

Gay Rights in Congress: Public Opinion and (Mis)Representation

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October 29, 2013

Abstract

Public majorities have supported several gay rights policies for some time, yet Congress has responded slowly if at all. We address this puzzle through dyadic analysis of the opinion-vote relationship on 23 roll-call votes between 1993 and 2010, matching members of Congress to policy-specific opinion in their state or district. We also extend the MRP opinion estimation technique so that it can be used more often for district-level analysis. While policy-specific opinion is a very strong determinant of roll-call voting, we find large gaps in responsiveness and biases in policymaking. Though opinion strongly influences white male Democrats, black lawmakers and white female Democratic lawmakers generally support gay rights and Republicans consistently oppose them, regardless of constituent preferences. We also unpack polarization over time, showing Democrats moving into and Republicans out of sync with their constituents. This yields a broader, deeper picture of the opinion-vote relationship.

1 Paths to Policy Change

Activists often pursue civil rights gains through the courts. High profile cases such as *Brown v. Board of Education* (school desegregation), *United States v. Virginia* (male-only admissions policies), and *Lawrence v. Texas* (sodomy decriminalization) secured important new legal protections for groups facing government discrimination. However, not all civil rights concerns can or even should be resolved through the legal system. Courts are reactionary institutions with little independent power, absent the necessary statutes, to prevent private employment discrimination or to provide enhanced sentencing for hate-motivated crimes. Moreover, judges arguably lack the enforcement mechanisms and democratic legitimacy necessary to engender broad social and political change (Rosenberg 1991). Where other routes for protecting rights are available, courts will tend to abstain from intervention.

The main alternative, legislative change, is thought to depend in part on cultivating public support. A rise in public favor, especially when combined with high issue salience, should increase civil rights advocates' leverage in the policy process, opening opportunities for reform (McAdam 1982; Tarrow 1998; Lee 2002). Indeed, the political science literature has long argued that changes in public preferences incite changes to government policy (Page and Shapiro 1983; Stimson, MacKuen, and Erikson 1995; Monroe 1998).

Yet, growing public support for gay and lesbian rights has *not* generated the policy gains one might expect. Polls show Americans now favor a variety of legal protections for LGBT individuals, many of which remain elusive (Egan and Sherrill 2005; Brewer 2008; Lax and Phillips 2009b). Even clear supermajority support for some policies has failed to spur legal change, leaving many states' gay rights policies more conservative than their populations. We document a similar mismatch at the national level. For example, the Employment Non-Discrimination Act (ENDA) has yet to pass both chambers of Congress despite majority public support in all states and nearly every House district. Even when protections have been enacted (e.g., the repeal of "Don't Ask, Don't Tell" and the adoption of a hate crimes law), there has been a long lag between opinion change and policy change, and the margin of support is typically much smaller in Congress than among

the public.

Is public opinion irrelevant to lawmaking on gay and lesbian rights? Should we expect future gains in public opinion to translate into new policies protecting LGBT individuals? We tackle these questions by interrogating the relationship between public preferences and congressional action on gay and lesbian rights. Specifically, we analyze roll-call votes on the five major gay rights issues addressed by Congress from the early 1990s to the present: same-sex marriage, adoption, hate crimes, employment non-discrimination, and military service. Using an extension of multilevel regression and poststratification (MRP), we estimate opinion on each of these issues over time by state and congressional district. Connecting these estimates to corresponding roll-call votes in a dyadic analysis, we gain new insight into the role public opinion plays in shaping civil rights gains in Congress.

We are not the first to consider the relationship between public opinion and roll-call voting, even on issues of LGBT rights (cf., Haider-Markel 1999, 2001; Lewis and Edelson 2000). However, the scope and precision of our data enable us to go much further than existing work and provide a more definitive and nuanced set of conclusions. First, our measures of constituent preferences place public opinion and roll-call votes on the same metric, expanding the inferences we can draw. Second, because our analysis spans two decades, we can compare votes cast by the same members of Congress (MCs) on the same issues and bills over time. This allows us to see whether shifts in constituent opinion lead to changes in MCs' positions, offering additional causal leverage on the opinion-vote relationship. Finally, we consider differences across lawmaker types. When casting roll-call votes, lawmakers have several sets of preferences to consider, including their party's, their own, and those of their constituents. How they weigh these sometimes diverging preferences is a critical question for our understanding of gay rights policymaking. We study how this balancing act varies by MC party, race, and gender.

On the surface, our analyses suggest a great deal of responsiveness. There is a positive and robust correlation between constituent support for gay rights and roll-call votes on these issues, even after controlling for an MC's party affiliation, ideology, and other personal characteristics. These

results hold in both chambers of Congress and for final passage as well as procedural votes. Furthermore, around two-thirds of the roll-call votes in our data are congruent with majority opinion in the MC's home state or district. Using similar evidence, existing work concludes that constituent preferences matter a great deal (Miller and Stokes 1963; Clinton 2006; Bafumi and Herron 2010).

However, this first cut is misleading, masking significant gaps in responsiveness—gaps that, while easily overlooked, are not trivial. First, vote decisions seem to respond strongly to constituent preferences for only a subset of MCs: white male Democrats. Republicans seemingly ignore pro-gay opinion majorities in their home districts or states and stick with their party's national platform. Black Democrats and white female Democrats often cast pro-gay roll-call votes regardless of their constituents' preferences. Second, when we compare roll-call votes cast by the same MCs on the same issues over time, we find strong evidence that MCs' positions rarely evolve, even in the presence of significant changes in constituent preferences.

Overall, our results indicate that growing public support for gