Military Policy Modeled

When do states remove limitations or bans on LGB persons in the military? Policy with regard to LGB rights is a function of the resources within the LGB movement and the filtering process of formal and informal institutions. Military policy is thus modeled utilizing the same combination of resource mobilization theory, political opportunity structure, and public policy theories explained in Chapter Two and deployed in Chapter Three to explain discrimination prohibitions. When the formal structures of government facilitate organizational involvement and access and the informal institutions are favorable, LGB resources will be effectively deployed to reduce the time until military bans are lifted. The rationale for the hypotheses tested and explained below can be found in Chapter Two. These are the same hypotheses examined in Chapter Three, thus the results from the models contribute to the hypothesis testing begun in the previous chapter.

The formal structures of government filter movement resources making policy adoption more or less likely depending on the institution. It was theorized that the electoral system, structure of the executive, federalism and membership in international organizations will shape

the duration until military personnel policies that allow LGB persons to serve will be adopted. Proportional representation and mixed electoral systems states are hypothesized to be more likely to pass LGB rights legislation than states with majoritarian electoral systems. Thus increases in organizations and/or publications in states with proportional representation or mixed electoral systems should create policy sooner than states with the same number of organizations but a majoritarian electoral system. States that have a mixed executive system are more likely pass LGB rights policies than states with a presidential system, so increases in movement resources in states with a mixed executive are more likely achieve policy adoption. It was hypothesized that federalism encourages policy development below the national level, thus federalism reduces the probability of policy adoption. Furthermore, movement resources in federalist states are more likely to be diverted to policy change at lower levels and thus organizations and publications in a federalist state will have less impact on policy change than in a unitary state. The European Union and European Convention on Human Rights encourage the adoption of policies protecting minority rights, thus states who are members of these institutions were anticipated to be more likely to pass LGB rights policies in the previous and subsequent chapters. The case study of the Netherlands and history of the metacase, the European Union, provide evidence for a reconsideration of this theory. Because of the lack of involvement of LGB organization in altering EU and Dutch military policy, it is conceivable that the interaction terms between LGB resources and supranational institutions will prove to be insignificant. Nevertheless, member states are anticipated to a greater chance of policy success than non-member states.

Informal institutions can also accelerate or decelerate the duration until social movements achieve policy success. As was the case in the previous chapter, the impact of diversity was examined, economic distress, urbanization, and the presence of amenable public officials on how

social movement resources translate into increases in the probability of policy adoption. Diversity is measured as ethnic fractionalization and should increase the probability of policies protecting minority rights, thus a military policy allowing LGB persons to serve is more likely to be adopted in ethnically diverse states with LGB movement resources than in more homogenous states. Economic distress tends to discourage the adoption of minority rights policies, thus LGB movements working in states in which GDP is declining or unemployment is high are less likely to achieve policy success. Urbanization is closely related to diversity as urbanization increases the exposure of citizens to a wider variety of individuals and lifestyles, ultimately increasing tolerance of differences as well as providing greater freedom for urban citizens to be openly LGB. As a result, the LGB movement should achieve policy gains more quickly in states with higher levels of urbanization. While formal institutions consider the structure of government, the government is made up of officials whose viewpoints inform their policy decisions. When the executive of a government is controlled by a rightist party, the LGB movement will be less able to change policies to be more favorable compared to when a centrist or a leftist party controls the executive. Additionally, because women tend to be more tolerant toward LGB issues and more likely to promote minority rights, the LGB movement is more likely to achieve policy success in states with more women in the national legislature.

Preventing discrimination and accessing full citizenship is clearly a goal of the LGB movement. While general prohibitions on discrimination have often received greater attention from LGB activists, the ability to serve in a state's military is important economically for LGB servicemembers and important symbolically for all LGB persons. The greater the number of national LGB organizations and publications that exist, the more likely it is that some of these organizational resources will be devoted to gaining access to military employment. The

likelihood that LGB persons will be permitted to serve openly in the military is expected to be related to the presence or absence of general prohibitions on discrimination based on sexual orientation. The duration until a policy that removes bans or limitations on military service is likely to be shorter in a state that was an early adopter of discrimination protections. Thus in addition to independent variables explained in Chapter Two and modeled in Chapter Three, the duration until military personnel policy change occurs is modeled with a control variable for the existence of an anti-discrimination provision in the state.

As mentioned previously, most states' limitations on LGB persons serving in the military were originally based on the criminality of homosexuality or homosexual sex acts and the military ineligibility of criminals. As criminality and later health based restrictions became inapplicable, policies barring LGB persons from military service had to be created on other grounds. Because this research is interested in when the LGB movement achieves policy success, the dissertation examines when these bans or restrictions are lifted rather than when the policy barring service was originally adopted. Using publications and press releases from the Palm Center, the ILGA World Legal Survey, and news reports from wire services, major newspapers, and English translations of major newspapers, I identify the year in which states adopted new military personnel policies pertaining to the sexuality of soldiers. While some states move directly from bans on LGB persons to allowing LGB persons to serve openly, other states first take an intermediate step in which LGB persons may serve with limitations. As discussed previously, LGB servicepersons may be constrained in the level of security clearance they may receive or in how open they can be about their sexuality, but such policies still constitute a policy gain compared to total ban on homosexuality in the military. States are thus categorized as having a total ban, a policy that constrains LGB persons' ability to serve, or providing complete

freedom. Because the analysis uses a duration model to examine LGB policy success, the dependent variable identifies when the policy was adopted as well as which type of the latter two categories is adopted.

Event History Modeling

Duration analysis, also known as event history modeling, is used to test the applicability of the theory explained in Chapter Two to military personnel policy. The theory conceptualizes formal and informal institutions as mitigating factors in the relationship between social movement resources and the policy changes the social movement seeks. More open institutions will allow social movements to hasten policy adoption while closed institutions either structurally or in terms of biased norms will delay policy adoption that is favorable to the movement's primary population.

Because duration analysis begins with an assumption of time dependency, the analysis begins by examining the dependency structure of policy adoption with regard to military personnel. The Kaplan-Meier non-parametric estimates of the hazard and survival functions show that military policy is indeed time dependent. The Kaplan-Meier survival estimate clearly shows that, over time, the probability of survival declines and does so at a fairly consistent rate from just under ten years of analysis time through nearly 20 years of analysis time after which point it flattens. This indicates that the probability of a state adopting a policy allowing LGB persons into the military was increasing rather steadily for the first 20 years of analysis time at which point there was much less change in the probability of policy adoption from one year to the next.³⁵

³⁵ In the dataset 10 years of analysis time is generally the 1980s and 20 years of analysis time would correspond to 1991 for cases that enter the dataset at the 1971 start point.

Figure K

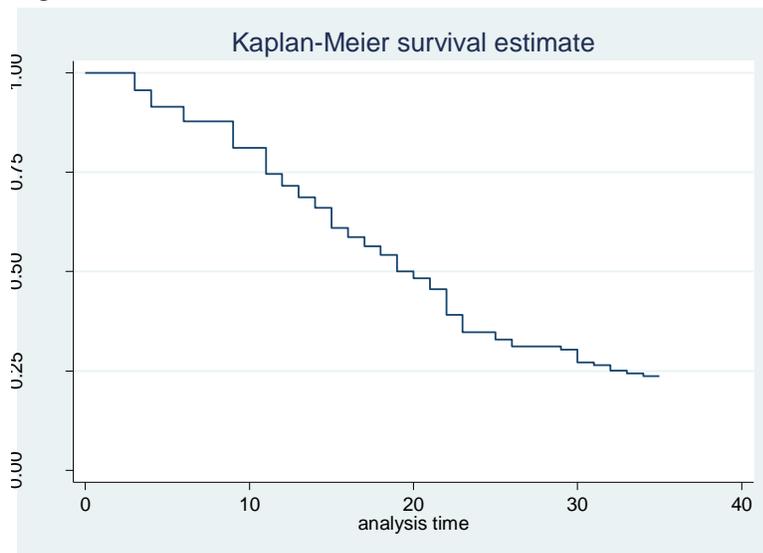
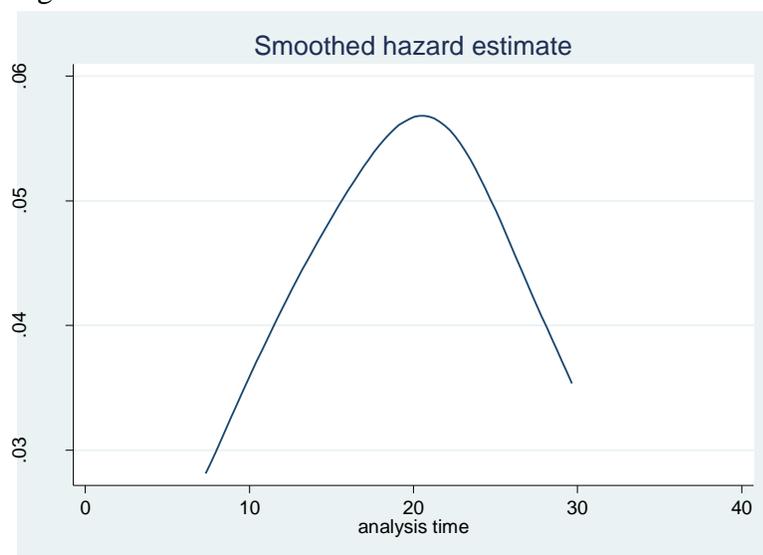


Figure L



When a parametric model is used for duration analysis it is important to consider carefully the functional form indicated by the theory. The baseline hazard from the non-parameterized estimates should not be assumed to be the function form when independent variables are incorporated into the model. When the independent variables are incorporated into the model, the functional form of the hazard should be monotonic and more specifically monotonically increasing.

As discussed previously in Chapter Three, there are three hazard parameterizations that fit the theory that the hazard rate is monotonic, the Weibull, the Gompertz, and the gamma. As was the case in the previous chapter, the gamma parameterization can immediately be excluded from consideration on the basis that the gamma distribution cannot incorporate shared frailty into the model. Shared frailty is important to the model because military policy is also modeled as multiple failure data. Many states moved initially from a complete ban on homosexuals in the military to allowing homosexuals to serve but with restrictions, for example DADT in the United States or restrictions on security clearance in Israel and Belgium, or allowed homosexuals to serve but exempted them from mandatory service; for example in Italy one could avoid service for reasons of homosexuality and in Finland a shorter conscription time was available to soldiers who were homosexual. Subsequently many states removed all barriers to enlistment and differential treatment of homosexual soldiers; furthermore some states never instituted a policy that allowed LGB persons to serve with restrictions but moved directly from a ban to open service, for example Australia. Because it is expected that those states that make an initial move toward opening access to military service are subsequently more likely to remove limitations entirely, it is necessary to incorporate a shared frailty assumption into the model. The shared frailty assumption indicates prior policy adoption will impact the probability of future policy adoption.

Between the remaining theoretically sound parameterizations, one must adjudicate between the use of the Weibull parameterization or the Gompertz parameterization. The shape parameter for both of these functions is interpreted nearly identically in which a value less than one for the Weibull or zero for the Gompertz shape parameters indicates a monotonically decreasing hazard while a value greater than one for the Weibull and zero for the Gompertz

shape parameters indicates a monotonically increasing hazard. The Gompertz however specifies that the shape parameter be increasing or decreasing exponentially whereas the Weibull does not specify that the change be exponential. Furthermore the Weibull can be estimated as either a proportional hazards model or as an accelerated failure time model while the Gompertz is exclusively a proportional hazards model. Because both parameterizations are applicable based on the theory, the Akaike Information Criterion and Bayesian Information Criterion measures of model fit were used to adjudicate between the two.

These model fit results consistently indicated the Weibull, thus the models below all utilize a Weibull parameterization. This is unsurprising when the unparameterized shape of the hazard is examined and consider the greater flexibility the Weibull offers because it does not specify exponential change. The comparison of the fit of the Weibull and Gompertz to the Cox model to assess whether it would be preferable to leave the hazard unparameterized found that the Weibull was preferable.³⁶ The theory indicates a monotonically increasing hazard and parameterizing the hazard provides more efficient estimates without the loss of information that occurs when using the Cox. The flexibility of the Cox does not substantially change the results of the model nor does it improve model fit, thus the more efficient Weibull parameterization is used in all ten models below.

The analysis begins by examining models for how LGB movement resources, formal institutions, and the interactions between two impact the probability of policy adoption. Because the inclusion of many interactive terms in a single model leads to high levels of multicollinearity, a series of models that examine the same independent variables but vary with regard to the

³⁶ Recall from Chapter Two and Chapter Three that the Cox is more flexible than parameterized models because no assumptions are made regarding the baseline hazard, but it is also less efficient and ignores changes in explanatory variables that occur in years without events. The comparison is made to ensure that the assumptions regarding the shape of the hazard provide a better model fit for the data than if the hazard were left unparameterized.

interaction terms included is used in the analysis. The same process is repeated to examine the impact of the informal institutions and interactions between informal institutions and LGB movement resources. Additionally, a control for prior adoption of discrimination prohibitions is included in all of the models because policy adoption is not only iterative and endogenous regarding particular policies, but also within policy families, thus a general prohibition on discrimination should make the removal of barriers to military service more likely. It was expected that a discrimination prohibition that specifically includes sexuality as a protected category to have a greater impact than a more general prohibition on discrimination that could be interpreted as providing protections for LGB persons but does not include sexuality as a listed category for protection.

Table 4.1

	Weibull Parameterization of Formal Institutions Models for Military Personnel Policy				
	Model 1 PR interaction	Model 2 executive interaction	Model 3 federalism interaction	Model 4 EU interaction	Model 5 ECHR interaction
Organizations	1.111 (0.0700)	1.038 (0.0329)	1.066 (0.0445)	1.048 (0.0400)	1.052 (0.0401)
Print	0.979 (0.0470)	0.983 (0.0381)	0.977 (0.0392)	0.999 (0.0371)	0.992 (0.0401)
Proportional Representation	2.962 (0.863)	1.408 (0.586)	1.247 (0.706)	1.544 (0.682)	1.393 (0.665)
Mixed Electoral System	0.426 (0.898)	0.513 (0.818)	0.413 (1.001)	0.619 (0.966)	0.458 (0.916)
Mixed Executive	1.252 (1.376)	0.560 (1.375)	0.818 (1.182)	1.059 (1.309)	0.946 (1.394)
Federalist	1.927 (0.541)	2.179* (0.443)	2.649 (0.718)	2.095 (0.510)	2.147 (0.512)
European Union	1.571 (0.504)	1.467 (0.429)	1.439 (0.486)	1.460 (0.485)	1.469 (0.493)
ECHR	0.781 (0.709)	0.669 (0.571)	0.732 (0.684)	0.753 (0.671)	0.802 (0.701)
General Anti-Discrimination	3.541** (0.603)	2.634** (0.474)	2.770* (0.568)	2.696* (0.556)	2.863* (0.558)
LGB Anti-Discrimination	3.573** (0.497)	2.948** (0.465)	3.404** (0.519)	3.514** (0.504)	3.533** (0.505)
PR * Orgs	0.951 (0.0829)				
pr_pubs	0.934 (0.0877)				
mexec_pubs		1.031 (0.0476)			
fed_org			0.938 (0.0938)		
fed_pubs			1.036 (0.0851)		
eu_org				1.071 (0.0954)	
eu_pubs				0.894 (0.134)	
echr_pubs					0.989 (0.0526)
p	1.83	1.539	1.706	1.693	1.716
chi-squared theta	1.46	--	0.51	0.8	0.81
N	636	636	636	636	636
chi-squared	16.91	14.32	14.61	14.96	14.15

* $p \leq 0.1$ ** $p \leq 0.05$ *** $p \leq 0.001$

Table 4.2

Weibull Parameterization of Informal Institutions Models for Military Personnel Policy						
	GDP interaction	Ethnic	Unemployment	Urban	Women in legis.	Executive
organizations	1.019 (0.0394)	1.002 (0.0606)	0.990 (0.0707)	1.224* (0.128)	1.004 (0.0657)	1.003 (0.0450)
print	0.963 (0.0365)	0.971 (0.0299)	0.973 (0.0308)	0.801* (0.104)	1.013 (0.0549)	0.986 (0.0314)
fe_etfra	0.939 (1.011)	0.746 (1.348)	0.999 (1.052)	0.622 (0.679)	0.915 (0.991)	0.915 (0.997)
change GDP	1.000 (0.000150)	1.000 (0.000105)	1.000 (0.000104)	1.000 (0.000109)	1.000 (0.000106)	1.000 (0.000104)
unemployed	0.996 (0.0468)	1.002 (0.0462)	0.982 (0.0737)	0.998 (0.0460)	1.009 (0.0499)	1.000 (0.0472)
urbdummy	2.822** (1.373)	2.885** (1.478)	2.758** (1.345)	4.222** (2.820)	2.779** (1.406)	2.821** (1.386)
m_wominpar	1.041* (0.0244)	1.040* (0.0237)	1.040* (0.0237)	1.042* (0.0243)	1.052* (0.0312)	1.045* (0.0241)
rightexec	0.524 (0.332)	0.521 (0.330)	0.487 (0.321)	0.576 (0.354)	0.564 (0.357)	0.706 (0.552)
centristexec	1.353 (0.723)	1.331 (0.712)	1.291 (0.697)	1.418 (0.767)	1.391 (0.741)	1.310 (0.704)
eastbloc	0.449 (0.277)	0.442 (0.273)	0.462 (0.290)	0.391 (0.250)	0.450 (0.278)	0.483 (0.302)
antidisc1	2.568* (1.322)	2.531* (1.289)	2.428* (1.251)	2.726* (1.558)	2.545* (1.286)	2.615* (1.352)
antidisc2	5.592*** (3.018)	5.641*** (3.088)	5.581*** (2.953)	5.766*** (3.044)	5.130*** (2.728)	5.225*** (2.795)
gdp_org	1.000 (2.36e-05)					
gdp_pubs	1.000(2.50e-05)					
ethnic_org		1.030 (0.170)				
unemp_org			1.003(0.00781)			
urbdum_org				0.807* (0.0898)		
urbdum_pub				1.233 (0.166)		
women_orgs					1.002(0.00575)	
women_pubs					0.995(0.00555)	
right_org						1.047 (0.0728)
right_pubs						0.899 (0.0828)
p	1.998	2.002	2.042	2.079	2.027	1.991
Chi-squared θ	2.7e-6	2.6e-7	1.7e-6	9.8e-9	2.7e-7	--
Observations	501	501	501	501	501	501
Chi-squared	27.89**	27.48***	27.57***	31.61***	28.79***	30.06***

*** p<0.01, ** p<0.05, * p<0.1

Results

Social movements forged around minority identities that lack civil rights will make policy demands on the state to achieve parity with their majority counterparts under the law. The LGB movement is no exception and the demands for parity include an equal opportunity to serve in the armed forces of their state. When do states respond to this demand via policy change that allows LGB persons to serve in the military? Such policy change should occur when LGB movement resources can work through amenable formal and informal institutions made up the original hypotheses. In light of the history in the case and metacase studies, this hypothesis can be reformed. Although the direct effect anticipated remain, the interaction between movement resources and supranational institutions in particular seems unlikely to be statistically significant. The structure of government may make policy change more or less difficult to achieve, thus where the structures of government facilitate incorporation of interest group demands, it was expected that the duration until policy change to be shorter. Relatedly, the informal institutions will influence the responses of government to pressure from the LGB movement making some states more likely to adopt policy allowing LGB persons to serve in the military and other states less likely to adopt such policy.

Chapter Two discusses the interactive model for policy adoption in which LGB movement resources are filtered by the formal and informal institutions in the state, thus the impact of movement resources is indirect and interactive with institutions rather than direct and independent from institutions. This is captured via a series of models incorporating different interaction terms while maintaining a stable set of independent variables. These models are clustered into the models examining formal institutions and those examining informal institutions as these are proposed as separate filtering mechanisms (see Figure A in Chapter

Two). A series of models is used due to the multicollinearity that arises when multiple interaction terms with a common constituent variable are included in the model.

Interactions Between Formal Institutions and Movement Resources

The probability that a state will adopt a military personnel policy that opens up the possibility of service to LGB persons depends in part on the structure of the government. It was theorized that LGB movement resources interact with these formal structures of government, which may serve to impede or expedite policy adoption. Furthermore, it was anticipated that the prior existence of a discrimination prohibition will improve the probability of policy adoption that allows LGB persons to serve in the armed forces. The findings in Table 4.3 below support the possibility prior policy is important to the development of subsequent policy, but fails to attribute significant explanatory power to the institutions.

The five models examining the impact of formal institutions and their interaction with LGB resources consistently support the assumption of a monotonically increasing hazard. As indicated by p , the shape parameter for the Weibull distribution, the hazard is increasing over time. The frailty parameter, θ , is insignificant across the models which indicates that prior adoption of a policy allowing LGB persons partial access to military service fails to significantly impact the probability the state will later adopt a policy allowing LGB persons to serve openly without restrictions. This is likely a function of the specification of the model and the extent to which prior discrimination policy predicts the adoption of a policy which limits the ability of the military to discriminate against LGB persons.

In all five models, the number of national LGB organizations is positively related to the probability of policy adoption. This must be interpreted with caution however, because three of the models include an interaction term for which organizations is a constituent term. It is also

important to note that the findings for organizations are not statistically significant. To examine the impact of organizations it is useful to look at model five as this model does not contain an interaction term that includes organizations. Table 4.3 below shows how the probability of policy change increases as the number of organizations in a state increases from zero.³⁷ Thus, the prediction for the year of policy adoption for a state without any LGB organizations in 1971, such as Austria, is 2009 while the predicted year of policy adoption for a state with just one national LGB organization in 1971, as was the case in Australia, is 2004.

Table 4.3

Number of Organizations	Change in Probability of Policy ³⁸
1	5.17%
7 (mean)	42.36%
14 (+1 s.d.)	102.67%
35 (max)	484.76%

We hypothesized that the electoral system plays an important role in when LGB rights policies will be passed, specifically that proportional representation and mixed electoral systems would increase the probability of policy change compared to majoritarian systems. The findings support the hypothesis that proportional representation systems will be more likely to adopt a permissive military personnel policy across all of the models, but this finding is statistically insignificant. Surprisingly, mixed electoral systems decrease the probability of military personnel policy adoption relative to majoritarian systems, though this finding is also statistically insignificant across all of the models. This indicates that while the model results show a negative relationship, a positive relationship could exist and would be borne out given more data. This could only be ascertained with statistically significant results. When the interaction effects

³⁷ An interpretation of the direct effects for LGB publications is not included because this would be inappropriate given it is a constituent variable for an interaction term in every model.

³⁸ Change in probability compared to a state with zero LGB national organizations.

between LGB movement resources and a proportional representation system are examined, neither the interaction with organizations nor the interaction with publications is statistically significant. Additionally, both of these interaction terms have the opposite impact as was hypothesized; the probability of policy adoption decreases when organizations or publications increase in the context of a proportional representation electoral system. Military policy tends to be insulated from the legislative politics with the government often deferring much of the policy making to the military hierarchy. This may explain the lack of statistical significance for the findings with regard to the electoral system. It is also probable that interest groups that do not represent exclusively veterans have less influence in areas of military policy, hence the lack of statistical significance and negative impact of the interaction terms on the probability of policy adoption.

The structure of the executive was also anticipated to impact the duration until policy change with mixed executive systems more favorable toward LGB policy than presidential systems. The results are inconclusive regarding the relationship between the structure of the executive and policy change. In models one and five a mixed executive increases the probability of policy adoption while in models three and four the probability of policy adoption is lower for states with a mixed executive rather than a president. Model two shows that an increase in the number of LGB publications in a state with a mixed executive decreases the probability of policy adoption, but this is also statistically insignificant. These findings are not statistically significant in any of the model, thus it is not possible to draw any conclusions regarding the impact of the executive on military personnel policy here.

Of the formal institutions included in the models, the only institution with statistical significance is federalism. It was hypothesized that federalism would be negatively related to the

adoption of LGB rights policies because it should encourage fractionalization within the movement as organizations seek territory level change rather than national change. With regard to military policy, the findings indicate the opposite effect. Across all of the models, federalism is positively related to policy change. These surprising findings may be attributable to the nature of military policy, which is always at the national level. While organizations may target lower level governments in federalist states when pursuing anti-discrimination policies or partnership recognition, this is not a feasible strategy with regard to military policy. While it had been anticipated that federalism would reduce the number of national organizations and encourage a proliferation of sub-national organizations, coalition building for specific policies across these subnational organizations was not incorporated into the model. Organizations that exist at the subnational level may form coalitions to pursue military policy change because military policy is exclusively at the national level.

The probability of policy adoption, shown below as the hazard function, for federalist states is not only larger, but also increases more rapidly over time than the probability of policy adoption for unitary states. The average predicted year for policy adoption of the states who entered the dataset in 1971 would be 1996 if it were assumed they were all unitary. Alternatively, if it were assumed that the same cohort of states to be federalist, the average predicted year for policy adoption would be ten years earlier in 1986. Figures M and N show the disparity between the predicted year of adoption and the actual year of policy adoption. The estimates for federalist states are far more similar to the actual pattern of policy adoption. The adoption rate for unitary states is nearly constant across years while the predicted year for adoption expects more fluctuation. The results for federalism support the alternative hypothesis that when policies only

exist at the national level, sub-national organizations will coalesce around a narrowly defined policy issue.

Figure M

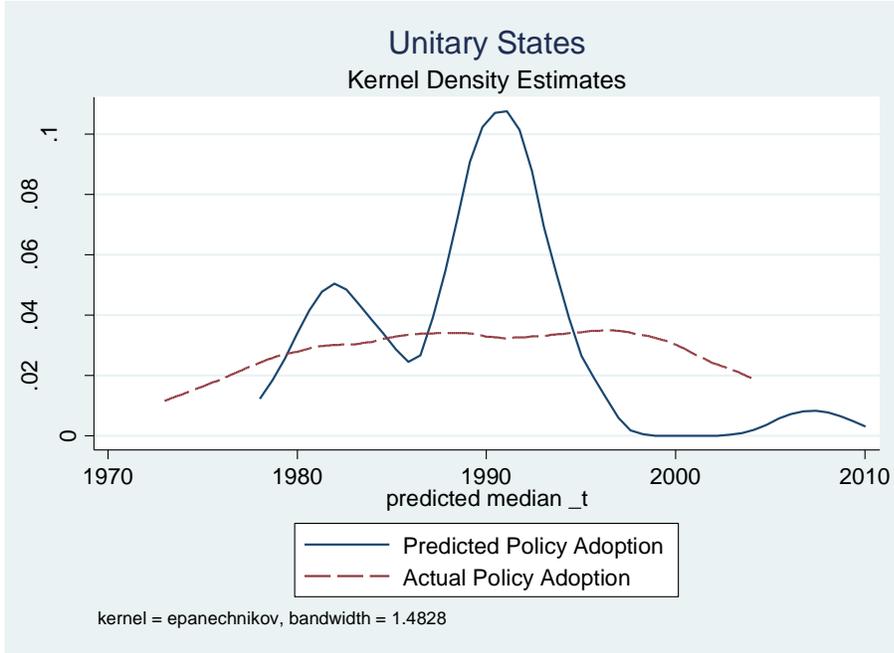
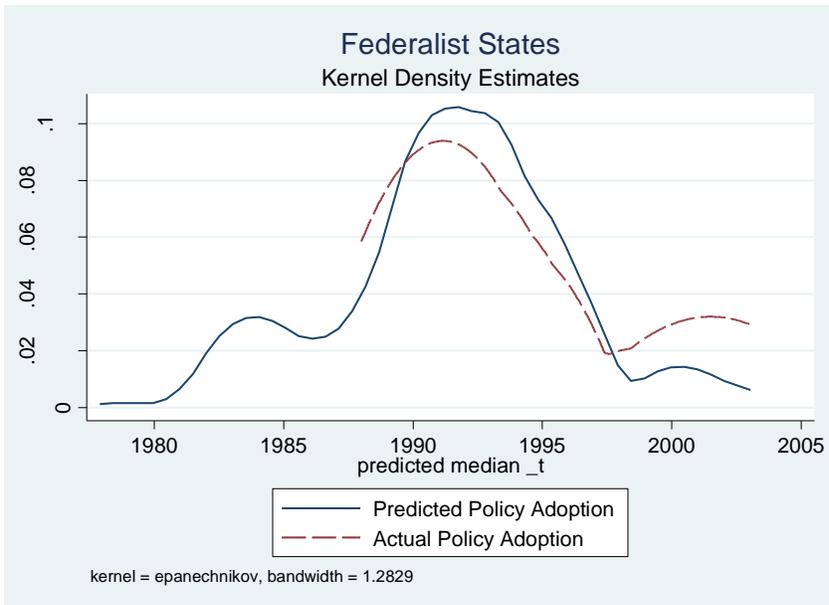


Figure N

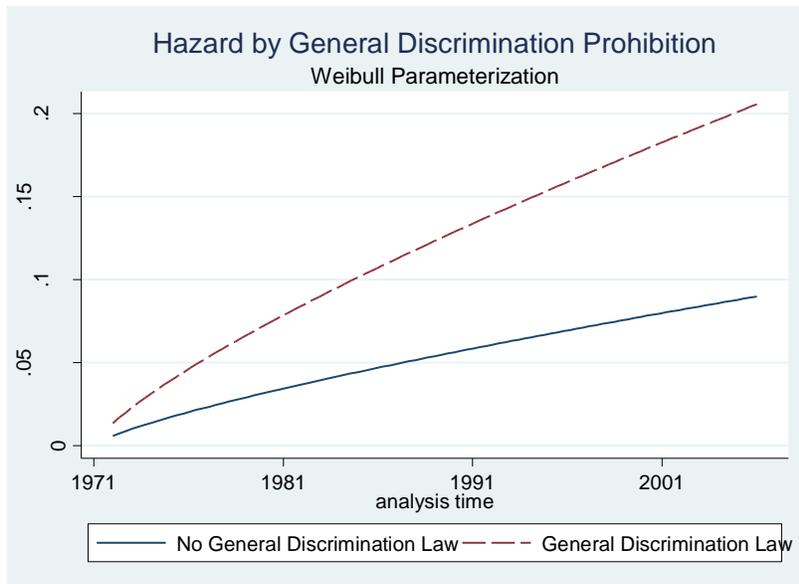


The European Union and European Convention on Human Rights were both hypothesized to have a positive impact on policy adoption. Members of the European Union are more likely to adopt a policy that allows LGB persons to serve in the military according to the findings, but it is not possible to be confident in these findings given the lack of statistical significance across all five models. When LGB movement resources interact with European Union membership the findings indicate that increases in the number of organizations positively impacts the probability of policy adoption while publications negatively impact the probability of policy adoption. In contrast, the findings for the European Convention on Human Rights are contrary to the hypothesis as they indicate the states who have signed the convention are less likely to adopt policies allowing LGB persons to serve in the military. This also holds for the interaction term which shows that as the number of LGB national publications increases in an ECHR signer state, the likelihood of policy adopt declines. Because the findings for the ECHR are consistently statistically insignificant, there can be little confidence that this relationship is accurately captured and thus could in fact be positive. These findings do, however, correspond to the reformed hypothesis based on the case and metacase studies.

In the formal institutions models the most important independent variables are the two measures of prior anti-discrimination policy, which are statistically significant for both variables across all five models. General prohibitions on discrimination are policies that ban discrimination but do not explicitly incorporate sexuality as a protected category. Although such policy is not LGB specific, it is positively related to the adoption of military personnel policies that provide LGB persons some ability to serve. The existence of a general anti-discrimination law increases the probability of the adoption of a military policy by 163.4% to 254.1% across the five models. For further examination the results from model two in which a discrimination policy

increases the probability of a military policy being adopted by 163.4% will be used. On average the predicted year for adoption of a military policy is 21.811 years after a state enters the dataset. If all of the states lacked a general prohibition on discrimination and an LGB specific anti-discrimination policy, the predicted duration until the adoption of a military policy is 2.818 years longer, 24.629. Alternatively, if all states had a general prohibition on discrimination and lacked an LGB specific discrimination policy, the mean number of years until military policy adoption would be 15.486, 6.325 years earlier than the actual data predicts. The probability of military policy adoption when a state has adopted a general discrimination prohibition and had not adopted a LGB specific anti-discrimination law is much greater and increases more rapidly than in states where neither a general nor an LGB specific anti-discrimination policy has been adopted.

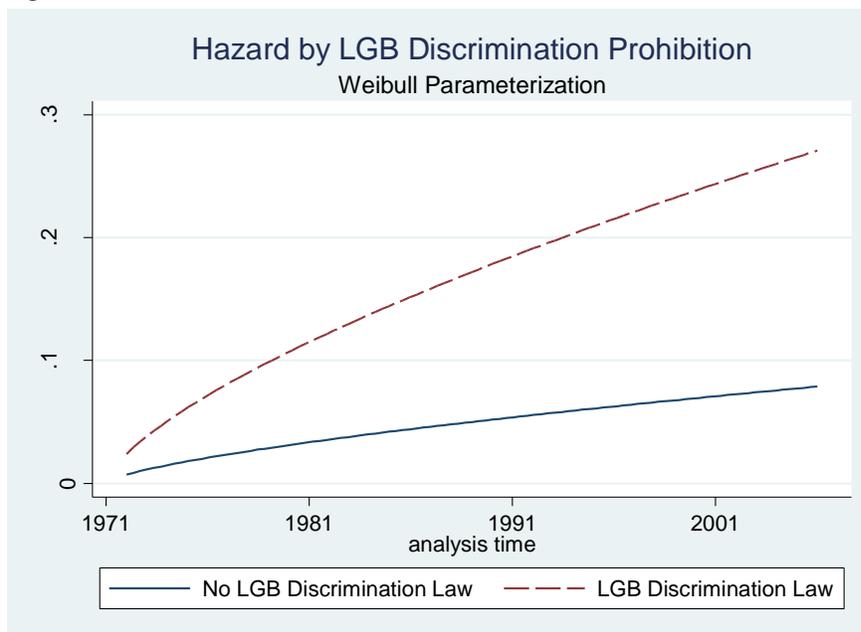
Figure O



Anti-discrimination prohibitions that explicitly include sexuality as a protected category are consistently positively related to the adoption of military personnel policy allowing LGB persons to serve. This finding is statistically significant across all five formal institutions models

and demonstrates the importance of previous legislation in the development of future related policy. The impact of an LGB specific discrimination prohibition ranges from a 194.8% to a 253.7% increase in the probability of adopting a military personnel policy that provides LGB persons with some ability to serve. Figure P uses the results from model two, which is closest to the mean impact of an LGB discrimination prohibition, and shows that the hazard for states with an LGB specific anti-discrimination policy is much greater and more rapidly increasing probability of adopting a military policy than do states without any discrimination policy. Recall that if all states were presumed to lack any discrimination prohibition, the average predicted duration until the adoption of a military personnel policy that provided LGB persons an opportunity serve would be 21.811 years. In contrast, if all states had adopted an LGB specific discrimination policy the predicted duration until the adoption of a military policy would be 10.377, over an eleven year reduction.

Figure P



Formal institutions and their interaction with movement resources prove to be less important than the existence of anti-discrimination policy in determining when a state will allow

LGB persons to serve in the military. The armed forces may be particularly resistant to change and thus changes in military personnel policy may most readily occur when forced, based on civilian legislation. This would explain the statistical significance of anti-discrimination policies and lack of significance for almost all of the formal institutions. The only formal institution with statistical significance is federalism and the significance is only found in one model. The findings for federalism are surprising because they are contrary to the expectation that federalism would reduce the probability of LGB rights policy adoption. The interaction terms between formal institutions and movement resources were not statistically significant in any of the models, which reinforces similar findings from Chapter Three. It is possible that formal institutions shape the form of the social movement rather than act as a filter for social movement resources. Further speculation on alternative hypotheses as well as the impact of the findings for formal institutions will be discussed in the conclusion.

Interactions Between Informal Institutions and Movement Resources

Democratic governments must be responsive to the voting public, thus the informal institutions that indicate the social norms and expectations of the public act as an additional filter on the success of social movements. As was the case with the findings for formal institutions, the findings produce little support for the filter conceptualizations of informal institutions modeled as interaction terms. The findings do indicate greater support for informal institutions themselves as important predictors of military personnel policy. As was the case with the anti-discrimination policies discussed in Chapter Three, the findings support for the importance of women in the national legislature. Additionally, the findings support for the role of urbanization in the adoption of military policy whereas this was not significant in the previous chapter.

Recall that an assumption of a monotonically increasing probability of policy adoption was applied to all of the models, though the parameterization would allow either a monotonically increasing or decreasing probability. As a result of this flexibility, it is necessary to look at the shape parameter for the distribution to know whether or not the assumption holds. Because the p-value across all of the models is greater than one, the probability of policy adoption is monotonically increasing over time. In contrast, the hypothesis that prior adoption of a military policy would be an important predictor of future military personnel policy adoption does not find support in the models. The frailty parameter, which measures the extent to which states' prior policy adoption history impacts the probability of future policy adoption, is statistically insignificant across all six of the informal institutions models. This indicates that the models' independent variables sufficiently specify the probability of policy adoption that an additional parameterization does not explain any additional variation.

The measures of LGB movement resources, the number of national organizations and publications, are only statistically significant in model four (see Table 4.2). Because both of these measures are constituent terms for interactive variables in this model, their direct effects cannot be interpreted. This is particularly the case because the interaction terms include urbanization, which is never at zero in the dataset. It would be illogical to examine the impact of either organizations or publications in the context of a state with zero urbanization given that such a state does not exist.

Unlike the findings for Chapter Three, ethnic fractionalization proves to be statistically insignificant across all of the models. Furthermore, the findings for the ethnic fractionalization variable are contrary to the hypothesis which is also distinctively different than the findings with regard to discrimination policies. In the case of military personnel policy, ethnic fractionalization

reduces the probability of policy adoption, except when interacting with LGB organizations. When the number of national LGB organizations interacts with the degree of ethnic fractionalization in a state, the findings show that increases in either produce a higher probability of policy adoption. Because this finding is also statistically insignificant, there can be little confidence in the relationship.

Similarly, the change in GDP fails to be statistically significant in any of the six models of informal institutions. It had been anticipated GDP growth to be positively related to the adoption of LGB rights policies, but across the models the findings show no effect. The hazard ratio of one indicates that the probability of a state adopting a military personnel policy that would permit LGB persons to serve does not vary as GDP changes, regardless of whether such changes are positive or negative. When examining the interaction terms in which changes in GDP are expected to filter the impact of LGB movement resources, again findings produce no effect, though this too is statistically insignificant. As an institution, the military tends to be more insulated from economic pressures. A poor performing economy is more likely to impact anti-discriminations policies that the civil population finds more relevant than military personnel policies, which are less likely to be framed in economic terms.

Unemployment is included amongst the informal institutions as it was expected to capture levels of economic threat, which should decrease the probability of policy adopt in much the same way as decreases in GDP. The findings across the models are inconsistent with unemployment decreasing the probability in three of the models and increasing the probability of policy adoption in three of the models. Moreover, the results for unemployment fail to meet statistical significance in any of the models. When examining how unemployment filters the impact of national LGB organizations, the results show an increasing probability of policy

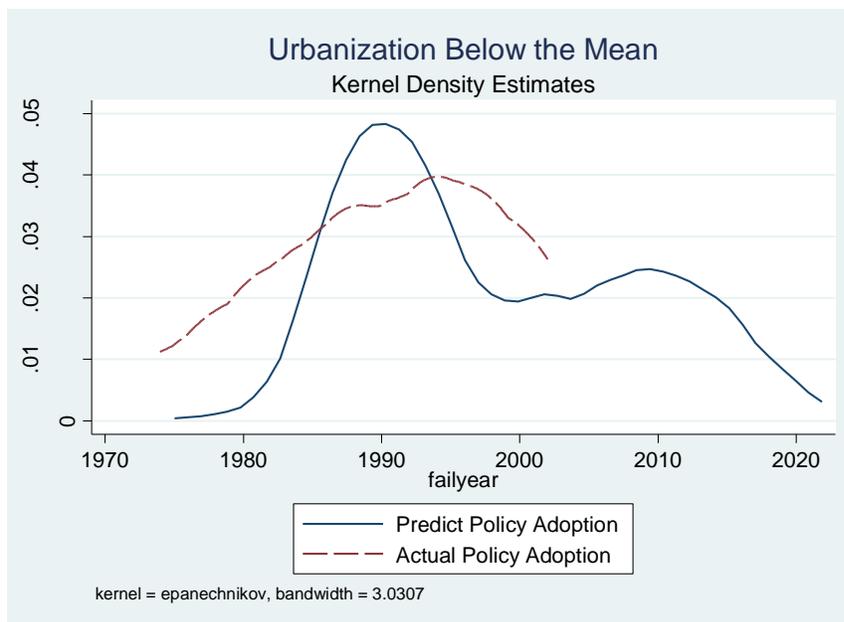
adoption. This finding is contrary to the hypothesis as well, but is also statistically insignificant and thus it is not possible to be certain of the findings. As mentioned with regard to change in GDP, the armed forces are often insulated from the economic conditions in the state. Segal et al (1999) show that while youth unemployment should increase enlistment in the military, this was not always the case across enlistment periods. Thus unemployment has less of an impact on calls for changes to increase access to military employment than hypothesized.

Nearly all of the literature on LGB rights points to urbanization as improving the possibility of community formation and thus the likelihood of policy adoption to improve the civil rights of LGB citizens. I examined the possibility of two types of measures of urbanization with the expectation that urbanization would increase the probability of a state adopting a more permissive policy with regard to military personnel. The use of a continuous measure of urbanization was considered, as was used in Chapter Three, as well as a threshold measure which consisted of a dummy variable indicating those states whose level of urbanization was above 72.85%, the mean level of urbanization in the dataset. Unlike the previous chapter, it was found that the model fit improved when the threshold variable was used rather than the continuous variable based on the AIC and BIC. Additionally, the explanatory value of the model based on Wald's chi-squared also improved when urbanization was modeled as a threshold rather than a continuous variable.

Using the threshold measure of urbanization, the findings show that states with a high level of urbanization are more likely to adopt a military personnel policy that allows LGB persons to serve in some capacity. This finding is consistent and statistically significant across all six informal institutions models. The impact of urbanization ranges from a 175.8% to a 188.5%

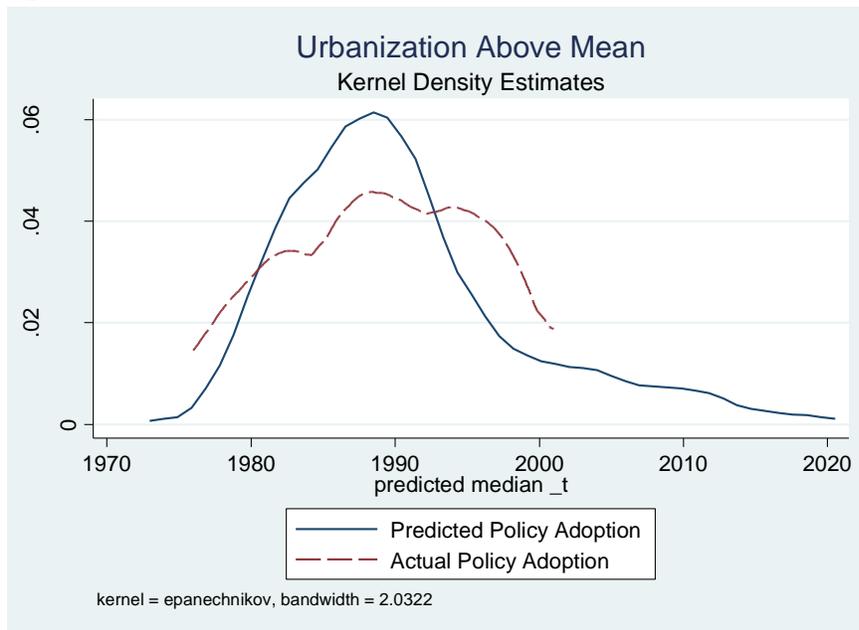
increase the probability of policy adoption.³⁹ To calculate specific estimates model six was used, in which the impact of urbanization is closest to the mean and is statistically significant. In this model urbanization increases the probability of policy adoption by 182.1%, so in 1972 a state with 72.852% or more of its population urban dwelling, such as Belgium, would be expected to adopt a military policy 18.657 years later or in 1989. A state with less than 72.851% of its population dwelling in an urban area in 1972, such as Norway, would be expected to adopt a military policy 26.597 years later, or in 1997. Figures Q and R below compare the predicted year of policy adoption to the actual year of military policy adoption in states below and above the urbanization threshold respectively.

Figure Q



³⁹ The results from model in which the hazard ratio for urbanization is 4.222 is excluded because it is constituent variable in both of the interaction terms in this model.

Figure R



When the interaction between LGB movement resources and urbanization is examined mixed support for is found for the hypothesis. When the number of national LGB organizations is filtered by urbanization, the probability of policy adoption declines, and the interaction is statistically significant. Figure S below shows the probability of military policy being adopted in states that are above the urbanization threshold with zero, five, and thirteen organizations while Figure T shows the probability of policy adopt for the same numbers of organization in states below the urbanization threshold.⁴⁰ When organizations are filtered through urbanization, increases in the number of organizations reduce the probability of policy change. The opposite ordering of the probability of policy adoption can be observed when the same numbers of organizations exist in states below the urbanization threshold. By contrast, when LGB national publications interact with urbanization there is an increase in the probability of military

⁴⁰ The numbers of organizations were chosen based on the mean and standard deviation for the urbanization and organizations interaction term. The average number of organizations rounded to the nearest whole number is seven with a standard deviation of seven.

personnel policy amenable to LGB servicepersons being adopted, but this finding is not statistically significant.

Figure S

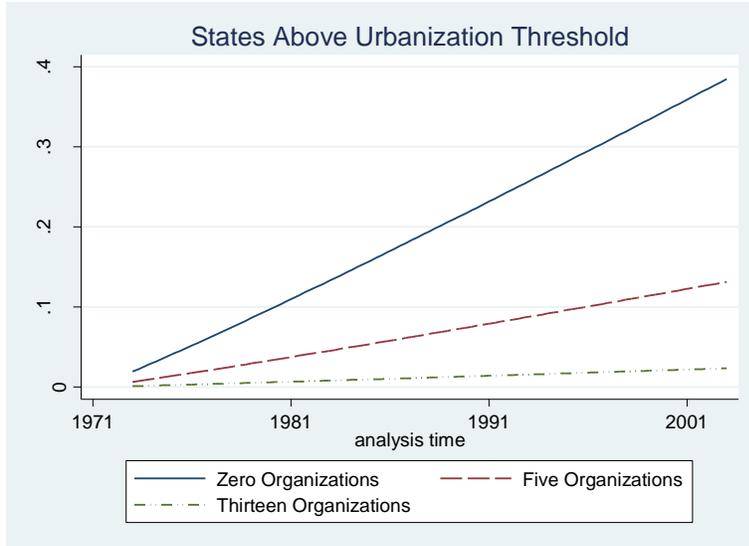
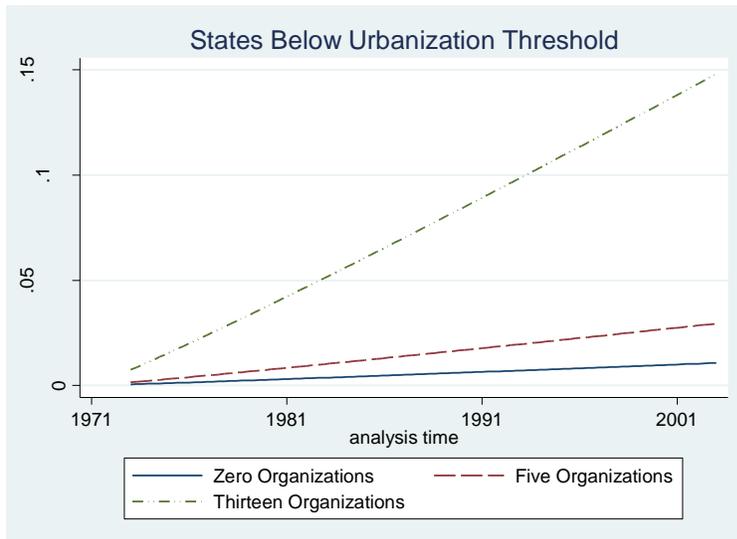


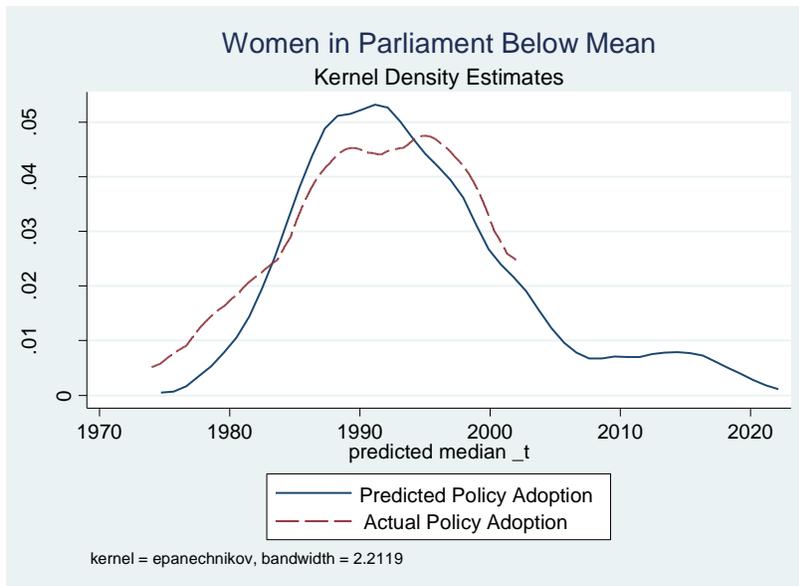
Figure T



The percentage of women in parliament should improve the probability of LGB rights policies passing. While support for this hypothesis was found in Chapter Three and the results are similar in this chapter. Across the six models of informal institutions, increases in the percentage of women in parliament consistently improve the probability of policy adoption and

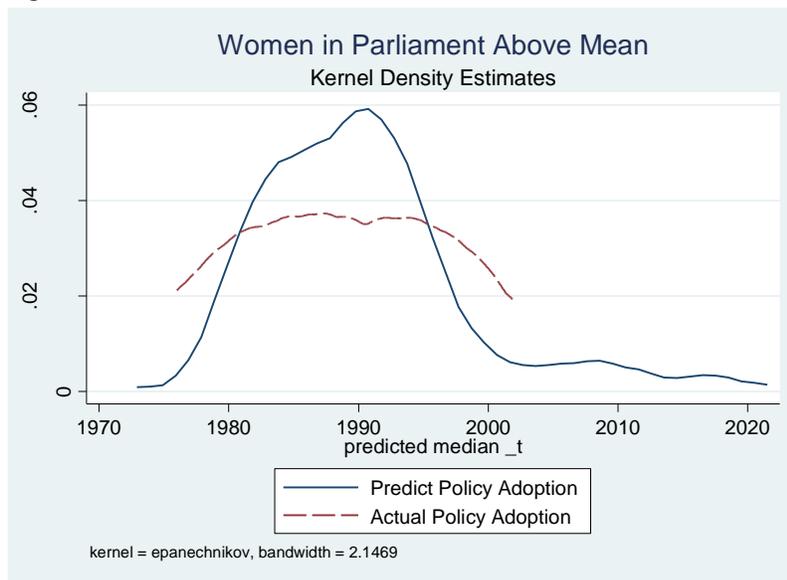
these findings are statistically significant. To illustrate the impact of women in parliament the results from model four which are statistically significant and closest to the mean hazard ratio for women in parliament across the models is used. If 3.3% parliamentary seats in a state were held by women in 1972, as was the case in Australia, that state would be predicted to adopt a military personnel policy opening service to LGB persons in 1988. If the percentage of parliamentary seats held by women had been the mean, 13.553%, rather than 3.3%, the predicted year for policy adoption for the same state would be three years sooner, in 1985.⁴¹ The predicted year of policy adoption for states with fewer women in parliament than the mean is very similar to actual pattern of policy adoption in these states as shown in Figure U. The pattern of policy adoption for states in which the percentage of women in parliament is above the mean is flatter than predicted (see Figure V).

Figure U



⁴¹ As in Chapter Three, this example is intended to be illustrative as the prediction for a particular year without taking into account the updating that would occur in the intervening years between 1972 and the predicted years for military policy adoption. Furthermore the altered number of women in parliament is a hypothetical and did not occur in 1972.

Figure V



It was theorized that LGB resources are filtered by informal institutions, thus the interaction terms between movement resources and the percentage of women in parliament should be significant and increase the probability a state will adopt a military policy that allows LGB persons to serve. The results fail to support this hypothesis as neither of the interaction terms are statistically significant. Moreover, when LGB publications are filtered by the percentage of female parliamentarians, the probability of policy adoption declines.

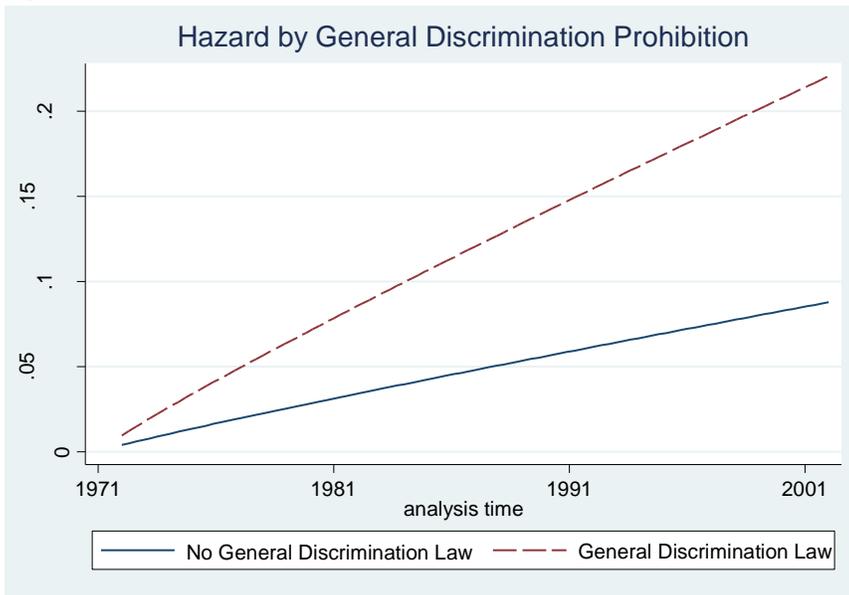
The political ideology of the executive in a government was hypothesized to impact the probability of LGB policies being passed and the probability of making changes to military policy, thus it was anticipated that the party of the executive would be an important predictor of LGB-related military personnel policy. More specifically, it was hypothesized that when the executive branch is controlled by a rightist or centrist party a state would be less likely to adopt a policy than when a leftist party had control of the executive. Rightist executives reduce the probability of policy adoption by 42.4% to 51.3% compared to a leftist executive across the models for informal institutions, which corresponds to the hypothesis, but these findings are not

statistically significant. Centrist executives increase the probability of policy by 29.1% to 41.8% compared to a leftist executive, which is contrary to expectations. Because these findings also fail to be statistically significant, there cannot be confidence in this relationship.

Because of the differences with regard to social norms relative to most of the other states in the dataset, a control variable for states in the Eastern bloc was included in the analysis. These states are generally less tolerant of homosexuality and thus are expected to adopt policies later than other nations. This control is not statistically significant in the models, but it does validate the perception that Eastern bloc countries are less likely to adopt LGB rights policies. States located in the Eastern bloc are between 51.2% and 60.9% less likely to adopt a policy allowing LGB persons to serve in the military according to the six models of informal institutions.

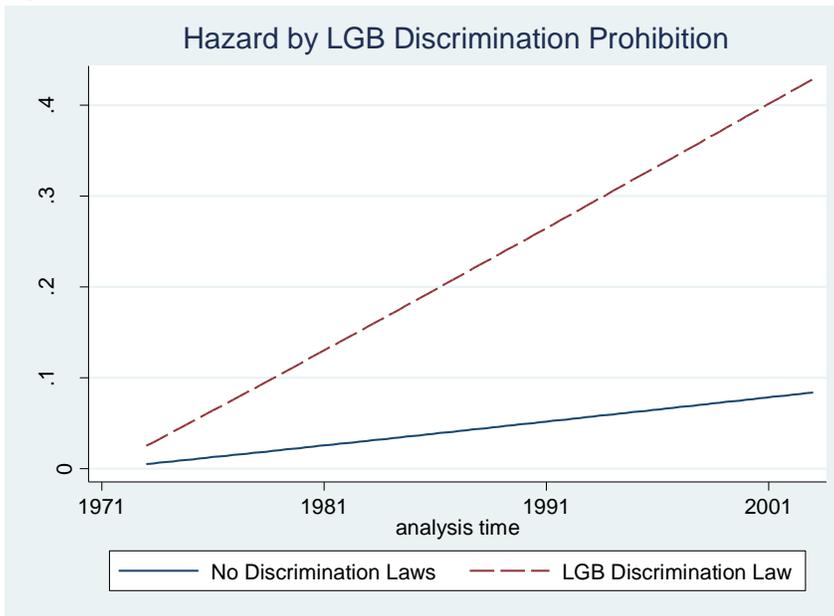
As with the formal institutions models, a control for the adoption of a discrimination prohibition was included in all of the informal institutions models. The findings in the informal institutions models for the previous adoption of a discrimination policy mimic the findings from the formal institutions models. A general discrimination prohibition improves the probability a military personnel policy that allows LGB persons some ability serve will be adopted. This finding is consistent and statistically significant in all six informal institutions models. Using the results from model five, Figure W below shows that the probability a military personnel policy will be adopted is greater and more rapidly increasing in states that have adopted a general anti-discrimination provision compared to states that have no discrimination laws that could be interpreted to protect LGB persons. A general discrimination prohibition increases the probability of policy adoption by 154.5%, which equates to 9.165 years reduction in the expected year of military policy adoption over states that have not adopted a general discrimination prohibition.

Figure W



An LGB specific anti-discrimination law has the same positive impact on the probability of a military personnel policy being adopted, but the size of the impact is larger and the results have a higher level of statistical significance than was found for a general anti-discrimination law. States with a LGB specific discrimination prohibition are more than five times more likely to adopt a military policy allowing LGB persons serve than states that lack a LGB specific law. Figure X shows the difference between the probability of policy adoption in states with a LGB discrimination law compared to states that have not adopted any discrimination policy that could be interpreted as inclusive of LGB persons. The adoption of a LGB specific anti-discrimination policy increases the probability of military policy being adopted between four and five times that probability for states without an anti-discrimination policy that is LGB specific. The average predicted number of years until a military policy is adopted is 11.078 for states that have adopted an LGB specific anti-discrimination policy whereas the average predicted number of years for states that have not adopted any form of discrimination policy is 24.82.

Figure X



When a state will adopt a policy that allows LGB persons to serve in the armed forces is partially a function of the informal institutions of the state. States in which more than 72.85% of the population resides in an urban area are much more likely to adopt a military personnel policy allowing LGB persons to serve compared to states that have less urbanization. As was the case with discrimination policy in Chapter Three, the percentage of women in parliament is a significant predictor of military personnel policy adoption. As the percentage of parliamentary seats held by women increases, the probability that a state will allow LGB persons to serve in the military also increases. Thus states in which there is a high level of urbanization and more women in parliament are likely to adopt policies much sooner than their counterparts with less urbanization and/or fewer women in the legislature. However, states with more LGB national organizations are more likely to have policy success regarding the military in states in which urbanization is below the 72.85% threshold.

As was the case in the models examining formal institutions, prior adoption of discrimination policy proves to be an important predictor of policies in the models for informal

institutions. States that have adopted an LGB specific discrimination prohibition are over four times more likely to allow LGB persons to serve in the military than states that have not adopted such legislation. A general prohibition on discrimination that could be interpreted to include sexuality also improves the probability of a state allowing LGB persons to be servicemen and servicewomen. Thus controlling for the policy history regarding LGB rights proves as important when modeling informal institutions as it was when examining formal institutions.

The eleven models included here provide evidence that both supports and contradicts the expectations of the theory. It had been assumed a monotonically increasing probability of policy adoption and find this to be true based on the shape parameter p . In all eleven models p is greater than one, indicating that the probability of policy adoption is increasing over time. Also consistent across all of the models were the results for the frailty parameter, which captures the relationship between prior adoption of military policy and subsequent adoption of personnel policy that allows greater freedom for LGB servicepersons. This parameter was not statistically significant in any of the models, which indicates that adding the frailty parameter does not contribute explanatory power to models beyond that achieved via the independent variables. This is important for confidence in the independent variable selection. Furthermore, this suggests that the feedback loop expected for an iterative policy process is captured by changes in the informal institutions. The finding of statistical insignificance for the frailty measure is more problematic in the formal institutions models due to the largely static nature of formal institutions.

Neither the formal institutions models nor the informal institutions models provide support for the theory that social movement resources are filtered by institutions. All of the models instead point to importance of prior policy, which reinforces policy's iterative nature and the connections between different policy areas within a policy family. Furthermore, this provides

evidence for Waaldijk's (1999) assertions that LGB rights generally proceed in an order in which anti-discrimination law is a foundational step toward other rights. Amongst the formal institutions models, federalism is the only statistically significant institution and this is only true in one model. The informal institutions models also reinforce previous findings from Chapter Three regarding the importance of women in the legislature. In all of the informal institutions models the percentage of women in parliament increased the probability of policy adoption and was statistically significant. Additionally, the informal institutions models support the expectations that urbanization improves the probability of LGB rights policy. The informal institutions models provide greater support for the theoretical expectation than the models for formal institutions, but neither supports the hypotheses regarding interaction effects. It is likely the case that military policy is insulated from interest group pressures and thus the observed impact of movement resources independently and working through institutions is smaller than either the expectation or the findings for anti-discrimination policy. Although the armed forces may be insulated from political pressures, the military is not outside the scope of government, thus changes in civil discrimination provisions do impact the military either by applying the same rules to military personnel or requiring the armed forces to justify exclusion.

Conclusion

The armed forces are an institution and symbol in state that represents complete access to social acceptance, but some groups have been excluded from military service and deemed merely partial citizens. Here I examine when LGB persons gain access to the military across industrialized democracies, arguing that access is achieved when the LGB movement has resources to deploy in the context of amenable formal and informal institutions. These institutions act as a filter accelerating or impeding the timeline toward policy change, depending

on the nature of the institution. This theory draws from resource mobilization theory, political opportunity structure models, policy process models and models of policy diffusion to create a broad approach to the relationship between social movements' demands for policy change and the structures of society and government that respond to these demands.

Formal institutions are the structures that comprise government and thus shape the policy possibilities in a state. It was theorized that LGB movement resources are filtered by the structures of government and thus expected interactions between the two would be important predictors of policy adoption. Here I examined the impact of formal institutions and their interactions with LGB resources on the probability a state would adopt a military personnel policy that allows LGB persons to serve. In addition to the formal institutions of government and resources of the LGB movement, the control for the existence of anti-discrimination policies was included which should increase the probability of military policy adoption. In the five models that examine these relationships there was considerable support for the importance of prior related policy but much less support for the importance of institutions and movement resources.

Informal institutions are the norms and social context in which policy is made. Unlike formal institutions, which tend to be stable over time in advanced democracies, informal institutions vary over time to reflect the changing nature of society. Among the informal institutions considered here, urbanization and the percentage of women in parliament proved to be significant predictors of when a state would adopt a military policy that allowed LGB persons to serve in the armed forces. While it had been theorized the important effects would be those in which movement resources interact with these informal institutions, the findings suggest that direct effects between the social norms and the policy are more relevant. The finding that the percentage of legislative seats held by women is significant and positively related to military

policy adoption reinforces the previous findings from Chapter Three that women in parliament play a key role in LGB rights policy. The six models for informal institutions also reinforce the importance of previous anti-discrimination policy to the probability that a military personnel policy will be adopted, a finding similar to that in the models for formal institutions.

In order to illustrate the expectations and ground them in cases, the United States and the Netherlands were utilized as examples representing a laggard and leader respectively. These states represent opposite extremes in many ways, though both remain characteristic of the dataset as a whole because the data are narrowly constrained to advanced industrialized democracies. In addition to these two examples, an account of the policy situation and development in the European Union was included because the EU places important constraints on member states, which by 2005 constituted more than half of the dataset. These cases were used previously to illustrate and justify the theoretical expectations, thus it is important to reconsider how the historical observations from these cases correspond to the findings from the statistical analysis.

We hypothesized that the more resources the LGB movement had, the higher the probability of passing a military personnel policy would be. The findings provide mixed support for the hypotheses in that the number of organizations in a state increases the probability of policy adoption in ten of the eleven models but is only statistically significant in one, a model in which organizations is a constituent term for the interaction between organizations and urbanization that is also statistically significant but negatively related to policy adoption. The number of national LGB publications in a state is negatively related to policy adoption in ten of the eleven models, which is contrary to expectations and surprising given that both publications and organizations measure movement resources. The differences in the findings for movement resources can be attributed to differences in what the measures are capturing. The number of

LGB publications measures the ability of the movement to disseminate information, but may be less accurate in capturing the resulting mobilization. The number of national LGB organizations in a state was positively related to policy change in most of the models as anticipated, but its lack of statistical significance is contrary to the hypothesis. Because of the insulated nature of military policy, it is reasonable that social movements simply lack access to the necessary veto players in government to effectively change this policy. It is beyond the scope of this research to look at how access to different institutions within government varies across organizations and states, but this would likely provide a more complete picture of policy development.

More important for the theory were the impacts for the interaction terms, as evidenced by the illustrative cases. The Netherlands has fewer organizations and publications, but amenable formal and informal institutions and thus adopted policy earlier than the United States, where the movement had greater numbers of organizations and publications but were working in an environment of hostile informal institutions and non-cooperative formal institutions. The results for the interaction terms provide mixed support for the hypotheses.

Military policy change should be more likely to occur when organizations and publications are increasing in a state with a proportional representation or mixed system rather than a majoritarian system. The findings suggest the opposite of the expectations: increases in movement resources in the context of a proportional representation system decrease the probability of policy adoption. The results for mixed systems were inconsistent with two of the models indicating improvements in the probability of policy adoption, three of the models indicating mixed systems were less likely to adopt policy and all of the models lacking statistical significance with regard to the electoral system. In addition to failing to support the hypotheses, these findings are contrary to the observations from the two case studies. The lack of consistency

in the findings for mixed electoral systems and the lack of statistical significance for either of the electoral system measures in any of the models indicate that the electoral system may be less relevant to military policy than it had been to discrimination policy. Responsibility for managing soldiers and establishing the criteria for service may be left to the military, and the citizenry in a state could be reasonably reluctant to legislate guidelines for military service believing that matters of defense should be left to those who know the most about military readiness. If this is the case, then the electoral system would have little impact on decisions regarding military personnel.

The structure of the executive should have ramifications for the probability of change to military policy; specifically when movement resources are deployed in a state with a mixed executive, they should be more likely to achieve policy success. The findings confirm that increases in the number of LGB publications in states with a mixed executive improve the probability a military personnel policy allowing LGB persons to serve will be adopted. This mirrors the observation from the case studies in which the US, with a presidential system and high number of publications, has only allowed LGB persons to serve openly in 2011 whereas the Netherlands, with a mixed executive and fewer publications, has allowed LGB persons to serve openly in the military since 1986. The lack of statistical significance could again be remedied by including a wider variety of cases, but it may also be attributable to the limited number of policy adoptions found in the data. In the data there are 36 instances of policy adoption, but these are clustered into just 26 countries adopting multiple levels of policy. Fewer policy adoptions makes statistically significance less likely, thus expanding the dataset forward in time as more policy is developed will likely improve the ability to accurately measure the impact of all of the independent variables, including the structure of the executive.

Two supranational institutions were included in the analysis, the European Convention on Human Rights and the European Union, which also served as a metacase to illustrate supranational policy developments and potential in the area of military personnel policy. Both of these institutions were expected to decrease the duration until policy change by increasing the probability signatory/member states would adopt a military personnel policy change open to LGB persons. There is positive support for this hypothesis with regard to the European Union, which increases the probability of policy change in all of the formal institutions models. Furthermore, when organizations increase in EU member states, the probability of military policy also increases. Although these findings are not statistically significant, they do indicate that one should continue to view the European Union as a positive influence with regard to LGB rights policies. Given the weak military integration in the European Union, the lack of statistical significance becomes less surprising. The influence of the European Union may be attributable to policy diffusion because soldiers from a state that excludes LGB persons from the armed forces may serve in peace keeping missions for the EU alongside LGB soldiers from states that have more open policies. It could be that as sentiments amongst the soldiers themselves change, the likelihood of a change to military personnel policy increases.

Surprisingly, the findings show the impact of the ECHR to be negative on the probability of policy adoption. This is not only contrary to the hypothesis, but it is also contrary to the previous findings from Chapter Three. Although the impact of the ECHR either directly or interacting with LGB publications is statistically insignificant across all the models, its consistently negative impact is cause to consider how and why the impact for military policy is so different from that for anti-discrimination policy. This was surprising given that the ECHR ruling in 1999 that required Britain to lift its ban on LGB persons serving in the military applies

to all states that are parties to the Convention. The lack of impact may be a function of states adopting permissive policies prior to the ECHR ruling. It is also possible that military policy is distinctively insulated from political pressures. Because the ECHR does not facilitate interaction amongst military personnel across states, it would have little impact on military personnel policy prior to the 1999 ruling. In order to capture the policy diffusion effects of interaction across militaries, future research should examine the role of NATO and states' participation in NATO missions. It is also important to note that the confidence interval for the findings for the ECHR and the interaction between the ECHR and LGB publications includes hazard ratios both above and below one. It is thus entirely feasible that the ECHR improves the probability of policy adoption. Additional research expanding the duration and scope of the data may find a positive and significant impact for the ECHR as hypothesized.

Increasing diversity in a state should promote tolerance and thus make LGB rights policy more likely to be passed. While there was support for this theory with regard to anti-discrimination legislation, ethnic diversity decreases the probability of military policy adoption. These findings are not statistically significant and thus there cannot be confidence in the findings and further consideration should be given to the development of alternative hypotheses. Because this finding is not statistically significant and the confidence interval includes both increases and decreases in the probability of policy adoption, an initial explanation is that expanding the duration and scope of the dataset will provide evidence that diversity increases the probability of policy adoption.

It was theorized that feelings of economic threat would be negatively related to LGB rights, thus it was expected that negative changes in GDP and higher unemployment would make states less likely to adopt policies allowing LGB persons to serve in the military. The findings

indicate that economic threat is not relevant to military personnel policy with regard to sexuality. Changes in GDP do not change the probability of policy adoption regardless of the direction of the change, nor is the change in GDP statistically significant. The impact of unemployment is inconsistent across the models with three models finding small increases in the probability of policy adoption and three models indicating small decreases in the probability of policy but none of these findings are statistically significant. The interaction terms that examine LGB movement resources working through the context of economic stability or threat also prove to be insignificant. Military and defense policy is often perceived as a distinct policy area from economic issues, thus it may be the case that economics do not play a significant role in decisions made about personnel in the military.

Amongst the informal institutions, urbanization proved to be an important predictor of when LGB persons would be allowed to serve in the military in every model. Furthermore, urbanization has the expected impact of improving the probability of policy adoption. The use of a threshold measure for urbanization proved to be relevant and is reported in the models, but also considered was the use of the continuous measure applied in Chapter Three. With regard to military personnel policy, the threshold measure of urbanization provided a better model fit than a continuous measure of urbanization. These findings, in juxtaposition with the findings from Chapter Three, require reconsideration of the nature of the relationship between urbanization and policy development.⁴² Why would a threshold effect be more appropriate for military policy and a continuous measure more appropriate for discrimination policy? At this juncture it appears relevant to return to the previous explanation that the findings for military policy may be

⁴² In Chapter Three I used the continuous measure of urbanization because it was a better fit for the model based on the AIC and BIC compared to the threshold measure. Additionally some models failed to converge with the threshold whereas this was not a problem when using the continuous measure to predict anti-discrimination policy adoption. Chapter Six will discuss the relative merits and implications of each operationalization of urbanization for the theory.

systematically different because of the insulated nature of such policy. The results from Chapter Five's examination of partnership recognition will shed further light on the relationship between the operationalizations of urbanization and LGB rights policy.

The findings for the percentage of women in parliament correspond to the hypotheses, case studies, and the results from Chapter Three. When the percentage of the legislative seats held by women increases, the probability of LGB rights policy also increases. This finding holds across all six of the informal institutions models and is statistically significant in every model. The cases illustrate these results as the Netherlands has consistently had a greater percentage of parliamentary seats held by women than the United States' congress and the Netherlands adopted policies allowing LGB persons to serve in the military decades earlier than the United States. While the findings regarding the interaction between women in parliament and movement resources are not statistically significant, the interaction with regard to organizations is also in the expected direction.

Given the importance of executive decisions regarding the use of military force in many countries, it was expected that the party of the executive would impact when a state chose to adopt a military personnel policy allowing LGB persons to serve. The findings confirm that states with a right leaning executive are less likely to adopt a policy compared to states with leftist executives. The narrative of policy development in the United States illustrates the impact of rightist executives, as seen in the impact of the G.W. Bush administration's policy regarding LGB persons in the military. What is surprising is that these findings are not statistically significant. Furthermore, centrist executives are more likely to adopt permissive military policy for LGB persons. This fits the narrative of one of the case studies as the United States adopted first Don't Ask, Don't Tell and then repealed discrimination against LGB persons in the military

when centrist presidents held office. The Dutch government made its first steps to open military service to LGB persons when a leftist government was in power, but lifted all bans when rightist government held power, which is surprising and contrary to the findings.

Based on resource mobilization theory, political opportunity structure models, policy process models, and theory on policy diffusion, it was theorized that LGB access to military service would be a function of formal and informal institutions filtering the impact of LGB movement resources. It was further hypothesized that policy history matters and thus expected that the prior existence of anti-discrimination policy increases the probability a state will adopt a military personnel policy that allows LGB persons to serve. The results found that formal institutions and their interactive effects with LGB resources were insignificant when modeling the probability of military policy adoption. This was surprising given the support for the direct effects of institutions found in Chapter Three. Consistent with the finding from Chapter Three were the findings for the importance and positive impact of women in parliament on the probability of military personnel policy adoption. Additionally, the threshold measure of urbanization was found to be significantly and positively related to policy adoption. These findings imply that direct effects are more important than filtering effects for informal institutions, which also contrasts with the findings from Chapter Three. The controls for the prior adoption of anti-discrimination policy prove statistically significant and thus support the hypothesis that the prior adoption of LGB rights improves the probability that additional LGB rights policies will be adopted. The findings for military policy provide additional context for assessing the theory and encourage additional consideration of direct effects as equally or more important than the hypothesized interaction effects. Chapter Five will provide additional evidence through the examination of partnership recognition policy that will point to military

policy as different in kind compared to anti-discrimination and partnership recognition LGB rights.

Chapter 5 Partnership Recognition

Boele-Woelki (2008, 1949) has pointed out that “for more than a decade legal recognition of same-sex relationships has garnered considerable attention around the globe.” This is most assuredly an underestimate in terms of the time-line upon which marriage equality has been building, but it certainly captures the greater global awareness of the issue of marriage equality far beyond the LGB community itself. As homosexuals have sought the stability of lifelong partnerships, they increasingly have looked for ways to institutionalize these relationships as this signals to the broader community that two people have entered into a committed relationship. Additionally, the state sanctioning of marriages serves an important function in establishing social norms regarding acceptable relationship patterns and, as a corollary, expressions of maturation. Furthermore, the state sanctioning of marriage amounts to far more than its cultural implications: the rights and benefits that marriage accords two people who enter into such a contract are numerous in every state. While some of these benefits could be achieved through the expensive and time consuming process of private contracts, many of the rights cannot be achieved privately.

Waldijk (2006) conceptualizes national policy development with regard to LGB rights as happening generally in an order of progression in which once decriminalization and equalization of age of consent is achieved, the movement will push forward for protections from discrimination. According to Waldijk (2006) the next logical step in the progression is for the LGB movement to pursue partnership recognition; thus having discussed discrimination (see chapter 3), I move now to partnership recognition. Before examining the developments and lack thereof in the illustrative cases (the Netherlands, the United States, and the European Union), a brief discussion of the issue of partnership recognition and its various permutations is in order.

Marriage, the legal institution, is a partnership entered into by two persons recognized and sanctioned by the state that results in rights and obligations both between the persons who have entered into the contract and between the state and these parties. Accordingly, the state has reserved the right to define the conditions regarding who can enter into this contract, the procedures required for the contract to be recognized by the state and made binding, and the consequences that will result from the contract (Waaldijk 2004). National, international, and subnational institutions have all been confronted with demands from the LGB community for access to this specific institution (Merin 2002). This battle for access should not be surprising in a modern context in which feminism has established “the personal is political” mantra (Waaldijk 2004). What may be more surprising for some is the insistence upon *marriage* rather than on merely recognition and rights. If the legal description offered by Waaldijk were the most relevant component to this debate, then surely this would not be so contentious. Furthermore, in many countries the debate would have ceased after the adoption of partnership and/or cohabitation legislation. This begs the question, why marriage?

For analytical purposes one may differentiate the cultural and legal aspects of marriage, but this ignores the reality of marriage. Gay and straight alike, the distinctions between marriage as a legal contract, marriage as a social signifier, and marriage as personal commitment are rarely cognitively separate (Hull 2006). It is precisely because of this overlap that “partnership recognition” is best conceptualized as a step toward marriage rather than the goal. Evidence of this interconnection is peppered throughout the debate on marriage equality as proponents as well as opponents mix legal and cultural arguments together without distinction.

In her study of same-sex couples in committed partnerships, Hull (2006) finds that “many of these couples also invoke dominant cultural discourses of love and commitment to explain

their own cultural practices, and some to reinforce cultural understandings of marriage as an important life-course marker” (14). While these couples invoke culture, they also firmly expressed in the same study the desire to access the practical rights and benefits of marriage (Hull 2006). The recognition of the legal imperative for marriage is likely related to the multitude of benefits which marriage affords and limited accessibility to these or similar benefits outside of marriage. Thus these proponents perceive the need for marriage equality on both a cultural and legal level. Rom (2007) points specifically to marriage equality advocates’ use of citizenship, equality, and civil rights themes to frame the debate as an issue of fair treatment rather than religious beliefs or traditional values. The use of these frames is strategic because norms regarding equality are strong compared to norms of pluralism of lifestyles. The ways in which cultural and law are interactive are most obvious among those LGBs who continue to pursue marriage after partnership recognition legislation has passed and explicitly point out that providing the legal framework does not provide the cultural impact and both are necessary (Hull 2006).

As mentioned above, proponents do not hold a monopoly on the interplay between legal and cultural frames for the debate on marriage equality. A February 2011 headline following the decision of the Obama administration to no longer enforce the Defense of Marriage Act illustrates this type of conflation:

“Obama Decision on Gay Marriage Shows Government Trying to Abolish God; The hubris of Obama’s DOMA decision should astound us. We have entered a brave new world—a world where the government has not only the authority to raise taxes, but to raze marriage. Where it has the authority not only to define speed limits, but to defy moral limits” (Guzman 2011, 1).⁴³

⁴³ The Defense of Marriage Act (DOMA) as well as the implications for Obama’s decision to no longer enforce DOMA are discussed subsequently in the broader discussion of the policy development in the United States.

In states that have yet to adopt partnership recognition, or in states that have adopted lower forms of cohabitation but have yet to open up civil marriage, objections are based on the equivalency between legal recognition and cultural acceptance. To these opponents legal recognition constitutes state endorsement of homosexuality and homosexual partnerships as normal, acceptable, and encouraged (Hull 2006).

Often opponents will connect marriage to procreation and emphasize the need to maintain different-sex exclusivity to maintain marriage as the paradigmatic relationship for raising children. As countries across Europe have opened up partnership recognition schemes for same-sex couples, they have often conceded to such arguments from the opposition. European states with partnership recognition have uniformly included clauses, at least in the initial legislation, prohibiting same-sex couples from accessing parental rights. While the legal claim is made that this is due to the dependency of European states on the international adoption market, members of government also acknowledge a desire to retain norms of child rearing based on the nuclear family model, regardless of cultural realities (Waaldijk 2002).

The legal argument for marriage equality is powerful in part because where a social framework for relationship recognition is lacking, such relationships become more tenuous. Without a legal institution, in the eyes of the state the partners in stable same-sex relationship are legal strangers at worst and on par with friends who share a home at best. From the legal perspective this could be remedied via alternatives to marriage. Indeed many states have sought to eliminate the discriminatory effects of hetero-exclusive marriage without allowing same-sex couples to enter into marriages via alternative relationship recognition schemes. This is particularly true in those states that had previously adopted strong anti-discrimination legislation

as it became increasingly necessary to address the ways in which family law conflicted with discrimination law.

This chapter examines the forms of relationship recognition for same-sex partners that have been adopted in advanced industrialized democracies and assesses the influence of the LGB social movement, formal institutions and informal institutions on the duration until same-sex partners are legally recognized. Context for this statistical analysis is derived from the illustrative cases at each end of the recognitions spectrum: the Netherlands, as the first country to open civil marriage up to same-sex partners, and the United States, as a country that has passed a national law and many state level constitutional amendments specifically denying same-sex partners relationship recognition. In addition to these two cases, the role of the European Union in partnership recognition is also examined, largely via family reunification and freedom of movement policies, and thus its influence on member states.

This analysis proceeds from the premises that partnership recognition is within the scope of state authority and such legislation is a goal of the LGB movement. Furthermore, public policy regarding the legal benefits, rights and obligations available to same-sex partners will be and has been formulated in some states in response to pressures from the LGB movement. When and where such policy is formulated and passed is a function of the resources of the LGB movement and the filtering process of formal and informal institutions. The remainder of the chapter begins by examining the illustrative cases, the Netherlands and the United States, as well as the role of European Union to provide a context for understanding the methodological results. Following this contextualization is a reiteration of the research design and the results of the analysis. Finally the chapter concludes by readdressing the theory in light of the findings and options for future research.

Relationship Recognition

The various forms of partnership recognition that I find across the states in this analysis are informal cohabitation, registered cohabitation/registered partnership, and marriage⁴⁴. Which institutions exist and who may enter into them and be recognized by the state varies considerably. Furthermore, the legal ramifications in terms of rights, benefits, and obligations vary across as well as within these institutions. In general, this is an ordered list in which informal cohabitation imparts the fewest legal consequences, and thus the least cultural value and representation of commitment, and marriage imparts the greatest commitment as well as the greatest legal consequences and highest cultural value. While this is always true within a state, I find that the registered partnerships of some states provide far fewer consequences than the registered cohabitation in others. Waaldijk (2004, 187) explains “in terms of legal consequences, for same-sex couples, marriage means less in Belgium than registered partnership does in Sweden and the Netherlands; and in these countries informal cohabitation means more than legally registered partnership does, not only in Belgium, but also in France and Germany.” This however is in part a function of the diversity of legal obligations and benefits marriage, the paradigm, imparts across states⁴⁵ and in part a function of the concessions process for achieving any form of recognition in some countries.

Informal cohabitation, commonly referred to as common law marriage, provides some legal consequences in some states, but these are generally minimal. Furthermore, informal cohabitation is not recognized as granting standing in many states and the rights that do stem

⁴⁴For the purposes of the statistical analysis, the levels are coded for each state are a) lacking any form of recognition, b) same-sex informal cohabitation recognized with some accompanying rights, c) registered partnership with some of the benefits of marriage, d) registered partnership/civil union with nearly identical consequences to marriage, or e) marriage. This recoding is in attempt to more accurately reflect the substantive differences in the law and cultural significance of each institution in each state.

⁴⁵ See Waaldijk (2004) for a comparative assessment of the legal consequences of heterosexual marriage across states. He creates an index of consequences of marriage from 0-99 on which actual marriage consequences for the states he analyzes range from 70 out of 99 points (the Netherlands) to 61 out of 99 points (Denmark).

from informal cohabitation are often the result of jurisprudence rather than legislation. Informal cohabitation is relevant here when certain rights and obligations accrue when two individuals have shared a domicile for a specific period of time. For example, the Portuguese law on informal cohabitation provides for common property, joint adoption and housing protections and welfare pensions for the surviving partner in the event of death provided the two partners have shared a domicile for at least two years. After 2001 Portugal extended the rights and obligations of informal cohabitation to same-sex couples, with the exception of the ability to adopt. Common law marriage in Hungary provides couples with even greater rights and privileges and common law marriages between same-sex partners have been recognized since 1996. By contrast, the United States national government recognizes only different-sex cohabiting partners and this recognition is only available for those couples in the eleven states that recognize informal cohabitation and only applies to marital provisions in the national tax code.

Registered partnership (and registered cohabitation) can be distinguished from informal cohabitation in that it requires partners to notify the state of their intent to create an exclusive and obligating agreement with each other that has accompanying rights, benefits, and obligation from the state, whereas informal cohabitation requires no such registration and occurs simply by virtue of cohabitation of duration as long or longer than the terms specified by the state. Additionally, there is particularly wide variation in the legal consequences of registered partnerships ranging from those nearly identical to marriage (for example, the Netherlands, Sweden, Iceland, and Denmark) to those that offer only a small portion of the rights to which a heterosexual couple would be entitled in marriage (for example, Belgium, Germany and France) (Boele-Woelki 2008; Merin 2002; Waaldijk 2001, 2002, 2006). Unlike informal cohabitation, registered partnership is far more likely to be limited to same-sex rather than different sex couples. Since

Denmark's introduction of the registered partnership in 1989, a growing number of first European and then more far reaching states have introduced partnership registration legislation that aims specifically to improve the legal status of same-sex partners (Waaldijk 2004). Merin (2002) explains that the rationale for different-sex partners being either included or excluded from partnership registration as an alternative to marriage is related to the objective of partnership registration itself. She notes that in the Netherlands and France different-sex couples have the option of entering into a registered partnership because the heterosexual majority found the legislation more palatable if it were presented as an expansion of partnership options in general. Denmark and Norway on the other hand, specifically exclude opposite-sex couples from entering into registered partnerships, rationalizing that this exclusion would help to preserve marriage as the cultural paradigm. Germany and Sweden both limited partnership registration to same-sex couples under the presumption that different-sex couples could just use the option of marriage if they wanted the rights (Merin 2002).

The most important difference between informal cohabitation and registered partnership for LGB activists is cultural difference. Registered partnerships denote a level of openness and acceptability for same-sex partners that rights bestowed by virtual of cohabitation do not. It is precisely because the registered partnership requires couples to present themselves to the government in a formal way for the creation of a contract that binds together as partners, that this is of greater important than the mere legal consequences. This process moves the same-sex relationships out of its traditional position of invisibility and taboo and into a more visible and acceptable light.

Marriage denotes the highest level of obligations, rights, and benefits of the relationship recognition schemes, but in addition to these legal consequences marriage stands apart because

of its history and implications for culture. The legal consequences of marriage vary across states to such an extent that one entering into a registered partnership in the Netherlands would receive more legal consequences than entering into heterosexual marriage in Denmark. Regardless of the legal differences, the cultural role of marriage is nearly identical across states.

As the most expansive institution in terms of legal and cultural consequences, it is also the most expansively regulated with regard to who, where, and how one may enter into a marriage. In the United States it is common for a marriage to begin in a church with a religious authority officiating and the ceremony resulting a state-issued marriage license, while in Belgium a religious ceremony has no legal effect and cannot precede a civil marriage officiated by a public officer. In addition to regulating where and how a marriage can be created, states create rules regarding who may enter into a marriage with whom. The most obvious way in which this is restricted in the context of this research is that some states mandate that the two people who enter into a marriage be of different genders and this clearly the focal point of this research. However, it is important to note that in particularly those states that allow two persons of the same gender to enter into marriage, the nationality and residency of the persons becomes a more stringent requirement.

The Netherlands

The Netherlands was the first state to recognize same-sex marriages, moving the western world closer to marriage equality and providing all Dutch citizens with three options for partnership recognition by the state: cohabitation, registered partnership, or marriage. Despite popular assumptions regarding Dutch social liberalism, the path toward same-sex marriage was not brief, nor did the *Act on the Opening Up of Marriage* create true marriage equality between same-sex and different-sex couples. The path toward marriage equality in the Netherlands that

began in the 1970s with a practice of recognizing same-sex partners for immigration is nearly complete and certainly much further than most states, but it has nevertheless been a path and a process.

By the 1970s the COC (Cultuur en Ontspannings-Centrum), the largest LGB organization in the Netherlands and the oldest LGB organization in the world, was becoming more open, out, and aggressive in the pursuit of rights. In the wake of the sexual revolution, partnership recognition seemed like an odd goal and the COC leadership rejected it. As early as the 1970s calls for recognition of same-sex partnerships were occurring all over Europe in tandem to the attempts made in the United States to gain same-sex marriage via the courts, but the COC took little interest. In essence the Dutch government took the lead at this early stage followed shortly thereafter by the Friends of Gay Krant organization and eventually by the COC.

The Dutch government was among the earliest states to respond to the call for legal recognition of partnerships between LGB persons with the Law of June 21, 1979, which amended the Civil Code to allow cohabitating couples, either different-sex or same-sex, to enter into an unregistered cohabitation arrangement comparable to common law marriage with a limited set of legal rights accorded to partners. These legal rights were limited to areas of rent law, social security, state pensions and death duties in the event of the death of partner and income tax and immigration rules while both partners were living (Newton 2010, Waaldijk 2004). The opening up of an informal recognition of a same-sex partnership was a considerable move forward, particularly at the time.

In 1984 the *Dutch Nationality Act* was passed, which allowed the foreign partner of a Dutch national to upgrade her/his residency permit to Dutch citizenship after three years in a permanent relationship regardless of whether the partner was of the same or opposite sex. While

an important gain for Dutch nationals with foreign partners, this extension of immigration rights had minimal impact among LGB persons in general. By the mid-eighties some LGB activists had grown weary of the COC's individualist approach and lack of attention to partnership recognition issues. Furthermore legislation for a partnership registration scheme was making its way through the nearby Danish government. Thus a group of contributors to *Gay Krant* who formed the Friends of Gay Krant Foundation decided to test the ambiguous parameters of Dutch marriage law by requesting a marriage license and then suing for the right to marry. The plan was carried out in 1989 and the decision from the Amsterdam court in 1990 was to refer the issue to the government (van Velde 2001).

In same year as the Amsterdam court ruling, the COC organized a conference to challenge existing marriage and parental rights laws with the aim of equalizing marriage law and opening up adoption to same-sex couples (Merin 2002). Additionally, the Friend of Gay Krant Foundation engaged in a letter writing campaign to all 650 Dutch municipalities inquiring about their willingness to marry a same-sex couple (van Velde 2001). In the wake of this conference and the letter writing campaign, some Dutch localities started offering same-sex partners the option to register. Such registrations were purely symbolic but did serve to raise awareness and support for partnership recognition. The Friends of Gay Krant Foundation started a parallel letter campaign to Dutch organizations, pension funds, and businesses such as the Dutch Automotive Association, KLM airlines, and the Dutch railways asking them to recognize same-sex couples who were registered in a marriage alternative (van Velde 2001). In 1992 the Dutch Government Advisory Commission for Legislation had analyzed the issues surrounding same-sex partnership recognition and the applicability of the Danish model to the Netherlands and issued a report recommending such legislation (Merin 2002).

In a fortuitous turn of events for LGB advocates across the Netherlands, the 1994 election produced the “purple” cabinet, a coalition government that did not include the Christian Democrats (van Velde 2001). A clear sign of the changing political tide, in June of 1995 the Minister of Justice, Winnie Sorgdrager, announced plans to amend Dutch marriage laws removing restrictions based on sexual orientation. The lower chamber of parliament dutifully followed this imperative, passing a resolution that demanded the preparation of a marriage equality bill and the Kortmann Committee was formed (Van Erp 2006, Merin 2002). Friends of Gay Krant again organized to influence public opinion and the committee via television and radio interviews with Gay Krant editor Henk Krol and reports from legal experts such as Kees Waaldijk (van Velde 2001).

The Kortmann Committee was comprised of legal specialists who were charged with studying the desirability and consequences of marriage, partnership registration, and adoption rights for same-sex couples (Merin 2002). In their report they favored a dual registration system that would be open to both same-sex and different-sex couples. Ultimately the bill that appeared before parliament included only one type of registration and was limited to same-sex couples only and could not pass. The Dutch parliament revisited the issue in 1997 and formulated the *Act on Registered Partnerships* (Newton 2010, Waaldijk 2004, Merin 2002). This act was open to both same-sex and different-sex couples and imparted many of the rights of marriage upon registered partners (Newton 2010). The act was adopted and officially came into effect on January 1, 1998.

Shortly after partnership registrations were established, the Dutch government announced its intentions to act on the Kortmann Committee’s recommendations to amend adoption and paternity laws in light of the recognition of same-sex partnership as constituting a stable, life-

long relationship akin to marriage (Merin 2002). Unlike partnership recognition legislation in other Nordic countries, the Dutch *Act on Registered Partnerships* did not include a categorical exclusion to adoption rights; it merely failed to expand those rights (Rayside 2007). Furthermore, the lower chamber of the Dutch parliament responded to the 1997 *Act on Registered Partnerships* by renewing its call for same-sex marriage. This call was only buttressed by the success of the Registered Partnership Act; in the first year of the act a total of 4,626 couples chose to register, and of these 1,324 were lesbian couples, 1,686 were gay male couples, and 1,616 were different-sex couples (Waaldijk 2001). Thus the push for marriage equality continued amidst the honeymoon for the enactment of partnership recognition.

As early as December of 1998, the Dutch government approved a new bill that would open marriage to same-sex couples, which passed on to the Council of State for advisement. Following the advisement by the Council, the government presented the bill to parliament in July of 1999. In the same month a bill to abolish the exception for pension funds that wished to exclude same-sex partners was also introduced, which would further reduce the differences between married different-sex couples and registered couples in terms of legal rights. Waaldijk (2001) makes particular note of these changes in his argument that it was precisely because of the limited number of rights still held exclusively within the institution of marriage that made it possible for the Netherlands to pass the *Act on the Opening Up of Marriage*.

The *Act on the Opening Up of Marriage* passed the lower chamber of parliament by a landslide 190 to 33, in September of 2000. In December the upper house of parliament followed suit passing the law by a vote of 49 to 26. On December 21, 2000 the *Act on the Opening Up of Marriage* was signed by Queen Beatrix but it did not become effective until April 1, 2001. This act officially opened up the existing institution of marriage to same-sex couples rather than

creating a parallel institution, thus the Netherlands was officially the first country in the world to recognize marriage between same-sex partners.

Opening up the institution of marriage came with caveats though. The upper house of Parliament passed the marriage act with separate, but deemed necessary, additional legislation curtailing the parental rights accorded to marriage when the partners are of the same sex. Specifically, same-sex married couples are prohibited from adopting non-Dutch children, while different-sex married couples may. This provision was justified by the need to protect Dutch access to the international adoption market and fears that countries would limit access if it became possible for same-sex couples to adopt (Rayside 2007, Patterson 2001). In 2006 the adoption restrictions were removed, thus the remaining difference between different-sex marriage and same-sex marriage is that in a different-sex marriage paternity of the male partner is assumed when a child is born, whereas in a female same-sex marriage the non-birthing mother is accorded joint custody and the option of adoption but her maternity is not assumed⁴⁶.

As the first country in the world to open the institution of marriage to same-sex partners, the Netherlands is held as one end of the spectrum of partnership recognition. Furthermore, the path to marriage equality in the Netherlands provides insights into the preconditions that foster the development of partnership recognition. As noted in chapter two, the openness of the institutions of a state play an important role in filtering movement resources and developing policy. Partnership recognition beyond informal cohabitation required the work of two national LGB organizations who found an increased opportunity in the “purple coalition” of the mid-nineties to pass the *Act of Registered Partnerships*. Additionally, the role of prior policy proved vital as the LGB movement was able to capitalize on previous laws recognizing unmarried

⁴⁶ The evolution of Dutch adoption legislation will be addressed within the subsequent chapter regarding parental rights.

cohabitants that had been written in gender neutral language. The success of the registered partnership as an institution for different-sex couples as well as same-sex couples drew further attention to the fact that partnership registration was semantically, culturally, and legally different from marriage and thus did not constitute full equality for same-sex couples. The push to open marriage to same-sex partners continued and was successful in 2000, with marriage available to both same and different sex couples in 2001. Since 2001, the Netherlands has amended legislation that differentiated between same and different sex married couples to achieve marriage equality. Thus the Netherlands demonstrates the iterative nature of policy made in relation to social movement resources that gains traction as the political opportunity structure opens.

The United States

While the pursuit of marriage equality dates as far back in the United States as it does in the Netherlands, the legal narrative is considerably different. The vibrant feminist movement and the gains for women's rights it secured along with its ability to shift some of the traditional thought about marriage relatively early should have paved the way for same sex marriage in the United States (Rayside 2007). Nevertheless, the history of partnership recognition in the US features far more setbacks than advances. Rayside (2007) provides a lens for understanding this delay in terms of the formal and informal institutions that have served as impediments to the development of policies favored by the LGB movement. Because the United States government devolves competency over sexual activity and marriage to the state level, the national government has had far less power to influence the LGB rights debate than in countries like the Netherlands where parliament served an important function in paving the way for marriage equality. Because marriage bequeaths substantial economic benefits in the United States,

expanding marriage rights provides a rhetorical tool related to rising health care and welfare costs that opponents of same-sex marriage can utilize in the US but have no basis in many other countries with more substantial welfare states. Finally, Rayside (2007) claims that the greatest distinguishing factor for the United States and greatest deterrent to same-sex partnership recognition is that “the United States is home to an unusual array of well-funded organizations on the religious Right that are prepared to place opposition to gay rights at the center of their agendas and to mount concerted opposition to any political or legal recognition of sexual diversity” (351-352). Even in the heavily Catholic countries of southern Europe I do not find the same willingness to forgo attention to all other issues and devote all resources toward fighting against civil rights for LGB persons.

The narrative of same-sex marriage in the United States necessarily begins in and focuses predominantly on the individual states because of their competency in regulating marriage. In 1970 two same-sex couples independently attempted to gain a marriage license; Tracy Knight and Marjorie Jones sought a marriage license in Kentucky, while Richard Baker and James Michael McConnell sought a marriage license in Minnesota⁴⁷ (Newton 2010, Rom 2007). Both couples were denied licenses and filed lawsuits. In both cases the state courts ruled against the plaintiffs on the basis that the civil right to marriage⁴⁸ did not extend to same-sex couples as marriage was defined (customarily, Biblically, lexically) as between a man and a woman (Grossman and Stein 2009). In 1975 the Boulder County Clerk issued marriage licenses to six same-sex couples after she and the district attorney found that state law did not prohibit it. In

⁴⁷ Baker and McConnell initially applied for a marriage license in Hennepin County, Minnesota where their request was denied and this denial was the basis for the lawsuit that eventually went to the Minnesota Supreme Court. The following year they applied again in Blue Earth County, Minnesota where they were awarded a license and married. The Minnesota government contends their marriage was invalidated by the Supreme Court ruling.

⁴⁸ Marriage as a civil right was established by *Loving v Virginia 1967* in which the Supreme Court struck down anti-miscegenation laws as unconstitutional.

response, the state attorney general declared the issuing of the licenses illegal and in 1977 the Colorado state legislature passed a law defining marriage as between one man and one woman (Newton 2010).). Remarkably, and unlike the efforts of the Dutch couples, which organized by the Friends of Gay Krant, these couples pursued marriage equality without knowledge of each other or the backing of a national organization. Until 1985 the priorities the LGB movement leaders were clearly discrimination protections rather than partnership recognition (Newton 2010).

The rise of the AIDS epidemic drew movement leaders in the US to issues of partnership recognition as couples were separated by hospitals that denied same-sex partners access to their dying loved one. By 1985 discrimination protections became a secondary goal to AIDS awareness, prevention, and research but through the lens of AIDS, partnership recognition became a more fundamental part of the secondary agenda. As the height of the AIDS epidemic within the gay community passed, a renewed interest in civil rights emerged, this time with greater interest in partnership recognition (Newton 2010). In December of 1990 three same-sex couples applied for marriage licenses in Hawaii and were, as expected, denied and subsequently filed suit (*Baehr v Lewin 1993*). Like the couples who had tried in the 1970s, these couples did not have the backing of national organization at the time of their initial lawsuit. At this time the Lambda Legal Defense and Education Fund was divided on pursuit of marriage equality and when contacted by the couples voted to turn down the case (Pinello 2006). By 1993 the case reached the Hawaii Supreme Court which ruled limitations on marriage to different-sex couples violated Hawaii's Equal Rights Amendment and remanded the case for a trial in which the state would be required to prove that the different sex requirement of marriage was not a violation of the Equal Rights Amendment (Grossman and Stein 2009).

The Hawaii case brought both publicity and social movement action. While the Lambda Legal Defense and Education Fund had refused to provide representation to the couples initially, as the case reached the Hawaiian Supreme Court the organization opted to issue an amicus curiae brief. This marked the beginning of support from the LGB movement's legal resources (Pinello 2006).

While *Baehr v Lewin* (1993) did not actually open up marriage to same-sex couples in Hawaii, it was perceived as a win for LGB rights, by both activists and opponents. The religious Right backlash was so potent that 45 of 50 states had adopted legislation limiting marriage to different-sex couples by 1994. Furthermore, in 1996 the *Defense of Marriage Act* was passed by Congress and signed by President Clinton, thus stipulating that the federal government could only recognize marriages between opposite-sex persons (Newton 2010). This ensured that the rights, benefits, and obligations accorded marriage by federal law could not be applied to same-sex couples who were legally married according to the regulations of their state.

In 1997 Hawaii created a reciprocal beneficiary registration for same-sex couples, which was the first state wide scheme for recognizing same-sex relationships. Again backlash quickly followed with Hawaiian voters joining Alaskan voters in 1998 to pass amendments to the state constitution that prohibited recognizing same-sex marriage (Hull 2006). Although Hawaii had already passed legislation defining marriage as an institution between a man and a woman, leaders of the religious Right, and mostly from the mainland, were concerned that marriage legislation was not strong enough in light of the reciprocal beneficiary policy. Thus an amendment to the state constitution made its way onto the ballot and was subsequently approved. Ultimately Hawaii provided the LGB movement with important lessons on mobilizing and

campaigning and initiated coalition building between the legal resource, political and cultural movement organizations (Pinello 2006).

The following year, 1999, proved better for the LGB activists in the United States. California established a domestic partnership registry and *Baker v State of Vermont* showed promise for opening up marriage in Vermont. The California registry provided partners with hospital visitation rights and extended health benefits to the partners of state employees, thus leaving the vast majority of marriage rights and privileges beyond the grasp of same-sex couples (Rom 2007). Vermont, on the other hand, was even more promising; the Vermont Supreme Court ruled in *Baker v State of Vermont* that the Common Benefits Clause of the state constitution required the state to either open marriage to same-sex couples or create a parallel institution to marriage that would provide identical rights and benefits (Hull 2006). Unlike Hawaii, Baker had the support of the Lambda Legal Defense and Education Fund and additionally the benefit of a public education and political campaign that had been underway since the decision in *Baehr v Lewin* (Pinello 2006). The Vermont legislature passed a civil union act the following year that provided same-sex partners with the benefits of marriage but reserved marriage itself for different-sex couples (Tadlock, Gordon, and Popp 2007). Civil unions in Vermont marked significant progress for American LGB persons, but the civil union law only applied to citizens of Vermont and could not confer any of the federal benefits of marriage because DOMA had gone into effect three years prior (Merin 2002).

Between 2000 and 2003 Nebraska and Nevada both joined Hawaii and Alaska in passing constitutional prohibitions on the recognition of marriage between two persons of the same-sex. In both states these constitutional provisions were in addition to statutes that had already defined marriage as an institution available only to different-sex couples. In Nebraska the amendment

also precluded the state from recognizing civil unions (Rayside 2007). While the LGB movement was gaining traction and resources, the political climate of the United States markedly shifted in this period. The George W. Bush administration was unequivocal in its animosity toward LGB rights, thus the pursuit of partnership recognition would be forced to continue at the state level or via the courts (Nicol and Smith 2010).

In 2003 the US LGB movement made three important gains but also suffered setbacks. In *Lawrence v Texas* (2003) the United States Supreme Court overturned the remaining anti-sodomy laws that existed across the country, thus finally removing the possibility of denying rights based on classifying homosexuals as criminals. Furthermore, in *Goodridge v Department of Public Health* (2003) the Massachusetts Supreme Judicial Court ruled that the state had 180 days to begin issuing marriage licenses to same-sex couples on the basis that issuing marriage licenses exclusively to different-sex couples violated the state constitution. In Massachusetts the *Goodridge* decision was a clear victory for the Massachusetts Gay and Lesbian Political Caucus, which had been attempting to pass through the legislature since the early 1990s (Pinello 2006). In California Governor Davis signed the *Domestic Partner Rights and Responsibilities Act of 2003* into law, giving same-sex domestic partners most of the rights and privileges of different-sex marriage (Rom 2007). Unfortunately that same year also saw the introduction of HJ resolution 56, a proposed amendment to the US constitution that would define marriage as union between a man and woman and would prohibit states from adopting alternative legal regimes for same-sex partners that would confer the rights of marital status (Tadlock, Gordon, Popp 2007). President Bush supported the amendment and within four months of its proposal the number of co-sponsors in the House had swelled to seventy-five (Shogren 2003).

Throughout 2004 local officials began issuing marriage licenses or performing civil marriage ceremonies for same-sex couples as acts of civil disobedience in defiance of state laws that defined marriage as a union between two different sex individuals. While this was occurring in New Mexico, Oregon, New Jersey and New York; San Francisco, California received by far the most attention (Hull 2006). By the November 2004 election the religious Right had responded by placing ballot initiatives in eleven states that would amend state constitutions to limit marriage to different-sex couples and in many cases would also prevent the state from recognizing civil unions or domestic partnerships (Rom 2007; Tadlock, Gordon, and Popp 2007; Hull 2006).

As was intended and expected, the marriage licenses issued as acts of civil disobedience were used in these states to initiate lawsuits pressing for marriage equality. In New Jersey this resulted in the creation of the *Domestic Partnership Act of 2006* after the state Supreme Court made a similar ruling to that laid down in *Baker v State of Vermont* (1999). In New York the court ruled against same-sex marriage but the state House of Representative began proposing legislation for same-sex marriage recognition anyway. In Oregon a series of ballot initiatives targeting the gay community had led forced Basic Rights Oregon to develop into one of the most sophisticated LGB political organizations in the United States. Basic Rights Oregon moved the Multnomah County Commission to grant marriage licenses to same-sex couples (Pinello 2006). The legality of these marriage licenses eventually led a case to reach the Oregon Supreme Court, which ruled that the issuing of the marriage licenses violated the Oregon constitution because the county lacked authority. The decision did not rule specifically on whether or not the same-sex couples should be afforded partnership recognition rights under the Equal Privileges and Immunities Clause of the Oregon Constitution, which left an opening for LGB activists (*Li &*

Kennedy v State of Oregon 2005). The state subsequently passed a domestic partnership bill that provided broad rights akin, though not identical, to marriage (NGLTF 2011).

The individual state whose path toward partnership recognition had garnered the most attention is certainly California. The city of San Francisco sued the state of California for the right to issue marriage licenses to same-sex couples whilst continuing to issue them illegally in 2004. The state Supreme Court ordered the city to cease issuing licenses until the court could hold a hearing on the issue and eventually voided the licenses that were issued as a violation of California state law (*Lockyer v City and Country of San Francisco et al 2004*). Then in 2008 the California Supreme Court revised the issue in *In re Marriage Cases* and ruled that the state begin issuing marriage licenses to same sex couples. The religious Right responded immediately with a ballot initiative, Proposition Eight, which eliminated the right of same-sex couples to marry. Proposition Eight passed in the November 2008 election but was immediately challenged by LGB advocates. The California Supreme Court upheld Proposition 8 in 2009 (*Strauss et al v Horton 2009, Tyler et al v State of California 2009, and City and County of San Francisco v Horton 2009*). This ruling was further appealed the United States district court and in a 138 page ruling Judge Walker struck down Proposition Eight as a violation of the due process and equal protection rights of the US Constitution (*Perry v Schwarzenegger 2010*).

While much of the United States was focused on the tug-of-war over marriage occurring in California, several states passed relationship recognition laws or decided court cases ranging from those with limited benefits (Maine 2004, Maryland 2008, and Wisconsin 2009), to those with full marriage equality derived from court decisions or legislation (Connecticut 2008, Iowa 2009, Vermont 2009, New Hampshire 2010, and Washington D.C. 2010). Additionally, several states passed civil unions or domestic partnerships that are nearly identical to marriage (New

Jersey 2007, Oregon 2008, Washington 2008, and Nevada 2009) and other states have declared that they will recognize same-sex marriages performed in other states (Rhode Island 2007 and Maryland 2010) (NGLTF 2011). This remains a minority of the states within the US, but it does mark a trend away from constitutional bans and toward marriage equality at the state level.

Obama's decision to no longer enforce DOMA does not change the federal definition of marriage for purposes in the tax code or other benefits, privileges, or obligations. The decision to longer enforce DOMA relates specifically to the position of the Department of Justice in court cases challenging the constitutionality of DOMA. The federal government, specifically the Department of Justice, no longer defends the constitutionality of DOMA in such court cases and the official position of the administration is that section three of DOMA is unconstitutional (Montopoli 2011).

In 2011, in addition to directing the Justice Department to no longer defend the *Defense of Marriage Act* and declared his support for a bill proposed by Rep Dianne Feinstein to repeal DOMA. Furthermore, New York and Illinois joined the previously mentioned states in recognizing same-sex relationships with New York passing full marriage equality and Illinois passing civil unions (NGLTF 2011). Hawaii also passed a civil union bill, but unlike the Illinois and New York statutes, it did not go into effect until 2012 (National Conference of State Legislatures 2011).

The United States LGB movement has suffered many obstacles to achieving partnership recognition, the most obvious being the *Defense of Marriage Act*, passed by an alleged LGB ally, and the constitutional bans on same-sex marriage that were passed in many states throughout the early 2000s. Because the national government devolves responsibility for the regulation of marriage to the states, the movement has necessarily focused on this level, the exceptions clearly

being the desire to repeal DOMA and to prevent the Federal Marriage Amendment from passing. Furthermore, the LGB movement in the United States responded to the state by state strategy of the religious Right by facilitating organized responses at the state level. Although these responses were coordinated and relied on resources from national organizations, the focus remained at the state level. As political opportunities have opened up in the form of either elected officials or the courts, the LGB movement has seized them and now nineteen states and the District of Columbia have some form of state-wide partnership recognition that is available to same-sex couples.

The European Union

Every country in the European Union recognizes and regulates couples through the institution of civil marriage, but amongst the member states there is no clear consensus on this institution. The regulations vary widely across the states regarding who may marry, who has the authority to perform or establish a legal marriage, and what the consequences, rights, and obligations of marriage will be (Waalwijk 2004). Despite these inconsistencies, the EU recognizes “spouse” in areas of EU law such as family reunification and free movement of persons while leaving competency for how a “spouse” will be defined largely up to the states. Since the Dutch government opened the institution of civil marriage to same-sex couples, this issue of how states with varying marriage policies should acknowledge marriages has become increasingly important. In response to this growing tension as well as the focus of LGB organization on marriage equality, the International Gay and Lesbian Association Europe (ILGA-Europe) creates an annual report on the status of LGB rights in member states that includes disparities in marriage equality across states. This report is intended for dissemination to European Union officials, as well as organizations and the governments in member states. The

clear intent of these reports is to encourage all states to improve their ranking on LGB issues and pressure laggard states within the EU to make significant policy changes (ILGA-Europe 2012).

The EU Charter of Fundamental Rights addresses the issues of family life (including family reunification and migration within the EU as a unit), privacy, marriage, and discrimination. Article 7 of the EU Charter establishes the right to privacy and a family life as a fundamental freedom, but Article 9 places marriage explicitly within the jurisdiction of individual states. This tension is exacerbated by Article 21, which prohibits discrimination on the basis of sexual orientation (*Charter of Fundamental Rights of the European Union* 2007). Thus far the European Court of Justice has interpreted these clauses as protecting the fundamental right to heterosexual marriage rather than requiring states to extend marriage or a marriage-like institution to same-sex couples. In both *Rees v United Kingdom* (1986) and *Cossey v United Kingdom* (1990) the ECJ ruled against couples seeking to marry who were defined as of the same gender.⁴⁹ Neither of these cases dealt specifically with issues the European Union has clearer competency in, namely freedom of movement and family reunification, that pertain to defining a family, marriage, or partnership.

Leading the ongoing discussion on family law in the European Union is the impact of the freedom of movement principle on cross-state recognition of partnerships (Patterson 2001, Waaldijk 2004, Rayside 2007, Boele-Woelki 2008). This principle was established by article 18 of the Treaty Establishing the European Community and under Article 10 of the council Regulation 1612/68 which includes the right to be accompanied by their married partner when they emigrate from one member state to another. The Free Movement Directive allows an EU citizen's registered partner to move and reside with them under the same guidelines as a spouse

⁴⁹ Both of these cases involved a female-to-male transsexual who wished to marry his female partner, thus these cases indicate that the issue is *sex* rather than *gender* when defining marriage and spouse.

if the host State treats registered partnerships equivalently to marriage. Additionally, this directive “obliges Member States to facilitate entry and residence to unregistered partners who are in a durable relationship” without regard for whether the partnership involves two persons of the opposite sex or two persons of the same sex (European Union Agency for Fundamental Rights 2008, 2). Though this latter provision is less clear or concrete and requires that the couples show proof that the relationship is durable, it does provide potential protection to same-sex couples from countries in which partnership recognition is limited to informal cohabitation policies.

The European Court of Justice (ECJ) has interpreted “spouse” in the Free Movement Directive to apply exclusively to the marital relationship in *State of the Netherlands v Ann Florence Reed* (1986). This ruling was initially interpreted as a defeat for LGB activists, but in light of registered partnerships that approximate a “marital relationship” the precise impact of this ruling became less clear. Cases heard by the ECJ, subsequently have not addressed the impact of the same-sex partnerships now available in some states. At the time of this writing, there is a pending case in the European Court of Human Rights, *Van Gastel v the Netherlands*, which will test the extensions of partnership recognition from a member state to one of its protectorates. As of this writing there is not a ruling and it is unclear how the precedent this case will establish will impact immigration between European states. Furthermore, while there is significant overlap between EU membership and the European Convention on Human Rights, there is no perfect correlation, so any judgment would be further constrained to those states that are members of the ECHR. ILGA-Europe has produced *Lesbian, Gay, Bisexual and Transgender Families and the Free Movement Directive: Implementation Guidelines* that provides activists with resources to understand the implication of the Free Movement Directive in concert with the

Equal Treatment Directive. This includes not only background information but also a guide for measures that activists and advocates can take in the event that the legislation in their state does not meet the criteria of these directives. This indicates that while ILGA-Europe encourages LGB organizations in member states to rely on EU legislation and options for a litigation and public awareness strategy, the primary focus remains on domestic policy rather than influencing further measures at the EU level, aside from alternative litigation through the European Court of Justice (Bell 2005, Bonini Baraldi 2008).

As the law currently stands, an EU citizen has the right to stay in another member state for three months, after which time they must seek immigration status as a worker, a student, a person of independent means, or the spouse of a citizen who has legally immigrated or is a citizen of the host state. If the member state does not recognize same-sex partnerships, then a same-sex spouse or partner must qualify for immigration based on one or more of the other criteria: student, worker, or person of independent means (European Union Agency for Fundamental Rights 2008).

As mentioned above, if a host State recognizes partnerships in a scheme equivalent to marriage, then it must recognize the rights of a partner's "spouse" to immigrate. This however, means that a test could only arise when a same-sex spouse attempted to use the Free Movement Directive to reside in a member state that does not provide any recognition for same-sex partners, for example Latvia. In this situation Latvian LGB activist are encourage to use the publication available from ILGA-Europe to create a plan of action to reform current laws regarding same-sex partnerships. Thus far member states with some form of partnership recognition have chosen to default to recognizing Dutch marriage and partnership as having the same legal consequences as

their own partnership scheme⁵⁰ (Boele-Woelki 2008). The proliferation of partnership schemes within the EU--seventeen of the member states currently have some form of same-sex partnership recognition--combined with the policy of reciprocal recognition has thus delayed the development of a test case. Furthermore, Patterson (2001) contends that the ECJ could recognize same-sex partners as spouses and thus clarify this issue as well as stipulate recognition across member states, but that social realities, particularly the staunch opposition of newer member states from the Eastern bloc, constitute a significant barrier to such a ruling.

The Family Reunification Directive and the Qualification Directive both address migration policy for third country nationals and thus are another area of EU law in which recognition of same-sex partnerships could be addressed. The Qualification Directive pertains explicitly to issues of asylum status, which is extended to individuals who are at risk of persecution based on their sexual orientation in their home state. EU member states who offer asylum, even on the basis of sexual orientation, are not obliged to allow the same-sex partner of the asylum seeker to also immigrate (European Union Agency for Fundamental Rights 2008). Similar to the Free Movement Directive, recognition of marital status is contingent upon the host state, so even if the host state allows spouses of asylees to immigrate, same-sex spouses may be excluded. While European Court on Human Rights as well as the ECJ have heard cases regarding the extradition of homosexuals who have sought asylum status, there has yet to be a case in which the same-sex partner or spouse of an asylee has been denied immigration or residency rights. It is unlikely, though possible that such a case could expand the recognition of

⁵⁰France is an exception to this trend. The French government recognizes Dutch marriages between same-sex partners as marriage despite the fact that the French government does not allow same-sex couples to marry in France and currently defending this policy before the European Court of Human Rights (*Chapin v Charpentier* case communicated).

same-sex partners to member states that currently do not recognize such partnerships, but the precedent would likely be constrained to issues of asylum and refugee status.

The Family Reunification directive addresses the immigration and residency rights of third country nationals whose spouse currently resides in the European Union and is also a third country national. The Directive requires member states to allow spouses to be reunited in cases in which a third country national is lawfully residing in the member state (European Union Agency for Fundamental rights 2008). As with the previously mentioned directives, the recognition of same-sex spouses/partners is at the discretion of the host state. Because both the Family Reunification Directive and the Qualification Directive apply to third country nationals, the three month residency period available to EU citizens who do not or cannot obtain immigration status does not apply.

The European Union has continuously sought to improve the mobility of labor within the EU community. While recognizing the importance of facilitating the migration of family units rather than merely individuals, EU law has failed to address family units that consist of same-sex partners. Because of the opposition to such recognition from Eastern bloc states, it has been assumed that the progress in this area is more likely to occur through the European Court of Justice rather than the Parliament. LGB advocates and activist in member states have been encouraged to utilize ILGA-Europe publications as a foundation of resources to attempt to change existing policies in member states based on EU directives that promote marriage equality but considerable less pressure has been applied since the passage of the Equal Opportunity Directive (ILGA-Europe 2012). The European Parliament passed a resolution in 2006 that criticized the persistence of homophobia in some member states and called for action against those states that do not provide any form of recognition to same-sex couples (Newton 2010,

Boele-Woelki 2008, Belien 2006). While this resolution was an important statement of support for LGB rights, because it was a nonbinding resolution it does not change the legal situation in any of the member states or the in the EU as a whole. The European Commission has reiterated the importance of extending LGB partnership rights to the free movement of labor within the European Union, but thus far there have not be legally binding changes.

The legal developments in the field of partnership recognition are considerably different when the Netherlands is compared to the United States and then both are further analyzed relative to the European Union. Dutch policy has moved incrementally toward full marriage equality since the 1970s and since 2001 has permitted same-sex couples to marry with nearly identical rights to different-sex couples. In the Netherlands the incremental extensions of partnership rights were driven by parliamentary support for the expansion of cohabitation rights and LGB rights as well as significant efforts on the part of Friends of Gay Krant. The US by contrast has seen national policy move largely in the opposite direction until very recently. Same-sex couples initially used the courts to press for marriage equality and the United States government responded first by passing legislation that limits the definition of marriage to different-sex couples and then calling for an amendment to the Constitution that would prohibit individual states from recognizing same-sex partnerships. Only in the last three years and following the adoption of some form of partnership recognition in several states, did the national government begin to reconsider its policy toward same-sex couples. LGB resources have largely developed a state-by-state strategy based on the necessity to form opposition to the religious Right's state-by-state campaign to add constitutional amendments in the individual states banning marriage quality. The European Union has attempted to avoid the political fray regarding same-sex partner recognition. Although the Charter of Fundamental Freedoms

guarantees a right to private life, marriage, and freedom from discrimination based on sexual orientation, the European Union has left the parameters for marriage up to member states. EU directives that address the recognition of marital or family status across member states for migration purposes would indicate a need for a more universal standard of the partnerships that would be recognized, but this too has been left for the member states themselves to individually decide. Where the Netherlands has been proactive, the United States has been reactive and the European Union has predominantly remained inactive. In recent years the European Parliament, and to a lesser extent the United States, have sought to move in the direction of the Netherlands.

⁵¹ As research continues it is likely that these characterizations as reactive and inactive will change, but for the duration under analysis here the characterizations hold.

Institutions, Resources, & Recognition

Recognition of a committed, durable relationship is important not only culturally, but legally as western democracies afford these relationships rights, benefits, and obligations that are difficult or impossible to obtain without state recognition. LGB advocates have fought since the 1970s to acquire this recognition through pursuit of cohabitation benefits, partnership registries, and, ideally, civil marriage. Amongst the states in this study the speed and level of success has varied considerably and this variation is attributed to differences in resources of the LGB movement and the political context in which these resources operate. The formal structures of government as well as the informal institutions create a political context that can either promote changes in relationship recognition in favor of LGBs, as was the case in the Netherlands, or can deter legislation recognizing same-sex relationships. Same-sex partners are anticipated to receive

⁵¹ The improvements in partnership recognition in the United States have been nearly entirely at the state level or lower. As of this writing the most recent gain has been Obama's decision not to enforce DOMA. While the LGB community has certainly seen this move as progress, it has also been seen as disappointed in comparison to expectations.

greater legal relationship recognition more quickly in states where the political context is more amenable and the LGB movement has greater resources to devote to creating political change.

While partnership recognition is a current and prominent goal for LGB organizations and advocates, this has not always been the case. Resource mobilization theory explains social movement organization action and inaction as rational behavior in response to the weighing of costs to benefits and the probability of success (Jenkins 1983, Valocchi 1993). While individual lesbian, gay and bisexual couples have sought recognition since the beginning of the modern movement, LGB organizations have often picked up the call for marriage equality more slowly. Waaldijk (2001) explains this as a natural phenomenon and represents partnership recognition as a right that is pursued after other more basic rights are achieved. LGB organizations acting rationally would interpret the probability of marriage equality low if discrimination based on sexual orientation is legal or homosexual behavior is illegal. Once these rights are achieved, partnership recognition can move to a more prominent place on the organization agenda and more resources will be diverted to that goal.

The role of prior policy in determining the use of movement resources is incorporated as a component of the institutional filters that may accelerate or impede policy change. In addition to the informal institutions modeled in chapter 3, in this analysis I include the existing level of anti-discrimination policy with the expectation that prior policy matters. As explained in chapter two, policy is an iterative process such that prior policy that is favorable toward LGB rights will make future policy more probable. In terms of the model, this means that states in which the duration to discrimination policy change was short should also develop partnership recognition policies more quickly. Furthermore, it is expected that the more complete the discrimination protection, the more quickly a form of partnership recognition will be made available. As was

previously mentioned, the Eastern bloc countries have taken a notably staunch position against the recognition of same-sex couples as equal to or even similar to different-sex couples. As a result a control for Eastern bloc countries was included in the informal institutions models.

Informal institutions are important to the deployment and effectiveness of movement resources, but they are only a portion of the political opportunity structure. The formal structures of government may impede the development of favorable policy even where movement resources are available and the informal institutions would seem amenable. Conversely, formal institutions could be designed such that partnership recognition occurs earlier than would be anticipated based on the LGB organizations and publications or the informal institutions of the time. The formal institutions analyzed here will be the same as those from the previous chapter with the same expectation as outlined in chapter two and discussed in reference to the findings in chapter three.

Research Design

As social movement resources increase, the probability a state will adopt policies meeting the movement's demands also increases depending on the political context in which these demands are made. The formal structures of government and the informal institutions that comprise the social norms in a state will impact how effective a social movement is in achieving policy goals.

The formal institutions expected to influence the impact of movement resources on policy adoption are the electoral system, executive structure, federalist structure and membership in supranational institutions. Majoritarian electoral systems are hypothesized to decrease the probability of policy adoption, thus LGB movement resources in a proportional representation system should increase the probability of policy adoption. Presidential systems are less amenable

to minority rights, thus mixed electoral systems should adopt partnership recognition policies sooner than presidential systems. Relatedly, increases in LGB movement resources in states with a mixed executive should increase the probability of partnership recognition over the same resources in a presidential system. Federalism is likely to encourage the LGB movement to diversify its policy strategy across subnational units and thus make national policy adoption less likely. The duration until policy adoption in federalist states should be longer than in unitary states with the same levels of LGB resources. Supranational institutions, specifically the European Union and the European Convention on Human Rights, support minority rights, hence it is expected that the duration until policy adoption to be shorter in states that are members of these institutions compared to states that are not.

The informal institutions expected to influence the probability of policy adoption and thus the duration until the LGB movement is successful are diversity, economic distress, urbanization, and amenable public officials. Diversity is operationalized as ethnic fractionalization with the expectation that more diverse states are also more likely to adopt minority rights policy. More diverse states with LGB resources will thus adopt partnership recognition policy sooner than less diverse states with similar levels of resources. I measure economic distress via change in GDP and unemployment. When GDP increases, I expect lower feelings of economic distress, a greater probability of minority rights policies being adopted and thus shorter duration until partnership recognition policies are adopted. The converse then is true of unemployment, when unemployment increases the probability of LGB rights policy decreases. Thus the LGB movement will be more effective in states where the change in GDP is positive and greater and unemployment is low. Urbanization increases exposure to diversity and makes minority rights policies more likely, thus LGB movements in states with higher levels of

urbanization are more likely to be successful in pushing partnership recognition policies. Amenable public officials are important to achieving policy goals, with regard to the LGB movement it is expected that women and leftist party members to be more open to adopting LGB rights. As the percentage of women in parliament increases, the probability that a partnership recognition policy will be adopted also increases. Similarly, when the executive branch of government is controlled by a leftist leaning party, partnership recognition policy is more likely. The Netherlands provides evidence of the importance of amenable public officials as the movement credits the “purple coalition” with progress made toward marriage equality. The United States also provide evidence of importance of amenable public officials, particularly in the executive, as the lack of Presidential support has been detrimental to national gains and encourage a strategy of responding to anti-gay pressures at the state and local level.

As mentioned previously, partnership recognition can take many forms ranging from rights accorded to informal cohabitants to all of the rights, obligations, and privileges of marriage. Using timelines created by Waaldijk (1999), Rayside (2007), the ILGA World Legal Survey, and news articles from major wire services as English translations of national newspapers, I coded the partnership recognition policy for thirty-five advanced industrialized democracies from 1971 to 2005. Policies were divided into four categories: informal cohabitation, registered partnership with some of the legal consequences of marriage, civil unions/partnership registration with nearly all of the legal consequences of marriage, and civil marriage/civil unions with all of the consequences of marriage. Because only four states had adopted a policy that could be included in the last category, partnership recognition with nearly all of the consequences of marriage and full marriage equality were collapsed into a single

category. Because the models are analyzed using event history models, the resulting dependent variable has the category value only for the year of adoption and is zero for all other years.

Event History Modeling

Event history modeling is used to analyze the duration until partnership recognition is developed in advanced industrialized democracies. The complete model, as visually depicted in chapter two, anticipates formal and informal institutions acting as filters on movement resources to impact the duration until a policy is adopted. Because the use of duration analysis is predicated upon time dependency being fundamental to policy adoption, the analysis begins with an examination of this assumption. Additionally, it is necessary to examine the relative model fit of multiple parameterizations of the hazard as there are three, the gamma, Weibull, and Gompertz that are all indicated by the theory. For the analysis of the relationship between resources filtered through institutions and the duration until policy adoption, a series of models is used to avoid the issue of multicollinearity that would arise if multiple interaction terms with the same constituent terms were incorporated into a single model (Brambor, Clark, and Golder 2005). There are two distinctive sets of models, one examining formal institutions and one examining informal institutions, because I have theorized formal and informal institutions as having distinctive filtering effects.

Fundamental to the use of duration analysis to test this theory is the assumption of time dependency, hence the analysis begins by testing the validity of this assumption. As in the previous chapters, I examine the Kaplan-Meier estimate which provides a non-parametric analysis of the survivor and hazard functions without the inclusion of independent variables that impact the hazard. The survival estimate shown in Figure Y below indicates the probability that a state will not adopt a policy over time, survival in this analysis indicating a failure to adopt a

policy. In the early years of the dataset the probability a state will not adopt partnership recognition policy is persistently high, but as mentioned previously this is as expected. States are unlikely to adopt partnership recognition policies prior to the adoption of anti-discrimination policies. The smoothed hazard function in Figure Z below shows a steady increase in the probability a state will adopt a policy providing legal recognition to same-sex partners beginning about 12 years after entering the dataset.

Figure Y

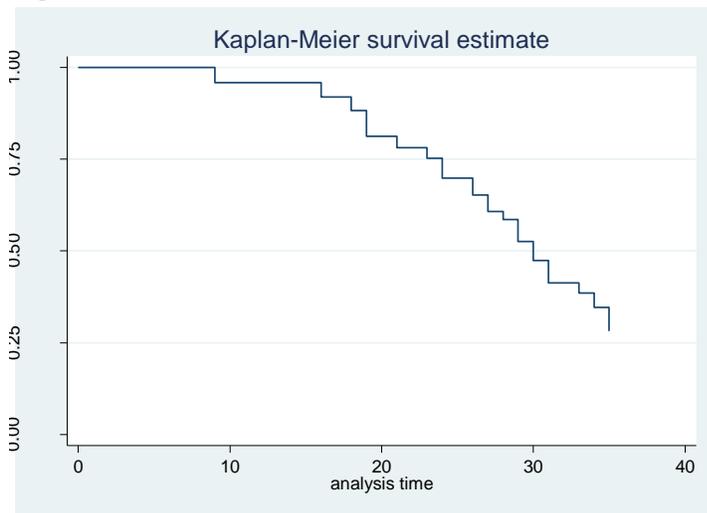
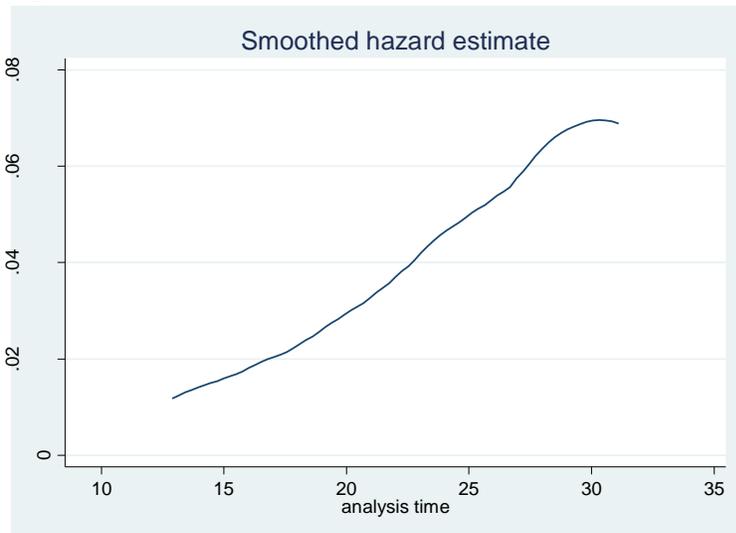


Figure Z



Because I am using parameterized duration models and there is more than one baseline hazard function that fits the assumption that the probability of a policy being adopted increases over time, it is also necessary to test the model fit of the theoretically appropriate parameterizations for each model. As mentioned above, three parameterizations of the baseline hazard are appropriate when assuming a monotonically increasing hazard, the gamma, the Weibull and the Gompertz. The baseline hazard should be monotonically increasing because the probability of policy adoption is increasing over time for all states until the adoption of the highest level of policy (see Chapters Two and Three). While the Kaplan-Meier provides a baseline hazard estimate, this is based solely on the number cases that have yet to adopt any form of partnership recognition and time. Because it does not incorporate independent variables that will impact the duration until policy adoption, I should not assume the appropriate parameterized baseline will be identical.

As in the previous chapters, the gamma distribution was dismissed as inappropriate because it is incompatible with the inclusion of a frailty parameter, which is an additional parameter to account for the impact of previous policy independent from the impact of the independent variables. Both the Weibull and the Gompertz accommodate the incorporation of a frailty measure and are appropriate when the probability of policy adoption is monotonically increasing and thus correspond to the theory. I use the Akaike Information Criterion (AIC) and Bayesian Information Criterion (BIC) measure of model fit to adjudicate between the two and find that while the results are nearly identical, the Gompertz is slightly preferable.

Results

Policy making in response to social movement demands is an iterative process that requires consideration of how the impact of the movement's resources is mitigated by the

broader political context. In advanced industrialized democracies the formal structures of government and informal institutions of society create the environment in which social movement resources function and these institutions may serve to propel or hinder movement success. Thus predictions for when policy change will occur in response to social movement demands should incorporate the interaction between movement resources with formal and informal institutions.

Here I examine how the formal and informal institutions in a state interact with the LGB movement resources to determine when partnership recognition policies will be adopted. I begin by examining a series of models looking specifically at the interaction between LGB movement resources, measured as the numbers of organizations and publications in a state, and the formal institutions that comprise the structure of government. This is followed by a separate series of models that analyze the interaction between LGB movement resources and the informal institutions that indicate the social context in the state. A series of models is used due to the multicollinearity that would arise if more than one interaction term containing the same constituent term were included in a single model. Formal institution interactions and informal institution interactions are modeled separately because I have theorized distinctive filtering affects.

Table 5.1

Gompertz Parameterization of Formal Institutions Models for Partnership Recognition					
	Model 1 PR Model	Model 2 Executive Model	Model 3 Federalism Model	Model 4 EU Model	Model 5 ECHR Model
organizations	1.293** (0.129)	0.977 (0.278)	1.119** (0.0511)	1.118** (0.0585)	1.096** (0.0459)
print	0.829** (0.0745)	0.931 (0.0533)	0.887* (0.0569)	0.867 (0.0783)	0.906 (0.0725)
proportional	10.64** (12.19)	3.004 (2.424)	5.358** (4.128)	3.066 (2.471)	2.983 (2.572)
mixedelectoral	5.171* (4.834)	2.927 (2.485)	4.199* (3.213)	2.739 (2.357)	3.001 (2.667)
execmixed	0.738 (0.673)	0.397 (0.761)	0.464 (0.432)	0.920 (0.829)	0.845 (0.744)
federalist	1.438 (0.750)	1.582 (0.795)	3.011** (1.605)	1.677 (0.867)	1.603 (0.808)
eumem	0.826 (0.381)	0.829 (0.385)	0.917 (0.430)	0.779 (0.379)	0.836 (0.390)
europcon	1.036 (0.695)	0.973 (0.634)	1.185 (0.773)	0.805 (0.532)	0.857 (0.602)
antidisc1	0.805 (0.568)	0.772 (0.536)	0.718 (0.512)	0.882 (0.623)	0.783 (0.544)
antidisc2	1.269 (0.619)	1.296 (0.616)	0.991 (0.491)	1.289 (0.627)	1.312 (0.624)
pr_orgs	0.826* (0.0931)				
pr_pubs	1.143 (0.135)				
mexec_org		1.118 (0.307)			
fed_org			1.041 (0.0806)		
fed_pubs			1.166* (0.104)		
eu_org				0.961 (0.0762)	
eu_pubs				1.102 (0.123)	
echr_pubs					1.022 (0.0820)
gamma	0.122	0.121***	0.136***	0.122***	0.122***
chi-squared θ	9.5e-7	0.000	3.1e-7	0.000	0.000
N	854	854	854	854	854
Chi-squared	13.10	10.68	16.93	11.23	10.20

* $p \leq 0.1$ ** $p \leq 0.05$ *** $p \leq 0.001$

Note: hazard ratios reported based on Gompertz parameterization; standard errors in parentheses

Table 5.2

Gompertz Parameterization of Informal Institutions Models for Partnership Recognition						
	Ethnic	GDP	Unemploy.	Urban	Women	Exec. Party
organizations	1.083 (0.0981)	0.995 (0.0670)	0.960 (0.105)	1.155 (0.145)	0.976 (0.109)	1.012 (0.0569)
print	0.943 (0.0587)	0.940 (0.0644)	0.956 (0.0505)	0.948 (0.0538)	0.941 (0.102)	0.955 (0.0502)
fe_etfra	5.614 (14.19)	1.698 (2.459)	0.634 (0.896)	0.444 (0.635)	0.523 (0.740)	0.579 (0.816)
change_gdp	1.000 (0.000116)	1.000* (0.000193)	1.000 (0.000114)	1.000 (0.000113)	1.000 (0.000115)	1.000 (0.000114)
unemployed	0.995 (0.0623)	0.991 (0.0610)	0.967 (0.0975)	1.019 (0.0634)	1.021 (0.0645)	1.014 (0.0625)
urbdummy	2.089 (1.341)	2.066 (1.352)	2.170 (1.452)	5.526 (5.842)	2.227 (1.492)	2.280 (1.503)
m_wominpar	1.066** (0.0275)	1.066** (0.0286)	1.067** (0.0280)	1.056** (0.0283)	1.045 (0.0461)	1.066** (0.0279)
leftexec	3.51e-08 (0.000108)	7.09e-09 (4.36e-05)	1.71e-08 (7.79e-05)	2.42e-08 (8.45e-05)	8.25e-09 (5.39e-05)	5.15e-08 (0.000218)
eastbloc	0.309 (0.374)	0.296 (0.359)	0.350 (0.425)	0.315 (0.389)	0.323 (0.388)	0.320 (0.386)
antidisc1	2.113 (1.657)	2.948 (2.425)	2.193 (1.731)	1.543 (1.325)	2.141 (1.684)	2.226 (1.754)
antidisc2	0.447 (0.292)	0.659 (0.418)	0.554 (0.346)	0.464 (0.291)	0.555 (0.344)	0.540 (0.336)
ethnic_org	0.786 (0.183)					
gdp_org		1.000 (3.19e-05)				
gdp_pubs		1.000 (3.37e-05)				
unemp_org			1.007 (0.0117)			
urbdum_org				0.861 (0.111)		
women_orgs					1.003 (0.00596)	
women_pubs					1.001 (0.00474)	
left_org						1.030 (890.4)
left_pub						0.950 (920.6)
gamma	0.118***	0.114***	0.119***	0.134***	0.107**	0.114***
chi-squared	5.5e-8	0.000				
N	652	652	652	652	652	652
chi-squared	25.13**	34.26***	24.43**	25.27**	24.43**	24.05**

Interactions Between Formal Institutions and Movement Resources

A government's structural form impacts the probability partnership recognition policy will be adopted in the state. I have hypothesized that the electoral system, type of executive, federal or unitary system in a state as well as a state's membership in international institutions can either accelerate or impede policy change in favor of greater recognition of same-sex partners. Table 5.1 and the subsequent discussion below indicate some support for the significance of direct as well as interaction effects for formal institutions. Furthermore, these models indicate the importance of LGB organizations in determining the probability a state will adopt partnership recognition policies.

It was assumed that the probability of partnership recognition policy adoption would be increasing over time and thus chose a Gompertz model with the expectation that the shape parameter would indicate an increasing hazard rate. Gamma, the shape parameter for the Gompertz model is positive and statistically significant across all five of the formal institutions models. Additionally it had been anticipated that prior partnership recognition policy adoption would increase the probability of subsequent policy adoption beyond the expectations based on changes in the independent variable, which is incorporated into duration models through the inclusion of a shared frailty parameter. As was the case in the previous chapters, the frailty parameter is found to be statistically insignificant in all five formal institutions models. The prior existence of a partnership recognition policy failed to contribute explanatory value beyond the effects captured by the independent variables.

LGB movement resources were measured in terms of movement strength, operationalized as the number of national organizations, and ability to disseminate information, operationalized as the number of national publications. The findings indicate that in four of the five formal institutions models, the number of LGB organizations in the state is statistically significant and

improves the probability of policy adoption. In contrast, the number of LGB publications reduces the probability of partnership recognition policy adoption in all five models, though this finding is only statistically significant in two of the models. The direct effect of LGB movement resources must be interpreted cautiously because they are included in the interaction terms in each model.

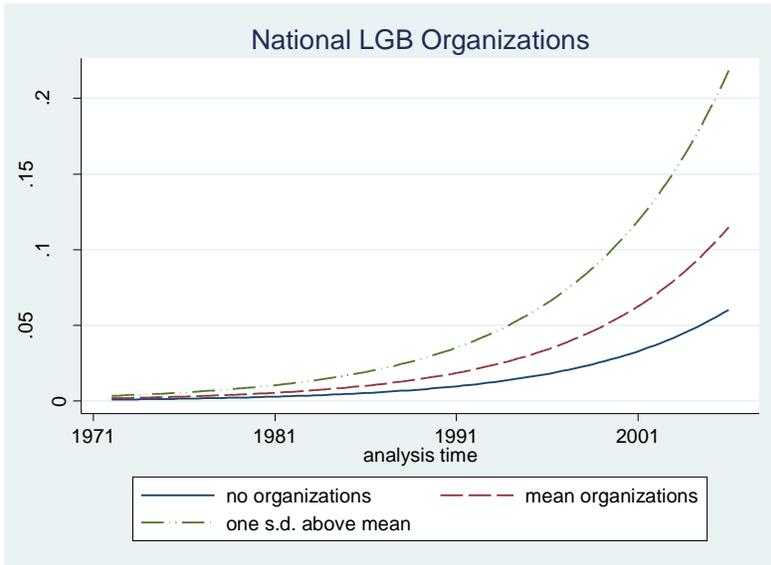
The findings from the formal institutions models with statistical significance for the effects of LGB organizations indicate that the probability of a state with one national LGB organization adopting a partnership recognition policy is 9.6% to 29.3% higher than in a state without a national LGB organization. Because model five does not include an interaction term in which organizations is a constituent term, these results from model five are used to interpret the specific impact of organizations on partnership recognition policy adoption. As the number of organizations in a state increases, the probability the state will adopt a policy recognizing same-sex relationships increases. For example, in 1972 a state with values identical to Austria, which did not have any organizations, would be predicted to adopt a partnership recognition policy 32 years later, or in 2004, while a state with values identical to Switzerland which had one organization that same year, would be predicted to adopt a partnership recognition policy 30 years later or in 2002.⁵² Table 5.1 shows the change in probability and median predicted time until policy adoption for all the cases in the dataset. Figure Z provides a visual comparison of the hazard ratios for zero, seven, and fourteen organizations based on all the cases.

⁵² Austria adopted a cohabitation policy in 2003; Switzerland adopted a civil union policy in 2004.

Table 5.3

Number of Organizations	Change in Probability of Policy ⁵³	Median Predicted years until policy adoption
0	--	37.847
1	9.6%	37.102
7 (mean)	90.16%	32.654
14 (+1 s.d.)	261.61%	27.545
35 (max)	2386.58%	13.577

Figure A1



The number of the LGB publications in a state is negatively related to the probability of policy adoption in all of the formal institutions models. This finding is only significant two models, both of which include an interaction term for which publications is constituent term. Based on model 1, a publication reduces the probability of partnership recognition by 17.1% in states with a majoritarian electoral system, but increases the probability of policy adoption 14.3% in a proportional representation system. Similarly, model 3 shows that a national LGB publication reduces the probability of policy adoption by 17.3% in unitary states but increases

⁵³ Change in probability compared to a state with zero LGB national organizations calculated via exponentiating coefficient multiplied by the number of organizations.

the probability of policy adoption by 16.6% in federalist states. These findings will be discussed more thoroughly below in the relevant discussions of the formal institutions.

Proportional representation should facilitate policy change demanded by social movements, thus I expect the interaction to be both positive and statistically significant. A proportional representation system increases the probability a state will adopt same-sex partnership recognition and this finding is statistically significant in both the proportional representation interaction model, as well as the federalism interaction model. Using the results from model 3, in which proportional representation is statistically significant and not a constituent term, I find that states with a proportional representation system are over four times more likely (an increase of 419.9%) to adopt a partnership recognition policy than states with a majoritarian system. Figures A1 and B1 below show the predicted year of partnership policy adoption relative to the actual adoption of a partnership policy by electoral system. The estimates for proportional representation systems show an increase from 1990 through 2005 at which point the probability of adoption begins to decline; this corresponds to the increase in policy adoptions that occurred in 2000. The predicted year for policy adoption in majoritarian systems is comparatively more flat and does not correspond as closely to observations of actual policy adoption. The average until partnership recognition policy adoption if all states had a proportional representation system would be 29 years whereas the predicted duration until adoption if all states had a majoritarian system would be 41 years. Thus I incorporate this into the dataset based on the year of entry for each state. The average predicted year for adoption if all states had majoritarian system would be 2017 rather than 2004 if all states had a proportional representation system.

Figure B1

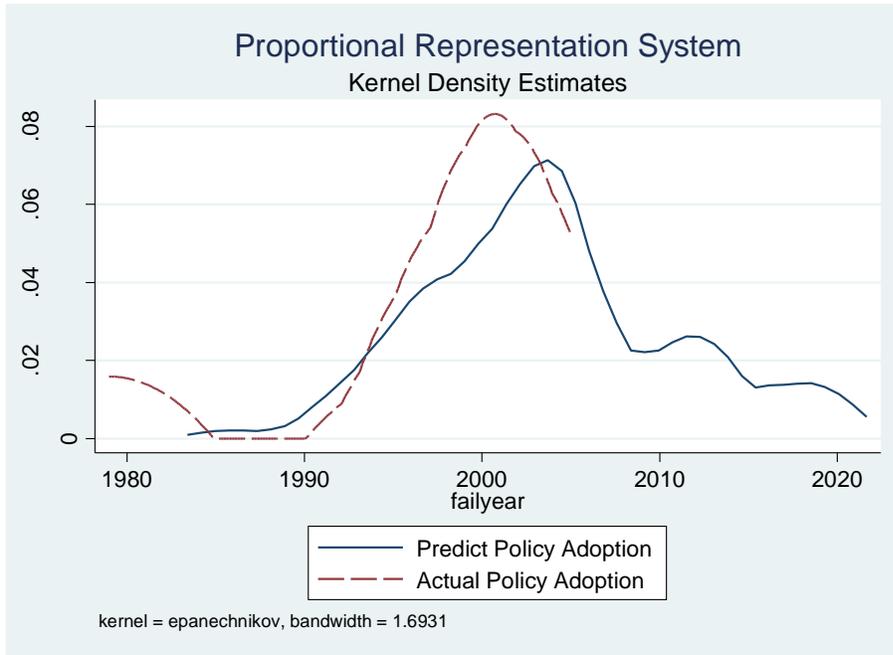
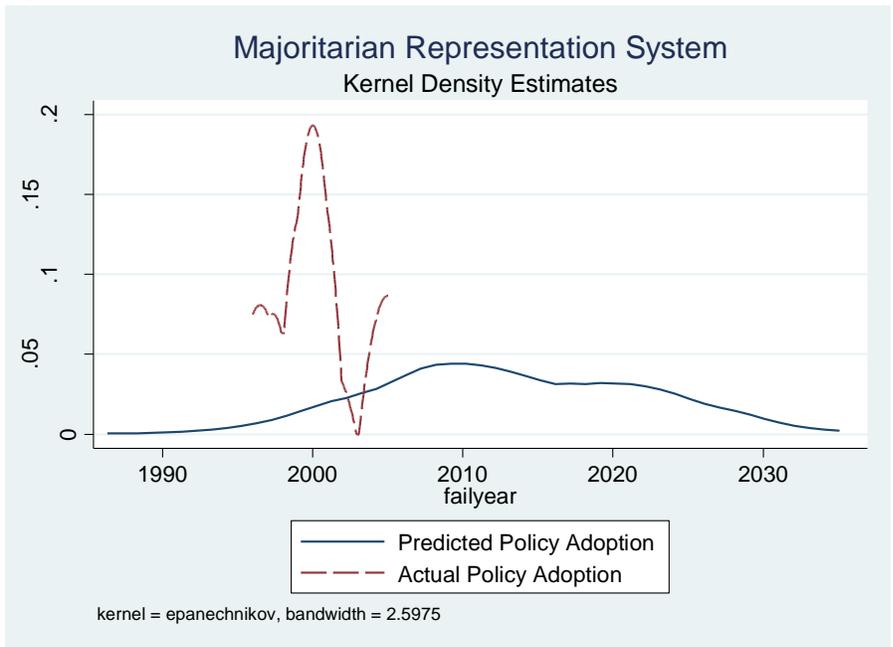


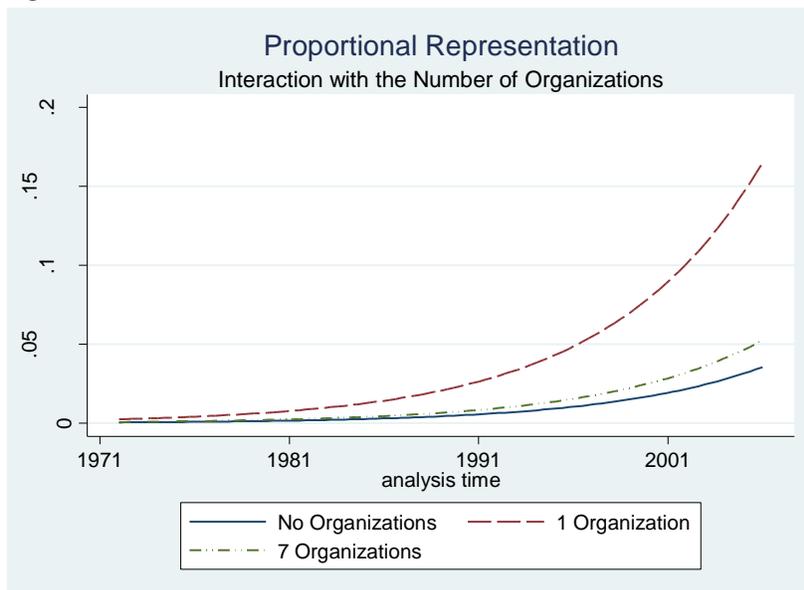
Figure C1



When I examine the interaction effects of LGB movement resources and proportional representation I find that the interaction between organizations and a proportional system decreases the probability of policy adoption and is statistically significant while the interaction

between publications and a proportional system increases the probability of partnership recognition but is not statistically significant. As Figure D1 below shows, the probability of policy adoption is greater and increases more rapidly if a state with proportional representation has one organization rather than seven organizations based on the hazard ratio for the interaction term.⁵⁴

Figure D1

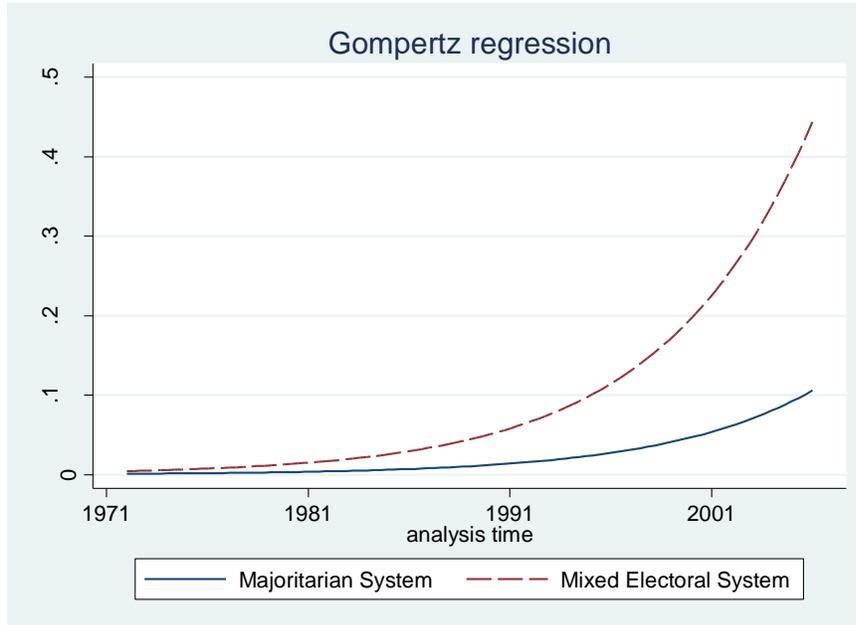


A mixed electoral system also improves the probability of partnership recognition policy adoption compared to a majoritarian system in all five formal institutions models and is statistically significant in two of the models. Mixed electoral systems are more likely to adopt partnership recognition policies and their probability increases more rapidly over time compared to majoritarian states (see Figure E1). Using the results from model 3, I find that the predicted year of policy adoption would be ten years earlier if all states had mixed electoral systems compared to the predicted year of adoption if all states had a majoritarian system. This

⁵⁴ Seven organizations is chosen as the comparison because it is the nearest whole number to the mean number of organizations in the data (6.79).

corresponds to the expectation that mixed electoral systems are more amenable to LGB rights policy adoption than majoritarian systems.

Figure E1

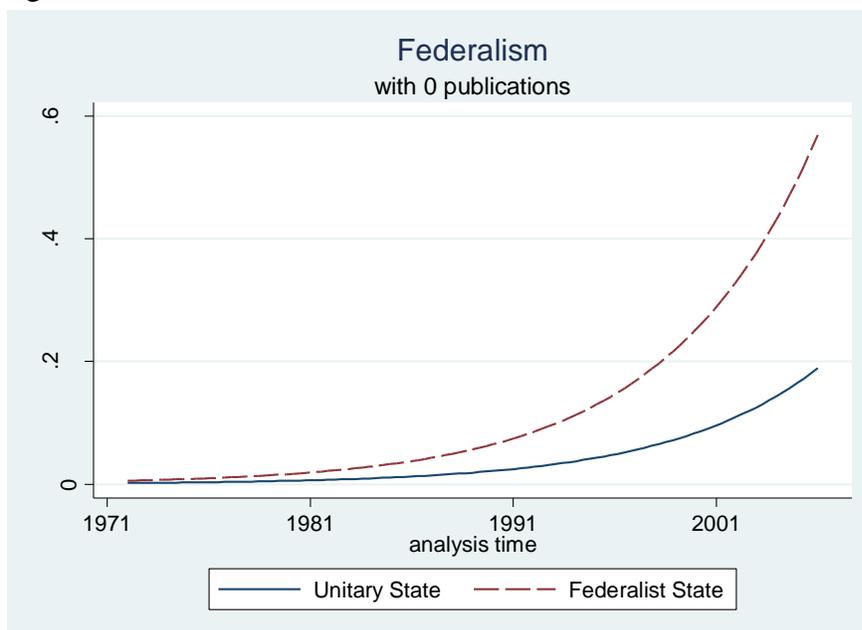


I hypothesized that the structure of the executive impacts the probability of LGB rights policy adoption with presidential systems being less likely than their mixed executive counterparts to adopt LGB rights policy. With regard to partnership recognition, I find that the direct impact of a mixed executive is to decrease the probability of policy adoption but as organizations in a mixed executive system increase, the probability of partnership recognition increases. This supports the theoretical understanding of the interactive nature of institutions, but the findings for the direct and interactive effects are all statistically insignificant.

Federalism should reduce the likelihood of national LGB partnership recognition because pursuit of policy at lower levels of government may be more appealing and used to facilitate policy diffusion within a state where federalism is stronger. While it was anticipated that federalism would reduce the probability of national partnership recognition, the findings show that across the models federalism improved the probability of policy adoption. When federalism

is modeled as a filter for LGB movement resources, the findings indicate that that interactions and direct effect are all positively related to policy change. Furthermore the direct effect as well as the interaction with LGB national publications is statistically significant. When publications and organizations are absent in a state, federalism increases the probability of policy adoption increases by 201.1% over a unitary state (Figure F1). In 1972 a unitary state without a LGB national publication, such as Austria, is predicted to adopt a partnership recognition policy in 2004, 33 years after entering the dataset. In contrast, that same year a federalist state without a national LGB publication, Belgium for instance, is predicted to adopt a policy in 1996, 25 years after entering the dataset. Within a federalist system, a state with a national publication is 16.6% more likely to adopt a partnership policy than a federalist state without a publication. Thus a federalist state with one publication in 1972, for example Canada, is predicted to adopt a partnership recognition policy 39 years later after entering the dataset or 2010 while a federalist state with two publications that same year, for example the United States, is predicted to adopt a policy 32 years after entering the dataset, 2004.

Figure F1



International institutions that promote human and civil rights should improve the probability of LGB rights policy adoption. The results are mixed in terms of the European Union and European Convention on Human Rights increasing or decreasing the probability of policy adoption. The European Union decreases the probability of partnership recognition across all five formal institutions models, while the European Convention on Human Rights increases the probability of partnership recognition in two models and decreases the probability in three models. Neither of these supranational institutions is statistically significant in any of the models. Furthermore, the interactions between these institutions and LGB movement resources are also statistically insignificant, though the interaction with publications does have the expected effect.

Across the formal institutions models I control for the prior existence of anti-discrimination policies with the expectation that partnership recognition is less probable in states that lack such protections. General antidiscrimination provisions that fail to explicitly include LGB persons are negatively related to the probability across the models while the presence of an anti-discrimination policy that explicitly includes LGB persons increases the probability of partnership recognition in four of the five formal institutions models. The findings for both types of discrimination policy are statistically insignificant in all of the models, which is surprising given the expectations especially in the context of the previous literature.

Across the models for formal institutions the findings show mixed support for the theory and implied hypotheses regarding the relationship between formal institutions and LGB movement resources to partnership recognition policies. While the findings for organizations and the electoral system support the expectation regarding the direction and importance of their impact, the interaction terms in which they are constituent variables do not support the theory. The findings for federalism are surprising with regard to their impact on the probability of

policy, though not in their importance on the probability of policy adoption. Supranational institutions had neither the importance nor the impact anticipated, but this finding is similar in some ways to the findings in the previous chapter. Prior discrimination policy should be a necessary precondition to partnership recognition according to Waaldijk (1999), but the models do not find support for this at least in terms of a direct relationship between anti-discrimination policy and partnership recognition. As was mentioned in Chapter Three, it is possible that formal institutions, as well as LGB resources when modeled with formal institutions, serve to shape the nature and tactics of the LGB movement rather than filter these resources' effectiveness in influencing policy changing.

As was mentioned previously in Chapter Three, the results indicating that direct effects matter while interaction effects do not have important implications for the theory. Although the political opportunity structure literature supports modeling formal institutions as filters on social movement resources, it can also imply that the formal institutions structure the movement rather than filter its effects. The findings here suggest that the latter is the case with regard to LGB rights. The implications for this alternative specification of the model are discussed more thoroughly in Chapter Six.

Interaction Between Informal Institutions and Movement Resources

Informal institutions are also theorized to be an important filter on the probability of policy success for a social movement. As the social climate impacts the position of elected officials in advanced democracies, it also impacts the possibility the state will adopt LGB rights policies. Unlike the findings in previous chapters, when examining the impact of the interactions between LGB movement resources and informal institutions on the probability of partnership recognition, the findings fail to support filtering effects and produce limited support for the role

of informal institutions themselves. The findings do, however, provide additional evidence supporting the importance of women in parliament. Furthermore, they are consistent with previous results regarding the monotonically increasing probability of policy adoption, which supports theory.

In the six models of informal institutions interacting with movement resources, the shape parameter for the baseline hazard, γ , is found to be consistently positive. This indicates that the assumptions of monotonically increasing probability of policy adoption are valid. Recall that I had also theorized that prior adoption of a form of partnership recognition would increase the probability of additional partnership recognition policies being adopted. To assess this a shared frailty parameter was included, but this measure is statistically insignificant. This is likely because changes in the independent variables in the informal institutions themselves capture the same impact frailty otherwise might have explained.

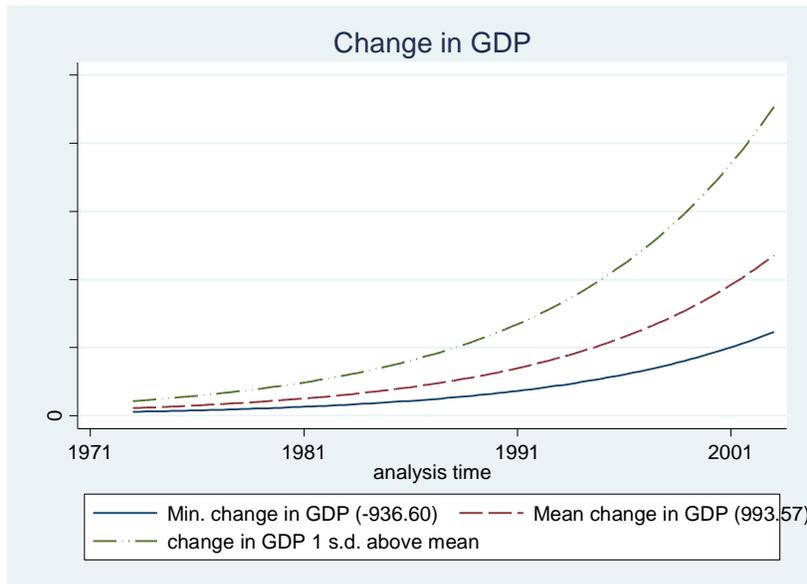
Of the informal institutions and interaction examined, only change in GDP and the percentage of women in parliament are statistically significant. The statistical significance found is for the direct effects of these variables rather than the interaction between the informal institutions and movement resources. Unlike the formal institutions models neither the movement resources themselves nor the interaction terms are statistically significant in any of the models examined.

Ethnic fractionalization should improve the probability a state will adopt policies providing for the civil rights of minorities groups, including LGB individuals. This includes increasing the probability a state will adopt some for same-sex partnership recognition policy. While the expectation was an increase in the probability of policy adoption, the findings regarding the impact of ethnic fractionalization are mixed. In two of the models ethnic

fractionalization increases the probability of partnership recognition while in the remaining four models I find a negative relationship between ethnic fractionalization and policy adoption. These findings are statistically insignificant in all of the models, thus I cannot be confident in either a positive or a negative relationship between ethnic diversity and partnership recognition policy adoption. Similarly, the finding for the interaction between ethnic fractionalization and national LGB organizations is contrary to expectations. Increases in organizations in more diverse states decrease the probability of policy adoption according to the model, but this is also statistically insignificant and thus unreliable.

In the model examining the interaction between changes in GDP and LGB movement resources I find that change in GDP is statistically significant while the interactions are not. Because the hazard ratio for change in GDP is one across the models, including model 2 in which change in GDP is statistically significant, I conclude that changes in GDP in constant US dollars make policy adoption neither more nor less likely. When I examine the findings further however, I find increases in the change in GDP produce increases in the probability of partnership recognition though the change in the probability is extremely small. When the change in GDP is at its minimum, which is negative, the probability of partnership recognition is lower and increases more slowly over time than when changes in GDP are higher. Figure G1 also shows change in GDP at its mean and one standard deviation above the mean.

Figure G1



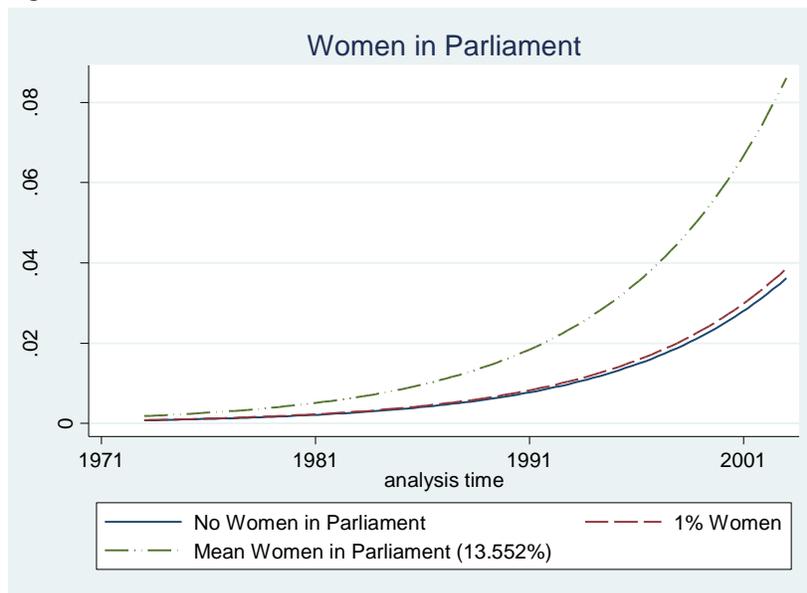
Unemployment should be negatively related to the probability of partnership recognition policy adoption as higher unemployment is likely associated with higher levels of economic distress and thus less support for minority rights. Three of the informal institutions support this hypothesis but three of the models find a positive relationship between unemployment and the probability of same-sex partnership recognition. Also contrary to the hypothesis, the interaction between unemployment and LGB organizations is also positive and thus the probability of policy adoption increases as LGB organizations increase in states with higher unemployment. Confidence in these findings is lacking from all of the six models however because the models do not reach statistical significance for unemployment and unemployment interaction.

Similar to expectations for ethnic fractionalization, it was hypothesized a higher level of urbanization would make same-sex partnership recognition policy more likely to be adopted. Across the models for informal institutions the findings show that states in which urbanization is above the mean are more likely to adopt policy than states in which the level of urbanization is below the mean. Unfortunately this finding is not statistically significant in any of the models. It

was also expected that increases in the number national LGB organizations would increase the probability of policy adoption in states with urbanization above the mean. However, the interaction model shows that LGB organizations decrease the probability of partnership recognition in states with higher levels of urbanization, but this finding is also statistically insignificant.

As was the case in the previous chapters, the findings support the hypothesis that the percentage of women in parliament is positively related to the probability of LGB rights policy adoption. Increasing the percentage of women in parliament from zero to just 1% increases the probability partnership recognition by 4.5% to 6.7%. In five of the six informal institutions models this relationship between women in parliament and partnership recognition policy adoption is also statistically significant. The average duration until the adoption of a same-sex partnership recognition policy is one year earlier when we assume 1% of the parliamentary seats in every state are held by women. If however, the percentage of parliamentary seats held by women were increased to the mean, 13.552 across all states, the duration until policy change decreases by eight years over the average if zero parliamentary seats were held by women in any of the states. States with a higher percentage of parliamentary seats held by women are more likely to adopt a same-sex partnership recognition policy and the probability of policy adoption increases more rapidly over time compared to states with fewer women in parliament (see Figure H1).

Figure H1



Although direct effects of the percentage of women in parliament are statistically significant, the interactions between women in parliament and LGB organizations and publications are not statistically significant. When examining the interaction between women in parliament and the number of national LGB organizations the findings indicate that, as expected, it is positively related to the probability of policy adoption. Similarly, the interaction between women in parliament and the number of national LGB publications was found to be positively related to the probability of same-sex partnership recognition.

In chapters three and four the party leaning of the executive was measured using two dummy variables for centrist and rightist party control leaving leftist party affiliation as the null category. Because of the greater executive leadership often needed to pass partnership recognition for LGB persons, in this model the effect of leftist party control of the executive was examined directly. Leftist parties are more amenable to minority rights including LGB rights, thus it was expect states to be more likely to adopt partnership recognition policy when the executive is of a leftist party. Contrary to these expectations, leftist control of the executive

reduces the probability of policy adoption, though this finding is statistically insignificant. When organizations increase in the context of a leftist executive the finding supports the theory that a leftist executive will be more open to the LGB movement. The interaction between organizations and leftist executive increases the probability the state will adopt a partnership recognition policy. Publications in the same context of a leftist executive reduce the probability of policy adoption however. Neither of these interactions is statistically significant, thus I do not have confidence in these findings.

The consistency of the findings for women in parliament in this chapter with those in Chapters Three and Four support the theoretical expectations and suggest directions for future research. The literature on tolerance levels of women compared to men suggested that women in parliament were more likely to be amenable to minority rights, particularly LGB rights, compared to their male counterparts. Women in parliament may also be serving as a proxy here for post-materialism in the state, which should also improve the probability of LGB rights policy adoption. If this is the case, then it suggests that LGB rights are potentially on the agenda for those with post-materialist values but are lower on this implicit agenda than other minority rights, notably women's rights. Thus future research should examine LGB rights policy adoption within the context of the adoption of other policies that can be identified as related to post-materialist values.

As mentioned previously, the prior adoption of policies prohibiting discrimination is often seen as a necessary precursor to the development of partnership recognition. Thus a control for the adoption of a general anti-discrimination policy that could be interpreted to protect LGB individuals as well as the adoption of an LGB specific anti-discrimination policy was included. It was expected LGB specific anti-discrimination policies to have a greater positive effect on the

probability of partnership recognition than general discrimination prohibitions, but the findings show that general prohibitions increase the probability of policy adoption by 54.3% to 194.8% while LGB specific discrimination prohibitions decrease the probability of policy adoption by 34.1% to 63.3%. Also surprising was the lack of statistical significance for either anti-discrimination policy.

Informal institutions were theorized to be an important filter on the effectiveness of the LGB movement in achieving policy goals regarding partnership recognition. Across the models the findings fail to support for such an interaction effect. The findings indicate that much like the models of anti-discrimination policy and military personnel policy, the percentage of women in parliament plays an important role in determining when a state will adopt partnership recognition policy. Additionally, the findings do indicate some support for increases in GDP improving the probability of a state adopting partnership recognition policy.

The eleven models examined above provide important insights into the validity of the current theory as well as provide implications for future theory development. Formal and informal institutions were theorized to serve as filters on the ability of a social movement to achieve policy gains. While the findings show some support for interaction effects between movement resources and the formal structures of government, the impact of informal institutions in these models is exclusive direct effects. This is notably different from the findings in previous chapters in which formal institutions had only direct effects and informal institutions produced both direct and filtering effects.

Similar to the findings from the previous chapters, findings indicate that the impact of the electoral system on the probability of policy adoption is significant and supports the theory that majoritarian systems are less likely to adopt LGB rights policies than states with proportional

representation or mixed electoral systems. Furthermore, the findings show that the percentage of women in parliament improves the probability of policy and is statistically significant as was the case in the previous chapters. Further discussion of the implications of the comparative findings across chapters can be found in Chapter Six.

Conclusion

When a state will adopt a policy providing legal recognition to same-sex partners is a function of the resources of the LGB movement and their interaction with the formal and informal institutions in the state. These formal and informal institutions make up the political context that can serve to either impede or encourage social movement success defined as the achievement of policy goals. The foundations of this theory are a combination of resource mobilization theory, political opportunity structure modeling, the process model of policy making, and the policy diffusion literature. The eleven models presented above examine the applicability of this theory to the adoption of partnership recognition policies for LGB persons using event history modeling. The findings from these models provide mixed support for the theory, validating some hypotheses while indicating possible reconsideration of others. Formal institutions, specifically the electoral system and federalism, serve as filters on LGB movement resources but also directly impact the probability of policy adoption. Informal institutions directly impact the probability of partnership recognition, but do not appear to mitigate the impact of movement resources on policy adoption.

In order to illustrate the differences between a leader and laggard state with regard to partnership recognition, I examined the policy developments in the Netherlands and the United States earlier in the chapter. Furthermore the position and applicable policies of the European Union that impact many of the cases in the study was also examined. Although these two states

represent extremes in the dataset—the Netherlands has adopted full marriage equality while the US has adopted policy prohibiting federal recognition of marriage equality—the states in the data are narrowly defined and thus even the extremes remain characteristic of the sample. When examining the implications of the findings for the theory, it will be helpful to also reevaluate how the findings compare to the observations from the two illustrative cases.

LGB movement resources were measured as the number of national organizations, indicating movement strength, and the number of national publications, which would indicate the ability of the movement to disseminate information. The results for the direct effects of movement resources are mixed. In seven of the eleven models it was found that LGB organizations increase the probability of policy adoption, but in the remaining four models the opposite effect can be observed. The results for organizations are only statistically significant for four models, but these four models all show organizations increasing the probability of partnership recognition policy adoption. In contrast, the number of publications reduces the probability of policy adoption in all eleven models and this finding is statistically significant for only two of the models. While an attempt to include only publications that served to disseminate political and/or cultural information was made in the data collection, it is possible that some publications included served little or no political purpose.⁵⁵ To the extent that publications whose primary purpose was to facilitate sexual relations between LGB persons were included in the dataset, this measure may capture apolitical aspects of the LGB community. The findings for publications parallel the observations in the illustrative cases. The United States consistently had more LGB national publications than the Netherlands, yet the Dutch have been far more progressive in their adoption of partnership recognition policies. While the United States may

⁵⁵ While publication content was validated via internet searches whenever possible, publications from the 1970s and 1980s that are no longer in circulation were included in the dataset provided their existence was validated but their primary purpose could not always be discerned.

have more publications, it is also the case that many of these publications are narrowly tailored to specific sub-communities with the broader LGB movement (the *Advocate* would be a notable exception in its broader readership base).

The models examining the impact of formal institutions support the hypothesis that proportional representation and mixed electoral systems will increase the probability of partnership recognition compared to majoritarian systems. This corresponds to the observations for the Netherlands, a proportional representation system that was also an earlier adopter of policies recognizing same-sex partners, and the United States, a laggard state with a majoritarian electoral system.

Contradictory to the expectations were the findings for the interaction between proportional representation systems and LGB movement resources. Organizations and publications pursuing policy adoption in a state with a proportional representation system should experience greater success than their counterparts in states with a majoritarian system. While I find this to be the case with regard to LGB publications, I find the opposite with regard to organizations. Based on the results from the interaction model, it may be the case that the impact of a proportional representation system without any LGB organizations renders the impact of adding organizations less relevant.

Presidential systems were hypothesized to be less likely to adopt LGB rights policies than mixed executive systems, but across the models for formal institutions I find that mixed electoral systems are less likely to adopt partnership recognition policy than presidential systems. This finding is mitigated by the fact that increases in organizations in a state with a mixed executive increase the probability of policy adoption over similar increases in a presidential system. This indicates a mixed executive system makes policy adoption more likely when there are

organizations to apply pressure to the executive, but not in the absence of social movement pressures. The impact of the structure of the executive or its interaction with the number of organizations in a state should not be overestimated as neither is statistically significant. This is possibly a function of the greater importance of the legislature and thus the electoral system in general in the policy making process.

Amongst the most surprising findings was the impact of federalism on the probability of policy adoption. I had hypothesized that federalism would make national LGB policy adoption less likely because it would encourage movement resources to be diverted toward policy change at the subnational level. The illustrative cases supported this hypothesis as I have observed national policy change in the Netherlands, a unitary state, and subnational policy developments in the United States, a federalist state. The findings that federalism increases the probability of national policy adoption may be evidence of policy diffusion that promotes national policy action. Spain, for example, experienced the adoption of partnership recognition at lower levels of government prior to 2005 when the Spanish national government passed a marriage equality policy. It may be that policy diffusion at the subnational level serves as an impetus for national policy change, thus future research should examine how policy trends at the subnational level impact the probability of national policy.

I expected membership in the European Union to increase the probability that a state would adopt partnership recognition policies, but as described above, I find that European Union membership decreases the probability of policy adoption. This is less surprising in the context of the previous discussion of the European Union policy on partnership recognition. The EU has been notably reluctant to pass a directive that would address same-sex partnership recognition and existing policies on family reunification have not been interpreted to require that states

recognize same-sex partners as family. Recent expansions of the European Union to Eastern bloc states that staunchly resist LGB partnership recognition has further reduced the probability of the European Parliament enacting policy that would require states to recognize same-sex partnerships.

It was also expected that states that have signed the European Convention on Human Rights would be more likely to adopt partnership recognition policies, but I find the impact of the ECHR to be inconsistent across the models. States that are subject to the ECHR are more likely to adopt partnership recognition policies in two of the models but the other four models indicate that ECHR states are less likely to adopt partnership recognition policy. Article 12 of the convention states that the right to marry is a human right that should not be infringed, but also states that it is right of “men and women” and this has been interpreted as the right of a man to marry a woman and vice versa rather than a human right for all men and women to marry whomever they choose. Thus, while the ECHR has been a progressive force in mandating that states remove discriminatory policy toward LGB persons in the military and has promoted the adoption of anti-discrimination policies, the jurisprudence of the European Court of Human Rights has declared unequivocally that marriage rights decisions are to be left to the states. Based on the lack of dissenting opinions regarding Article 12 in *Schalk and Kopf v Austria 2010*, it unlikely that states will see the ECHR as promoting the adoption of partnership recognition policy. This indicates that the theory may need to be more nuanced in its expectations of the impact of the ECHR based on the specific policy rather than regard the ECHR as generally improving the probability of LGB rights policy adoption.

I theorized that ethnic fractionalization would increase the probability of partnership recognition policy adoption because increased diversity should promote the adoption of minority

rights policies generally. While previous chapters have found support for the theory, in the six models for partnership recognition the findings are inconsistent. Ethnic diversity increases the probability of policy adoption in two of the models but decreases the probability of partnership recognition in the other four models and when multiplied by the number of organizations in the state. Furthermore, unlike the findings in Chapter Three, these findings for ethnic fractionalization are statistically insignificant. It may be the case the ethnic diversity is more closely related to policies regarding discrimination that effect all minority groups, but is less relevant to partnership recognition because of the lack of barriers to marriage based on ethnicity. For instance, United States is an ethnically diverse state, but arguments that modern LGB marriage inequality is comparable to the anti-miscegenation laws of the past have not been able to gain traction within ethnic minority communities. Thus the diversity of the United States has not improved the probability of partnership recognition policy adoption.

Our results for the impact of changes in GDP across the models appear to be nonexistent, though this hazard ratio of one is statistically significant in one model. When I examine these findings visually however, I see that increases in GDP improve the probability a state will adopt a partnership recognition policy as hypothesized. The impact of GDP in constant United States dollars is very small, but positive and statistically significant. If I were to measure changes in GDP on a different scale, the impact of changes in GDP on policy adoption would appear larger, though this would not affect the statistical significance in any of the models.

Unemployment was hypothesized to decrease the probability a state would adopt LGB rights policy because economic distress tends to discourage the adoption of minority rights policies. In the assessment of the duration until states adopt a partnership recognition policy I find that unemployment decreases the probability of policy adoption in three models, but

increases the probability in the other three. When organizations are working in the context of higher unemployment I find, as hypothesized, that policy is less likely to be adopted. The inconsistency of the findings for unemployment may be a function of the relationship between the economic benefits of partnership recognition and feelings of economic distress in society. State recognition of a partnership provides economic benefits ranging in scope by both state and type of recognition policy. When unemployment and thus economic distress is high, there will be less support from the general public to extend economic advantages to new groups. These same periods of economic distress are also when LGB persons may become more aware of the magnification of economic hardship that occurs when one's relationship is not recognized by the state and thus may be more inclined to mobilize. Because both of these responses occur simultaneously, it is difficult to tease apart the impact of unemployment on the probability of partnership recognition policy adoption.

States with higher levels of urbanization are more likely to adopt LGB rights policies than states with lower levels of urbanization. As anticipated I find that states where urbanization is above the mean are more likely to adopt partnership recognition policy than states where urbanization is below 72.85%. Surprisingly, this is statistically insignificant. The lack of statistical significance is likely related to the number of observed policy adoptions in the dataset. Extending these data by five additional years, to 2010, would increase the number of partnership recognition policies and thus increase the probability of finding statistical significance. Thus I anticipate that future research will also find urbanization to be positively related to partnership recognition but will further find this relationship to be statistically significant.

As previously discussed, I find that the percentage of parliamentary seats held by women is both positively related to partnership recognition policy adoption and statistically

significant as hypothesized. When LGB movement resources increase in the context of a greater number of women in parliament, the probability of policy adoption also increases, though these findings are not statistically significant. The findings for women in parliament correspond to both the theoretical expectations as well as the observations from the two illustrative case studies. The Netherlands has a consistently greater proportion of its parliamentary seats held by women compared to the United States and has also adopted every form of partnership recognition including marriage for same-sex couples whereas the United States has defined marriage as exclusively heterosexual at the national level.

Perhaps the most surprising findings of this chapter are the results for the party of the executive which are neither statistically significant nor in the anticipated direction. Leftist control of the executive should increase the probability a state will adopt a policy recognizing same-sex partnerships, but the results show that such states are much less likely to adopt a policy than states with a centrist or rightist executive. These findings for the executive are likely driven by the categorization of the executive in the United States, United Kingdom, Canada, and Lithuania when each adopted to define marriage as exclusively heterosexual. Furthermore, of the partnership recognition policy adoptions that occur in the dataset, only three occur when the executive is categorized as leftist.

I controlled for the prior adoption of anti-discrimination policy across all eleven models and find that existence of a general or a LGB specific anti-discrimination policy in a state does not significantly impact the probability of partnership recognition policy adoption. In the formal institutions model a general discrimination prohibition decreases the probability of policy adoption while a LGB specific discrimination policy increases the probability a state will adopt a partnership recognition policy. In the informal institutions models I find the converse; general

anti-discrimination laws increase the probability of a state adopting partnership recognition policy while LGB specific discrimination laws decrease the probability of policy adoption. This would seem to validate the separation of formal and informal institutions models as each set of models has different implications for our understanding of the relationship between discrimination prohibitions and the probability of partnership recognition.

Formal and informal institutions were theorized to serve as important filters on social movement demands for policy adoption. Using a series of five duration models I examined how the interactions as well as direct effects of formal institutions and movement resources impact the probability of partnership recognition policy adoption. I find some support for the hypotheses that the electoral system and federalism would interact with LGB movement resources to impact the probability of policy adoption. I also find LGB organizations and the electoral system have significant direct effects on the probability of policy adoption independent of each other. In the six informal institutions models I fail to find support for the expectation that informal institutions would serve as filters on movement resources and find instead support for the direct effects of informal institutions. In particular I find that the percentage of women in parliament, as in previous chapters, is positively and significantly related to the probability of policy adoption.

States provide legal recognition to some relationships and such recognition imparts upon the relationship rights, obligations, and privileges for the parties involved as well as the state. LGB persons seek partnership recognition not only for the economic and legal and benefits that recognition by the state would provide, but also for the symbolic value such acknowledgement would provide. States that recognize same-sex partnerships signal to society that LGB persons and their relationships are valid. When this recognition provides equality with heterosexual relationship recognition, the state indicates that LGB persons are equal under the law and their

relationship as acceptable as heterosexual relationships. States have been reluctant to provide such recognition to same-sex couples largely because of the cultural norms in place that provide primacy to heteronormative notions of family.

When a state will move to partnership recognition outside heteronormative standards is a function of formal and informal institutions creating a policy context in which the LGB movement is more or less likely to achieve policy success. I have used a series of event history models to analyze this theory and its associated hypotheses for thirty-five advanced democracies from 1971 to 2005. I find that while there are some interaction effects between movement resources and formal institutions, in general the direct effects of movement resources and institutions are more significant than the interactions between the two in determining the probability a policy will be adopted. These findings partially correspond to the findings from Chapters Three and Four. In the subsequent chapter I will explore how the findings from this chapter as well as the previous two chapters fit together to provide both support for some aspects of the theory as well as cause for reconsideration of others.

Chapter 6 Conclusion

When do social movements achieve success? This dissertation has sought to respond to this question via analysis of the transnational LGB movement. The research here contributes to several important areas of political science research including the social movements literature, public policy literature, and the growing, but still new, literature on LGBT politics. Furthermore, the findings presented in chapters three through five have both practical and theoretical implications which will be discussed below.

Social movements, particularly social movements organized around minority rights, pursue policy changes that will provide members of the movement with more equitable access to the polity. The LGB movement is no exception in its pursuit of public policies to benefit LGB persons. Here I have chosen three policy areas that are or have been goals of the LGB movement in advanced industrialized democracies: anti-discrimination policies, access to military service, and partnership recognition. These represent goals that have been achieved in some, but not all advanced democracies. Furthermore, these three policy areas align with Waaldijk's (1999) proposed evolution of policy goals for LGB persons. This dissertation addresses LGB policies in the order indicated by Waaldijk's (1999) analysis which expects anti-discrimination policies to precede policy expansion to other rights. Thus, anti-discrimination policies were discussed first, followed by military personnel policy, and then partnership recognition with the expectation that anti-discrimination laws increase the probability of subsequent policies being adopted.

The literature on LGBT rights has often been dominated by qualitative comparisons across just a few countries, anecdotal or historical research seeking to provide voice to the movement, or quantitative analysis that is limited to issues within a single state. This research contributes to that literature via its scope. By examining policy developments in thirty-five

advanced industrialized democracies from 1971 to 2005 in the context of theories from both the social movement literature as well as the policy literature, this study helps advance the integration of LGB rights research into the broader canon of political science research.

To understand when a social movement will achieve policy success, one must be grounded in social movement theories broadly. Here I draw on resource mobilization and political opportunity structure to inform the selection of explanatory variables for social movement success. Both resource mobilization and political opportunity structure explain why a social movement is successful in one context and unsuccessful in another. Resource mobilization proposes that movement resources will coalesce when and where the benefits and probability of success is greater (Tilly 1978). Political opportunity structure contributes to this idea by explaining how the political environment alters the probability of success (Van Der Heijden 2006).

When resource mobilization theory and political opportunity structure are incorporated into policy theories, it becomes clear that policy adoption is also contingent on time. Models of success must account for both incremental as well as sudden change. Furthermore, in a cross-national comparison such as this one, it is imperative that considerations of proximity be included according to the policy diffusion literature. States that are close in proximity are more likely to experience policy diffusion than those that are disparate physically, ideologically, and/or historically.

This research sheds light on how resource mobilization, political opportunity structure, and policy theories combine to create a broader formulation of how formal and informal institutions interact with movement resources in the process of policy adoption and change. The

theory here has argued for operationalization of institutions, both formal and informal, as mitigating factors on the connection between movement resources and policy adoption.

Political opportunity structure developed into the dominant paradigm for social movement research during its rapid growth from the 1970s onward. As discussed in Chapters One and to a greater extent Two, this paradigm describes systems as open or closed to social movements. In the context of analyzing social movement success, the open or closed nature of the political opportunity structure has been conceptualized as a filter either impeding or facilitating success (Kitschelt 1986, Hilson 2002). Gamson and Meyer's (1996) conceptualization of political opportunity distinguishes cultural (informal institutions) and institutional (formal institutions) features from one another as the basis for the division of models. Relying on this distinction, the probability of policy adoption for each policy was analyzed in two series of models, one series which examines the interaction terms for formal institutions and another series of models examining the interaction terms for informal institutions.

The findings here suggest that formal institutions are important determinants of the probability of policy adoption, but the evidence does not support an intervening role for formal institutions. Formal institutions remain important, but independent from movement resources suggesting policy diffusion via similar institutions more accurately depicts the influence of formal institutions on LGB policies. The demands of the LGB movement are often framed as altering cultural norms and thus political structures may be relevant in the extent to which they facilitate changing social norms generally, but increases in the size of the movement do not impact the level of recalcitrance, or lack thereof, inherent to some structures. For example, majoritarian systems may be less likely to respond to any movement, regardless of size, that is

perceived to be too far outside of the social norms for fear of losing the median voter. Thus the electoral system is important but the interaction between the movement and the electoral system is not. Similarly, a federalist structure may provide opportunities for national governments to observe policies at a lower level and make adoption decisions based on the experiences in these policy laboratories. If national policy is guided by the success or failure of state policies, then the size of the national LGB movement is less relevant than state level LGB organizations and their success in achieving change at that level.

Informal institutions provide evidence of both independent as well as filtering effects. Informal institutions reflect changing cultural norms such as the reduction of gender norms and increases in post-materialism reflected in the election of women to political office. Because informal institutions vary much more over time, in accordance with cultural shifts, than formal institutions, which are essentially static, this suggests that social movements are better served when resources are devoted to social changes rather than aimed at changing institutions.

Below I will review the hypotheses and reexamine the results across chapters to provide revised specifications of the model updated by the findings. Additionally I argue that efforts to change gender norms are the most efficient use of LGB resources, regardless of the specific policy goal.

Review of Hypotheses

The preceding three chapters tested eleven hypotheses in the context of three different substantive policy areas. The findings together provide important insights into how the impact of the explanatory variables is both consistent and variable across these related policy areas. The lack of support for some hypotheses demonstrates the difficulty of modeling new policy areas related to a social movement still in its relatively early stages. As the movement develops,

professionalizes, and expands over time beyond LGB identifiers to an increasing number of allies, additional policy adoption will become more likely and a greater number of data points will yield more reliable results.

It is also arguable that the unpopularity and historical lack of tolerance toward the LGB community contributes to the difficulties of analyzing policy progress over the course of a short period of time. Public opinion and policy has until very recently been at best intolerant of LGB persons and at worst actively persecutory, thus LGB policy adoption has been slow to develop. As social acceptance increase, which is occurring particularly rapidly as of this writing, it is possible that variables currently insignificant but commonly associated with minority rights policy adoption will be significant in future models.⁵⁶ This also contributes to the inconsistencies in findings across policy areas as equality begins narrowly defined in economic non-discrimination terms and subsequently expands to cultural equality. Table 6.1 and 6.2 below summarize the findings across chapters by hypothesis. These findings are briefly reviewed for each hypothesis with implications for formal and informal institutions as sets of hypotheses discussed at the end of each subsection. Although the results for each of the hypotheses is reviewed, greater attention is devoted to those findings that are statistically significant and have important implications for the theoretical understanding of LGB policy adoption and practical repercussions for LGB movement behavior.

⁵⁶ For example, in the United States public opinion has shifted from only 30% of Americans agreeing with marriage equality in 2004 to 46% in 2010 (Teixeria 2011). Similarly, in Ireland only 41% of those polled in 2006 agreed with marriage equality (Eurobarometer 2006). By 2012, public support for marriage equality in Ireland had risen to 73% (Grey 2012).

Given that MySpace launched in 2003, Facebook launched in 2004, Youtube launched in 2005, and Twitter was started in 2006, it would be interesting to research the extent to which the rise of social media has accelerated social acceptance.

Table 6.1

<i>Formal Institutions Models: Ratio of Models Supporting the Hypothesis</i>			
	Chapter 3: Anti-discrimination	Chapter 4: Military Personnel	Chapter 5: Partnership Recognition
<i>Social Movement Resources</i>			
Organizations	4/5 (0/5)	5/5 (0/5)	4/5 (4/5)
Publications	0/5 (3/5)~	0/5 (0/5)	0/5 (2/5)~
H1: Electoral System			
H1a: PR Direct Effects	0/5 (5/5)~	5/5 (0/5)	5/5 (2/5)
H1b: PR Interaction	2/2 (0/2)	0/2 (0/2)	1/2 (1/2)~
H1c: Mixed Electoral Direct Effects	0/5 (4/5)~	2/5 (0/5)	5/5 (2/5)
H2: Executive Structure			
H2a: Direct Effects	0/5 (1/5)~	2/5 (0/5)	0/5 (0/5)
H2b: Interaction	1/1 (0/1)	0/1 (0/1)	1/2 (0/2)
H3: Federalism			
H3a: Direct Effects	2/5 (0/5)	0/5 (1/5)~	0/5 (1/5)~
H3b: Interaction	1/2 (0/2)	1/2 (0/2)	0/2 (1/2)~
H4: European Union			
H4a: Direct Effects	0/5 (0/5)	5/5 (0/5)	0/5 (0/5)
H4b: Interaction	1/2 (0/2)	1/2 (0/2)	1/2 (0/2)
H5: European Convention			
H5a: Direct Effects	5/5 (4/5)	0/5 (0/5)	2/5 (0/5)
H5b: Interaction	1/1 (0/1)	0/1 (0/1)	1/1 (0/1)
Anti-Discrimination			
General Prohibition	--	5/5 (5/5)	0/5 (0/5)
LGB Prohibition	--	5/5 (5/5)	5/5 (0/5)

Table 6.2

<i>Informal Institutions Models: Ratio of Models Supporting the Hypothesis</i>			
	Ch 3: Anti-Discrimination	Ch 4: Military Policy	Ch 5: Partnership Recognition
Social Movement Resources			
Organizations	3/5 (1/5)~	4/5 (1/6)	3/6 (0/6)
Publications	2/5 (0/5)	1/5 (1/6)~	0/6 (0/6)
H6: Women in Parliament			
H6a: Direct Effects	4/5 (4/5)	6/6 (6/6)	6/6 (5/6)
H6b: Interaction	2/2 (1/2)	1/2 (0/2)	2/2 (0/2)
H7: Party of Executive			
H7a: Rightist Exec. Direct Effects	1/5 (0/5)	6/6 (0/6)	--
H7b: Rightist Exec. Interaction	1/2 (0/2)	1/2 (0/2)	--
H7c: Centrist Exec. Direct Effects	1/5 (0/5)	0/6 (0/6)	--
H7d: Leftist Exec. Direct Effects	--	--	0/6 (0/6)
H7e: Leftist Exec. Interaction	--	--	1/2 (0/2)
H8: Change in GDP per capita			
H8a: Direct Effects	0/5 (0/5)	0/6 (0/6)	0/6 (1/2)^
H8b: interaction	0/5 (0/5)	0/2 (0/2)	0/2 (0/2)
H9: Unemployment			
H9a: Direct Effects	0/5 (3/5)~	3/6 (0/6)	3/6 (0/6)
H9b: Interaction	0/1 (0/1)	0/1 (0/1)	0/1 (0/1)
H10: Urbanization			
H10a: Direct Effects	0/5 (2/5)~	6/6 (6/6)	6/6 (0/6)
H10b: Interaction	--	½ (1/2)~	0/1 (0/1)
H11: Ethnic Fractionalization			
H11a: Direct Effects	5/5 (5/5)	0/6 (0/6)	2/6 (0/6)
H11b: Interaction	0/1 (1/1)~	1/2 (0/2)	0/1 (0/1)
Anti-Discrimination			
General Prohibition	--	6/6 (6/6)	6/6 (0/6)
LGB Prohibition	--	6/6 (6/6)	0/6 (0/6)

Formal Institutions Hypotheses

H1: Policy adoption will occur more quickly in states with more movement resources and either a proportional or mixed electoral system than in states with a majoritarian system.

Across the three substantive policy chapters, the results for the electoral system indicate that direct effects are more important than interaction effects and the direction of the impact varies by policy type. A proportional representation system increases the probability of partnership recognition policy adoption but decreases the probability of anti-discrimination policy compared to a majoritarian system. The direct effects of proportional representation on military policy were not statistically significant. The direct effects of a mixed electoral system are similar: the probability of policy adoption decreases with regard to anti-discrimination policy and is statistically significant across all five models, but increases with regard to partnership recognition and statistically significant in two models. Furthermore, the findings for the direct effects of a mixed electoral system on military policy are insignificant.

A possible explanation for the differences between the findings for anti-discrimination and partnership recognition policy adoption is the scope of the norm of equality within democratic systems and the electoral mandate generated by a majoritarian system. Norms of equality of economic opportunity existed in democracies longer than more expansive understandings of equality that include access to social institutions. Thus an electoral mandate for equal treatment of minorities, including LGB persons, with regard to economic opportunity in a majoritarian system is more feasible than a mandate promoting the adoption of partnership recognition policy.

Another explanation is the prevalence of larger more inclusive welfare states where the electoral system is either proportional representation or mixed. Partnership recognition has proceeded from minimal rights based on cohabitation to nearly full marriage equality in gradual steps in most states. Where access to social services is not directly linked to marriage, it may be easier to pass legislation extending cohabitation rights. Although a majoritarian system does not preclude a large welfare state, amongst the cases used in this analysis the size of the welfare state also varies in conjunction with the electoral system. This same connection does not hold for anti-discrimination policy adoption, thus a proportional representation system or a mixed system improves the probability of partnership recognition policy adoption but does not improve the probability of anti-discrimination policy. Future research should include a measure of the welfare state to differentiate between the effect of the electoral system and the impact of the welfare state.

H2: Policy adoption will occur more quickly in states with more movement resources and a mixed executive than in states with a presidential executive.

The results across policy areas show that, contrary to expectations, states with a president rather than a mixed executive have an increased probability of policy adoption. This finding was consistent across all models of anti-discrimination and partnership recognition policies and in three of the five models of military policy. The structure of the executive is statistically significant as a direct effect with a mixed executive structure decreasing the probability of anti-discrimination policy adoption compared to a presidential system. Models incorporating mixed electoral systems as an intervening effect on movement resources produced inconsistent and insignificant results for the interaction term.

Presidential systems generally use a national popular election to determine who will hold the office of the presidency, thus presidents have a national electoral mandate but must also appeal to majority. Because LGB persons have constituted a particularly unpopular minority until recent developments in some states, it was anticipated that presidents would view support of LGB rights as a political liability in courting the median voter. Nevertheless, the findings show that presidential systems increase the probability of LGB rights policy adoption. This may also be attributable to the electoral mandate that presidents command. The national electoral mandate gives the office of the president a more powerful position and more opportunity to be a strong leader. Prime ministers, in contrast, must maintain the coalition and pursue a policy agenda accommodating multiple parties.⁵⁷ Thus compromise is common and policy change may be slower.

It is important here that a feature of the data set used here is that the majority of the states in which a mixed executive exists are parliaments that have had coalition governments for most or all of the time frame under analysis. Furthermore the possibility that this finding is spurious is possible, especially in light of the small number of presidential systems in the data set. Expansion of the dataset to include additional states may change the findings or the feasible explanations for the positive relationship between presidential systems and the probability of policy adoption. As the number of presidential systems included the analysis grows the likelihood of spurious findings should decrease. Furthermore, it is also probable that expansions in the dataset will decrease the predominance of coalition cabinets in parliamentary systems and increase the number of states with majority cabinets.

⁵⁷ It is important here that a feature of the data set used here is that the majority of the states in which a mixed executive exists are parliaments that have had coalition governments for most or all of the time frame under analysis. Furthermore the possibility that this finding is spurious is possible, especially in light of the small number of presidential systems in the data set.

The leadership capacity afforded a president by the electoral mandate not available to any other elected official on the national level creates an opportunity for the president to incorporate her or his ideological preferences into the policy agenda. A strong leader capable of reshaping the policy agenda may be essential to the development of minority rights for unpopular groups facing strong social norm opposition. Prime ministers are inherently less capable of functioning as a strong leader in a similar fashion as attempts to undermine strong social norms could threaten the stability of a coalition government.

H3: Policy adoption will occur more quickly in unitary states with more movement resources than in federalist states.

For military personnel and partnership recognition policy, federalist states rather than unitary states had a higher probability of policy adoption across all of the models. In each policy area this finding was statistically significant for one of the models. The models for anti-discrimination policy find federalism to be statistically insignificant. Findings for federalism as a filtering mechanism on social movement resources were mixed based with variance in the direction of impact depending upon the policy and the operationalization of movement resources. With regard to partnership recognition, increases in publications in federalist states produced a higher probability of policy adoption and were statistically significant.

Federalism is statistically significant for military personnel policy adoption as well as partnership recognition policy adoption, but in both cases the significance is only in one of five models. The limited statistical significance is cause to be cautious in speculating on the implications of these results and to reserve strong assertions until additional data can be incorporated into the analysis, particularly expansion of the data to include a larger number of federalist states.

These findings further suggest that policy diffusion via emulation and the perceived importance of policy harmonization within federalist democracies should be given greater consideration in future modeling. It was beyond the scope of this research to examine preexisting lower level policies prior to the adoption of national policy, but the results indicate that policy diffusion via the policy laboratory model may be important. National governments may choose to adopt LGB rights policy as an effort to harmonize policy across regions or cities that are otherwise diverging into leaders and laggards within the state. It is also possible that states will move to adopt national policy after policy entrepreneurs observe the benefits of expanding LGB rights at the lower level of governance and thus advocate for national adoption.

H4: Policy adoption will occur more quickly in states with more movement resources and that are members of the European Union.

The direct impact of European Union findings was not statistically significant for any of the three policy areas. The results for the interaction terms between the European Union movement and LGB movement resources are similarly insignificant in all three policy areas. Given the EU's focus on forming a common market with equal treatment of and free movement for workers, one would expect the EU to have a significant influence on anti-discrimination policy adoption. The weak implementation powers of the EU combined with noncompliance in member states due to domestic politics and the lengthy process of pursuing policy change via the European Court of Justice have resulted in large lags between EU policy adoption and member state policy adoption in some cases. For example, in 2004 the European Commission began infringement proceeding against Austria, Germany, Finland, Greece, and Luxembourg, all of whom had failed to fully transpose the Equal Employment Directive 2000 into national law by the 2003 deadline. In 2009 the Commission issued a reasoned opinion regarding Germany's

continued lack of complete compliance. Over time greater compliance will be achieved amongst member states, thus it is likely that as the data set is expanded chronologically the European Union will become significant.

H5: Policy adoption will occur more quickly in states with more movement resources and that have signed the European Convention on Human Rights.

The findings for antidiscrimination policies confirm the hypothesis for the direct effect of the ECHR consistently across the five formal institutions models and are statistically significant in four. The findings for military personnel and partnership recognition policies do not support the hypothesis, with four of the five models for military policy and three of the models for partnership recognition showing a reduced probability of policy adoption for ECHR member states. Conceptualizing the ECHR as a filter on movement resources via an interaction term produces mixed results that lack statistical significance.

The influence of the ECHR, much like that for the EU, may be forthcoming due to the lack of implementation power wielded by the European Court of Human Rights. Although decisions in the European Court of Human Rights may compel states to adopt policy that will bring the state into compliance with the ECHR, the duration until implementation of these decisions is likely a function of the legal system in individual states. Additionally these decisions may be a function of the particular policy addressed by the European Court of Human Rights. For example, following *Lustig-Prean and Beckett v United Kingdom* 2000, military policy with regard to LGB persons changed nearly immediately in the United Kingdom.

Additionally, there is wide variety in the duration between an initial filing with the European Court of Human Rights and its eventual hearing. For example, *Baczowski and Other v Poland* 2007, a case regarding infringement upon LGB persons' right to assemble via the

banning of a Pride parade, was decided in merely a year. In contrast, it took the court five years to hear *Case of L. and V. v Austria* 2003, a case regarding discrimination in the age of consent and criminalization of homosexual acts between consenting adolescents. Because of the wide variety in case duration, it may be that the content of the case and nuances of the court, rather than whether or not it is subject to decisions of the court, is relevant.

The findings discussed above show that while formal institutions are important to understanding when policy change occurs, they do not appear to be functioning as a filter on social movement resources. The direct effects of formal institutions were statistically significant and/or consistent in many of the models examined, while the interaction terms were not. The only interactions between formal institutions and movement resources that were statistically significant were those for proportional representation and federalism, both of which decreased probability of partnership recognition policy adoption.

Direct effects are more important than intervening effects for formal institutions because formal institutions are static. Formal institutions have an independent effect on the probability of policy change, with states with similar institutions more likely to engage in policy learning from one another but unlikely to be impacted by the size of the social movement. Institutional change in the formal structures of government is rare and sluggish, so over time the impact of these institutions does not vary with the changes in the strength of social movement.⁵⁸ Of the findings for formal institutions, the findings for the electoral system, because of their statistical significance, and federalism, because of their consistency, provide the most interesting results.

⁵⁸ In contrast, changes in the ideological positions of those in power or changes in who hold power within these institutions will vary over time. Additionally as these changes occur, access to the system for the LGB movement changes and stronger movements will be in a better position to take advantage of such changes. This point will be more fully specified in the subsequent discussion of informal institutions, particularly with regard to increases in the number of women in parliament.

The direct effects for electoral systems indicate differences across policy type as proportional representation and mixed electoral systems were statistically significant and reduced the probability of antidiscrimination policy adoption, but increased the probability of military and partnership recognition policy adoption. Because proportional representation systems allow electoral space for the development of labor parties, anti-discrimination legislation that may be perceived as threatening to labor constituencies will be more difficult to pass. While LGB organizations have found labor movements dominated by white collar workers to be allies, LGB organizations seeking coalitions with labor unions and parties dominated by blue collar workers may be less successful. Thus as post-industrial shifts continue in advanced democracies and unions increasingly represent white rather than blue collar workers, we should expect labor parties to forge alliances with the LGB movement as has been the case in Australia and Italy for example.

Simultaneously, proportional representation systems are associated with larger welfare states, which decreases the costs associated with expanding marriage rights. Thus a proportional representation system increases the probability of partnership recognition whilst decreasing the probability of anti-discrimination policy.

In Chapter Two it was explained that the multiparty system generated by proportional representation electoral rules should benefit LGB rights as it would increase the probability that a party would include LGB rights in their platform. Absent from this hypothesis is the relevance of labor parties in the multiparty system and the resistance of labor parties to anti-discrimination protections based on sexual orientation. Thus while the PR system may facilitate the rise of a party amenable to inclusion of LGB interests in the platform, the PR system may also facilitate

the rise of labor parties that oppose LGB rights. Furthermore the inclusion of conservative parties in governing coalitions will further hamper the adoption of LGB rights policy.

Rayside (2007) notes that benefits accorded to informal cohabitants create an important segue toward greater recognition of same-sex partners. As the benefits accorded exclusively to marriage diminish, the likelihood of marriage equality seems to increase. Thus it should be expected that where the welfare state provides more benefits unrelated to marital status, partnership recognition is more probable. The left-labor parties of the PR system decrease the probability of anti-discrimination policy, but are simultaneously related to a larger welfare state. Unlike anti-discrimination policies that are perceived as threatening to labor, the extension of partnership recognition through a series of gradual increases in cohabitation rights that apply to both opposite and same-sex couples may be perceived as beneficial to labor's constituency.⁵⁹

Federalism was originally hypothesized to reduce the probability of national policy adoption due to devolution and the divisions in LGB resources that are more likely to occur in federalist systems. The findings suggest that rather than delay national policy adoption, federalism improves the probability a state will adopt anti-discrimination, LGB-friendly military personnel, and partnership recognition policy. This may indicate that policy diffusion via the policy laboratories model rather than coercive diffusion via supranational institutions has greater value for LGB rights policies.

This section has reviewed possible explanations for the findings on electoral-system and federalism effects on LGB policy. The differences in statistical significance between the direct

⁵⁹ It is relevant that these are Social Democratic parties rather than Christian Democratic parties because Christian Democratic parties are likely to be opposed to extension of benefits outside of marriage as well as marriage equality and thus produce different results. Thus the previously discussed measure of party control of the executive was also insufficiently nuanced and needs specification as to coalition composition.

effects and the interaction effects increase the probability that the explanatory power of these variables would improve with more parsimonious revisions to the model.

Informal Institutions Hypotheses

Informal institutions were modeled separately from formal institutions and provide a distinct set of findings. Amongst the notable findings that distinguish informal from formal institutions is the relevance of interaction terms to these models. Similar to the results for the formal institutions models, the findings discussed briefly below indicate possibilities for improving the model while gaining greater parsimony.

H6: Policy adoption will occur more quickly in states with more movement resources and a higher percentage of females in the national legislature.

Across the models from each chapter, increases in the percentage of parliamentary seats held by women improved the probability the state would adopt an anti-discrimination policy, an LGB-friendly military personnel policy, and a partnership recognition policy. Furthermore, the interaction terms examining LGB resources in the context of higher percentages of women in parliament increased the probability of policy adoption in all three policy areas, though this finding was only statistically significant for anti-discrimination laws and varied by operationalization of movement resources for military policy.

One explanation for the importance of women in parliament is their relative liberalism compared to the male counterparts in parliament (Norris and Lovenduski 1989). Because women across parties tend to be more liberal than their male counterparts within the party, they are also more likely to support LGB rights. Additionally, liberal parties are more likely to nominate women for political office than conservative parties and liberal parties are more likely to be amenable to LGB rights policies (Kenworth and Malami 1999; Reynolds 1999).

Women in parliament may also be relevant in that this measure serves as a proxy measure for changes in gender norms and increasing post-materialist values in a society. Particularly in the context of a dataset constrained to advanced democracies, where differences in female representation are less attributable to structural differences such as variation in fertility rates or wage and literacy gaps for example, differences in the percentage of women in parliament are attributable to differences in the cultural barriers to women serving as political leaders (Norris and Inglehart 2001). Amongst these cultural barriers the two most notable are the dominance of Catholicism or Islam (Kenworth and Malami 1999; Paxton 1997; Reynolds 1999) and traditional attitudes toward gender roles (Norris and Inglehart 2001; Paxton and Kunovich 2003). Where gender norms are more relaxed and gender egalitarianism is more prevalent, more women are elected to political office (Paxton and Kunovich 2003) and support of LGB rights is higher (Herek 1988). Because of the importance of these findings, I will return to discuss the implications for both research and practical consequences for movement strategy subsequent to the review of the remaining hypotheses.

H7: Policy adoption will occur more quickly in states with more movement resources and an executive of a leftist party than where the executive is of a rightist or centrist party.

Rightist executives and centrist executives increased the probability of anti-discrimination policy adoption compared to leftist executives in four of five models for each, though this finding was not statistically significant. With regard to military personnel policy, the findings for rightist executives were also statistically insignificant, as were the findings for centrist executives. For partnership recognition policy a leftist executive is measured directly rather than as a null category but these results are also not statistically significant. When examining the

interaction between the party of the executive and LGB resources on the probability of policy adoption, the results are not statistically significant.

The literature supports the importance of amenable public officials, thus one would expect the party of the executive to be an important determinant of the duration until LGB rights policy adoption. The null findings may indicate that it is the presence of amenable officials in the parliament and, where applicable, the coalition composition that determines the duration until policy adoption. While the party of a prime minister is closely related to the composition of the coalition, it cannot provide a complete depiction of the power dynamic amongst the parties. Where the coalition is comprised of a large number of parties, it is less likely that LGB rights policy will be adopted regardless of the party of the prime minister. While these large coalitions may pass legislation tailored to the needs of each party's primary constituency, at the time of this reading an LGB party has not formed in any of the countries nor is there party in which LGB rights are primary to the party's platform. Future research including a measure of the size of the coalition would likely improve predictions of the probability of LGB policy adoption.

H8: Policy adoption will occur more quickly in states with more movement resources and greater positive change in GDP per capita.

Increases in GDP per capita neither increased nor decreased the probability of policy change for anti-discrimination, military personnel, or partnership recognition policies. Though there is statistical significance for the direct effects of GDP in one model of partnership recognition, this model indicates that changes in GDP result in an infinitesimal change in the probability of partnership recognition policy adoption. Furthermore, this finding can only be interpreted in the absence of LGB movement organizations or publications because of the inclusion of interaction terms in the model.

When the findings for the percentage of women in parliament are juxtaposed with the findings for change in GDP and those for unemployment, which will be discussed below, these results suggest that cultural norms are a greater determinant of policy adoption than economic conditions. Perceptions of minority threat to the labor market in time of economic contraction may only apply when the minority is highly visible based on ethnicity, for example the Roma, or religion, for example Muslim women who wear the hijab. Because the LGB population is “invisible,” expansion of anti-discrimination provision in employment does not engender perceptions of labor market threat.

H9: Policy adoption will occur more quickly in states with more movement resources and lower unemployment rates.

Higher unemployment rates are positively related to anti-discrimination policy and statistically significant in three of the six models. The direct effects of unemployment on military and partnership recognition policies are statistically insignificant. The interaction between unemployment and LGB movement resources is statistically insignificant for all three policies. Unemployment may be more relevant to anti-discrimination policies because anti-discrimination policy is often framed as an economic equality issue

As mentioned previously with regard to changes in GDP per capita, economic conditions are less important than cultural norms in part because booms in the economy do not necessarily result in LGB rights policy adoption. The minority threat thesis may be more applicable to more visible minorities whose entrance into the labor market is more obvious than an influx of LGB persons into the labor force. Ultimately this leads to statistically insignificant results and the need to reconsider the inclusion of economic measures in the model. An important caveat is that if one were to include developing states in the analysis it is possible that economic variables would

prove significant given greater variation. At the time of this writing such an expansion would invalidate the assumption of transnational commonality in LGB movement goals.

H10: Policy adoption will occur more quickly in states with more movement resources and greater urbanization.

Urbanization above the mean increases the probability of policy adoption in all of the models for both military personnel and partnership recognition policies and is statistically significant for all of the models examining military policy. Urbanization measured continuously decreases the probability of anti-discrimination policy and is statistically significant in two of five models. The results for urbanization acting as a filter on the impact of LGB resources are mixed with the only statistically significant interaction term indicating that LGB resources in a state with urbanization above the mean are less likely to lead to adopting LGB-friendly military personnel policy.

As mentioned in Chapter Three, urbanization measured continuously may decrease the probability of national anti-discrimination due to the propensity for urban areas to adopt anti-discrimination policies. Because LGB persons in urban areas that provide protections from discrimination may be less likely to devote resources to pursuing national policy change, in states with more urbanization, and thus more LGB persons in urban areas and protected from discrimination, national anti-discrimination policy has a lower priority in the movement. In Chapter Three I further speculated that this contrary finding would not hold for other policy areas and that urbanization would increase the probability of military and partnership recognition policy adoption. With regard to military policy this expectation is borne out but the findings for partnership recognition are statistically insignificant. This is likely attributable to the relatively small number of states that have adopted policies more closely approximating marriage equality.

Future expansion of the dataset will likely yield statistically significant results confirming these hypotheses.

H11: Policy adoption will occur more quickly in states with more movement resources and more ethnic fractionalization

Across the models for anti-discrimination policy, ethnic fractionalization increases the probability of policy adoption and is statistically significant. When ethnic fractionalization increases and there are a greater number of LGB organizations, the probability of anti-discrimination policy adoption declines, which is also statistically significant. Ethnic fractionalization fails to be statistically significant in its direct and interaction effects on military personnel policy adoption. The direct effect results for ethnic fractionalization are also statistically insignificant.

Ethnic fractionalization may be more relevant to anti-discrimination policies because in an ethnically diverse society multiple minorities are unlikely to be seeking access to military service and are not excluded from marriage. While a diversity of organizations representing a variety of oppressed groups may pursue adoption of anti-discrimination legislation, racial and ethnic minorities have not been excluded from marriage or military service in the states and time parameters of the dataset. Thus the state may respond to the variety of groups pursuing protections from discrimination via a single policy with broad reach. Furthermore, some of these minority groups may be represented by political parties whose demands must be given consideration in the governing coalition, but an LGB party does exist at the time of this writing in any of the countries investigated in this research.

The finding about increased LGB resources in ethnically diverse societies may indicate that the LGB movement is more fractionalized in a state with a greater number of ethnic groups.

As was the case within the women's movement, ethnic minorities may experience the LGB movement as dominated by the majority ethnic group and thus unreflective of the interests that arise of intersecting minority identities. As a result the number of LGB organizations and/or publications increases in an ethnically diverse state as a function of splintering rather than growing strength. For example, in the United States lesbians of color responded to perceived invisibility within the LGB movement by forming separatist groups such as Berkley's Lesbians of Color or United Lesbians of African Heritage. Because these separatist organizations often form around a different set of goals than "mainstream" LGB organizations, the proliferation of organizations may actually weaken the movement via diminishing the notion of a unified voice.

The most relevant findings to future examination are those for the importance of women in parliament and the interaction between women in parliament and LGB movement resources. The results for women in parliament support recent literature that has demonstrated interesting and previously insufficiently explored policy development and changes related to increases in the number of women in the legislature such as the work of Bolzendahl and Brooks (2007) demonstrating the connection between women in parliament and welfare state spending. The results here confirm findings that have suggested that women in parliament improve minority rights policies. Increases in the number of women in the legislature not only directly improve the probability of anti-discrimination, military personnel, and partnership recognition policies, they also facilitate the impact of LGB movement resources.

Women in parliament are also closely associated with decreases in gender norming which in turn increases gender fluidity and improves tolerance and acceptance of homosexuality. Additionally, women in parliament may serve as a proxy for broader post-materialist values in the public, which is associated with increased emphasis on rights and equality. Much like

decreased gender norming, post-materialist values are positively related to tolerance and acceptance of homosexuality and greater rights for LGB persons.

In addition to the implications for model specification, the findings for women in parliament also suggest that LGB rights organizations would be well served to pursue strategies aimed at changing social norms, particularly those regarding traditional gender roles, and promoting increases in women's political representation. Where the LGB movement is successful in changing these norms it becomes more likely that women will be elected to office and thus the probabilities of LGB rights policies will increase. This is important as LGB organizations consider the most efficient and effective deployment of limited resources, recognizing that some LGB organizations would better serve the community if they pursued a more cultural strategy. For example, ILGA-Europe's *Be Bothered* campaign or litigation strategy via the European Court of Justice may be a less effective use of resources compared to their funding of start-up LGBTQ organizations in Eastern European countries and public information campaigns. While the *Be Bothered* campaign has garnered support from 26% of the members of the European Parliament, it is likely that the *Step Up!* Campaign in the Balkans and resource support to the Campaign Against Homophobia organization in Poland for example will ultimately yield greater returns with regard to policy change both within specific states as well as at the European Union level. This seems particularly true in light of states such as Latvia where national resistance to EU intervention in social policy related to LGB rights has been particularly strong and 19% of members of parliament were women in 2010 (Inter-Parliamentary Union 2011).

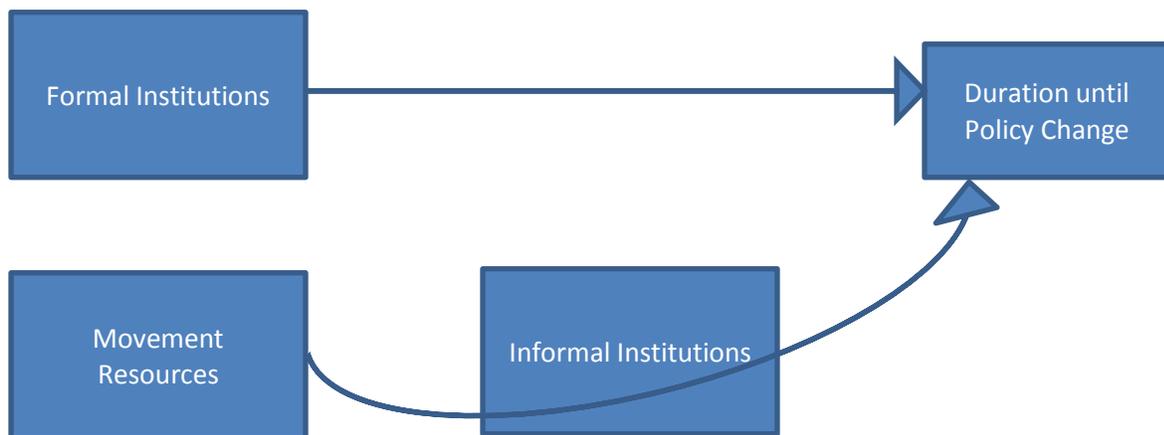
Causal Mechanisms and Model Adjustments

Democratic state governments must respond to pressures from the electorate to change policy, thus the development and growth of a social movement applying such pressure should result in policy change. The timing of success varies across democratic states even when the demands of the social movement are essentially identical. This dissertation proposed that these variations were a function of not only differences in the strength or resources available to the movement across states, but also a function of the formal and informal institutions impeding or encouraging policy responsiveness from the government. As noted above, the findings suggest a reformulation of the proposed causal structure. Chapter Two provided a visual representation of the model depicting formal and informal institutions as distinct filters intervening in the impact of social movement resources. Two alternative model specifications are discussed and presented in Figures I1 and J1 subsequently.

The results suggest that one possible reformulation of the model would continue to formulate informal institutions as intervening in the relationship between LGB movement resources and LGB rights policies while conceptualizing formal institutions as a set of independent variables that make some systems more or less likely to change policy as depicted in Figure J1 below. Because formal institutions are modeled distinctly from movement resources and informal institutions, this formulation accommodates the role of influential leaders who promote policy that is not aligned with social norms or a strong focus of the movement. When then presidential candidate Bill Clinton incorporated LGB access to military employment into his campaign, he elevated an issue that was minor to the LGB movement agenda and did not have strong popular support. Thus the adoption of Don't Ask, Don't Tell would likely be more accurately modeled with the importance of the presidential system and leadership ideology separate from the role the movement and cultural values played in policy development.

Furthermore, this model may allow for consideration to be given to the political background of office holders that directly impact the policies pursued and yet are distinct from the broader informal institutions of the state.

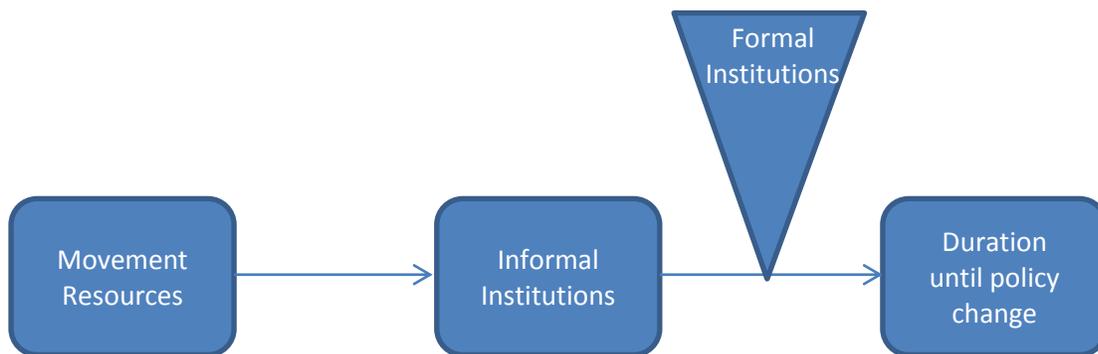
Figure 11



The findings may alternatively be interpreted to suggest formal institutions should be incorporated as a specifying variable impacting the effects of cultural change on public policy in a stages-based model in which movement resources impact informal institutions which subsequently affect policy change. As noted previously, the results indicate social movement resources interact with changes in informal institutions to affect the probability of policy adoption, but interaction terms with formal institutions fail to produce statistically significant results. The direct effects of formal institutions indicate that there is an impact but that this could be as a mechanism for increasing or decreasing political responsiveness to cultural change. In

states such as Sweden changing views on gender norms and the related policy such changes promote have been expedited by the proportional representation electoral system.

Figure J1



As social movement resources increase, the ability of the social movement to apply pressure for policy change also increases. The findings from the models for both formal and informal institutions support this contention when movement resources were measured as the number of national organizations. When movement resources are operationalized as publications, the findings fail to support the hypothesized relationship. The contrary findings for publications likely reflect the lack of specificity in the measure. This research used a count of the number of publications but ideally the ability to disseminate information would be measured via the readership of LGB publications rather than the number of publications available. Furthermore,

the measure of LGB publications would benefit from the inclusion of content analysis specifying the proportion of particular publications devoted to political mobilizing versus apolitical content.

Both updated versions of the model take into account the most relevant finding for social movement tactics: LGB movement resources are more effective in increasing the probability of policy adoption when directed at changing cultural norms. Additionally both of the alternative model specifications will accommodate the suggested changes to variables and operationalization as previously described in the review of the hypotheses and above.

It is unsurprising that the results of this research indicate a need to revise the theory and reconsider the best model for the relationship between LGB movement resources, formal and informal institutions, and policy adoption. Given the limited cross national exploration of these interactions as well as the continuously changing political landscape for LGB rights, frequent revisions of the theory and the model should be expected as the movement and policies develop. As with other minority social movements, the goals of the movement and the relationship between the movement and the polity will change over time, the revisions to the model proposed above are also intended to accommodate these changes.

Suggestions for Future Research

Comparative policy research examining the LGB social movement on this scale is new to studies of comparative politics, public policy, and social movements, thus this research should be understood as a step forward in an emerging area of study. Because a quantitative cross-national comparative policy study examining the effects of the transnational LGB movement has not previously been attempted, this research raises at least as many questions to pursue in future research as it attempted to answer. While certainly not an exhaustive list, this section attempts to

highlight some of the directions future research might take in light of the findings from this dissertation.

Because this dissertation examines a movement in progress, the most obvious next step is to extend the data chronologically. All research on current movement must choose cut points in which the data collection stops and the analysis begins, but these cut points should be regularly extended. In the case of the LGB rights movement much has happened between 2005 and 2012, particularly with regard to partnership recognition policy. Given an increased number of events, it is likely future research on partnership recognition policy adoption will be more likely to find statistical significance for more variables, thus increasing the credibility of the results.

In addition to a chronological extension of the data, a geographical extension of the dataset would likely improve the results of the analysis as well as provide a broader scope and greater diversity in the determinants. In order to maintain the validity of the claim of consistent goals across a transnational movement, the possibility of geographic extension is limited. As was the case for the initial case selection, states would need to be above the minimum polity score threshold as well as have a clearly advanced industrialized economy. To a great degree the chronological extension of the data will necessarily include a geographic extension as more states have moved toward a tertiary economy and away from an industrial and agricultural economy. As more states are included in the analysis, the diversity in the formal and informal institutions will also increase thus adding more dimension to our understanding of the relationship between social movement resources and these institutions.

As mentioned above, future research should reconsider the role formal institutions play in the policy process relative to social movements. Rather than an intervening variable, formal institutions may serve as an antecedent variable, shaping the movement itself in terms of

demands, structure, and tactics. Much as the aforementioned research differentiates between cultural movement resources and political movement resources, a study examining how formal institutions alter the shape of the movement requires continued case study research on the movement organizations, publications, and other resources across states. For example, in the United States the federalist structure has encouraged the development of many state-level organizations and a few umbrella and national organizations that are highly professionalized. We might then examine if the same movement structure exists in other federalist states and if national rather than local organizations are more likely to occur in unitary states. The differences in organizational structure to the movement would likely impact the duration until policy change thus indicating that a stages model would better serve our understanding of policy change as a function of the LGB movement. Relatedly, this research should also address concerns previously expressed that a greater number of organizations indicated division of labor and professionalization of the movement rather increases in strength. In such an instance the overlapping membership in such organizations created to establish a division of labor may inflate the anticipated impact of organizations. In the United States for example, the Task Force has ceased its lobbying functions in favor of serving predominantly as a research institution, devolving lobbying and political organizing to the HRC. Additionally, once the Palm Center was established the Task Force focused on policy areas outside the scope of military personnel issues because the Palm Center exclusively studies sexual minorities in the armed forces.

Finally a personal goal for future research is to extend the examination from the LGB movement and policies to include transgender persons and thus represent the full LGBT movement. This research goal is somewhere in between a distinctive new but related research project and an extension of this dissertation. While there are overlaps in terms of the goals, it is

often the case that extension of rights to the LGB community precede rights for transgender persons. Nevertheless, transgender rights are often included as clauses to policy regarding LGB rights and the two are often intertwined. Furthermore, the vast majority of the modern movement has taken up the LGBT acronym and included policy issues that pertain to the full range of LGBT persons. Thus while throughout this research I have spoken of LGB organizations and publications, most of these organizations now self-define as LGBT(Q).

Conclusion

When and where rights are extended to LGB persons is a function of the social movement and the formal and informal institutions in the state, though each of these factors may not play exactly the role initially conceptualized. This dissertation serves as an initial attempt to further incorporate studies of LGB politics into the broader comparative policy and social movement literature. Studying a movement in progress provides a unique opportunity to make predictions regarding future developments and subsequently review the accuracy of these predictions. Thus this research serves as a first foray into making such predictions regarding the states analyzed and will regularly need to be updated as policies are made and political and social contexts change.

The most important finding for movement activists is the importance of women in parliament. The LGB movement clearly benefits when women hold political office and this has important implications for the future of the movement. If women in public office are vital to policy gains, then it would seem that movement resources would be well spent on campaigns to increase the number of women elected to public office. Furthermore, this more broadly implies a relationship between LGB rights, women's rights, and post-materialism.

As this research continues it will incorporate a new understanding of the role of formal institutions, a more nuanced understanding of how policy types within LGB rights impact the determinants, and the need to increase the substantive character of cross-national data on the LGB movement.

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Appendix A: Formal Institutions Coding

Case Table

	Enter Date ⁶⁰	Electoral System	Executive Structure ⁶¹	Federalism	EU ⁶²	ECHR ⁶³
Australia	1971	Majoritarian	Parliamentary Monarchy	Federalist	--	--
Austria	1971	PR	Mixed Executive	Unitary	1995	1956
Belgium	1971	PR	Parliamentary Monarchy	Federalist	1958	1953
Bulgaria	2000	PR	Mixed Executive	Unitary	2007	1992
Canada	1971	Majoritarian	Parliamentary Monarchy	Federalist	--	--
Cyprus	1971	PR	Presidential	Unitary	2004	1961
Czech Republic	1990	PR	Mixed Executive	Unitary	2004	1993
Denmark	1971	PR	Parliamentary Monarchy	Unitary	1973	1953
Estonia	2000	PR	Mixed Executive	Unitary	2004	1993
Finland	1971	PR	Mixed Executive	Unitary	1995	1989
France	1971	Majoritarian	Mixed Executive	Unitary	1958	1953
Germany	1971	Mixed	Mixed Executive	Federalist	1958	1953
Greece	1986	PR	Mixed Executive	Unitary	1981	1953
Hungary	1990	Mixed	Mixed Executive	Unitary	2004	1990
Iceland	1971	PR	Mixed Executive	Unitary	--	1953
Ireland	1971	PR	Mixed Executive	Unitary	1973	1953
Israel	1971	PR	Mixed Executive	Unitary	--	--
Italy	1971	Mixed	Mixed Executive	Unitary	1958	1953
Japan	1971	Mixed	Parliamentary Monarchy	Unitary	--	--
Lithuania	1994	Mixed	Mixed Executive	Unitary	2004	1993
Luxembourg	1971	PR	Parliamentary Monarchy	Unitary	1958	1953
Netherlands	1971	PR	Parliamentary Monarchy	Unitary--	1958	1953
New Zealand	1971	Mixed	Parliamentary	Unitary	--	--

⁶⁰ The entrance date for states is stable across all of the chapters but the exit data will vary by policy for each state because a state exits the dataset when it has adopted the highest level of policy possible. States that do not adopt a policy or adopt a policy, but only a lower level policy remain in the dataset until 2005, the final year of observation.

⁶¹ In the analysis parliamentary monarchies are coded as mixed executive states, but the original coding from the Norris data set is as above.

⁶² Listed as the year the state joined the EU, which may be before the state enters the data set, during the analysis time, or after the last entry of the data set. The data used for analysis ends at 2005, thus states with years after 2005 were coded as non-member states.

⁶³ Listed as the year the state joined the Council of Europe or the date the treaty entered into force if the state was member prior to the drafting of the European Convention on Human Rights, which may be before the state enters the data set, during the analysis time, or after the last entry of the data set. The data used for analysis ends at 2005, thus states with years after 2005 were coded as non-member states. Observer states are not included.

			Monarchy			
Norway	1971	PR	Parliamentary Monarchy	Unitary	--	1953
Poland	1995	PR	Mixed Executive	Unitary	2004	1991
Portugal	1979	PR	Mixed Executive	Unitary	1986	1976
Romania	1995	PR	Mixed Executive	Unitary	2007	1993
Slovakia	1998	PR	Mixed Executive	Unitary	2004	1993
Slovenia	1992	PR	Mixed Executive	Unitary	2004	1993
South Africa	1994	PR	Presidential	Unitary	--	--
Spain	1978	PR	Parliamentary Monarchy	Unitary	1986	1977
Sweden	1971	PR	Parliamentary Monarchy	Unitary	1995	1953
Switzerland	1971	PR	Mixed Executive	Federalist	--	1963
United Kingdom	1971	PR	Parliamentary Monarchy	Unitary	1973	1953
United States	1971	Majoritarian	Presidential	Federalist	--	--

Appendix B: Antidiscrimination Policy Adoption

	Enter Date ⁶⁴	General Discrimination Prohibition	LGB Discrimination Prohibition
Australia	1971		1996
Austria	1971		2004
Belgium	1971		2003
Bulgaria	2000		2003
Canada	1971		1996
Cyprus	1971		2004
Czech Republic	1990	1993	2004
Denmark	1971		2004
Estonia	2000		2004
Finland	1971		1995
France	1971		1992
Germany	1971		2001
Greece	1986		2005
Hungary	1990	1990	2003
Iceland	1971	1995	1996
Ireland	1971		1993
Israel	1971		1988
Italy	1971		2003
Japan	1971		--
Lithuania	1994		2002
Luxembourg	1971	1971	1997
Netherlands	1971	1971	1992
New Zealand	1971		1993
Norway	1971		1998
Poland	1995	1997	2003
Portugal	1979		2003
Romania	1995		2000
Slovakia	1998		2004
Slovenia	1992		1995
South Africa	1994		1996
Spain	1978	1978	1995
Sweden	1971		1987
Switzerland	1971	1971	1999
United Kingdom	1971		2003
United States	1971		

⁶⁴ The entrance date for states is stable across all of the chapters but the exit data will vary by policy for each state because a state exits the dataset when it has adopted the highest level of policy possible. States that do not adopt a policy or adopt a policy, but only a lower level policy remain in the dataset until 2005, the final year of observation.

Appendix C: Military Personnel Policy Adoption

	Enter Date ⁶⁵	Allowed to serve with restrictions	Allowed to openly serve
Australia	1971	--	1992
Austria	1971	--	2004
Belgium	1971	--	2003
Bulgaria	2000	--	2002
Canada	1971	1988	1992
Cyprus	1971	--	--
Czech Republic	1990	1999	2001
Denmark	1971	1979	1981
Estonia	2000	--	--
Finland	1971	1981, 1989	1995
France	1971	1982	1992
Germany	1971	1990	2000
Greece	1986	2002	--
Hungary	1990	2000	--
Iceland	1971	--	--
Ireland	1971	--	1993
Israel	1971	1983	1993
Italy	1971	1985	--
Japan	1971	--	--
Lithuania	1994	--	--
Luxembourg	1971	1974	1997
Netherlands	1971	1974	1986
New Zealand	1971	--	1993
Norway	1971	--	1979
Poland	1995	--	--
Portugal	1979	1989	--
Romania	1995	1996	2000
Slovakia	1998	--	1996
Slovenia	1992	--	--
South Africa	1994	--	1996
Spain	1978	--	1985
Sweden	1971	1984	1987
Switzerland	1971	--	1992
United Kingdom	1971	1992	2000
United States	1971	1993	--

⁶⁵ The entrance date for states is stable across all of the chapters but the exit data will vary by policy for each state because a state exits the dataset when it has adopted the highest level of policy possible. States that do not adopt a policy or adopt a policy, but only a lower level policy remain in the dataset until 2005, the final year of observation.

Appendix D: Partnership Recognition Policy

	Enter Date ⁶⁶	Cohabitation Recognition	Registered Partnership/Civil Union	Civil Union/Marriage
Australia	1971	2003		
Austria	1971			
Belgium	1971	1998	1999	2003
Bulgaria	2000			
Canada	1971	2000		2005
Cyprus	1971			
Czech Republic	1990	2001		
Denmark	1971	1986		1989
Estonia	2000			
Finland	1971			2001
France	1971		1999	
Germany	1971	1997	2000	
Greece	1986			
Hungary	1990	1996		
Iceland	1971			1996
Ireland	1971			
Israel	1971	1994		
Italy	1971			
Japan	1971			
Lithuania	1994			
Luxembourg	1971		2004	
Netherlands	1971	1979		1997, 2001
New Zealand	1971	2000	2001	2005
Norway	1971	1989, 1991		1993
Poland	1995			
Portugal	1979	2001		
Romania	1995			
Slovakia	1998			
Slovenia	1992		2005	
South Africa	1994	1999		2005
Spain	1978			2005
Sweden	1971	1988	1994	
Switzerland	1971			
United Kingdom	1971			2004
United States	1971			

⁶⁶ The entrance date for states is stable across all of the chapters but the exit data will vary by policy for each state because a state exits the dataset when it has adopted the highest level of policy possible. States that do not adopt a policy or adopt a policy, but only a lower level policy remain in the dataset until 2005, the final year of observation.

Vita

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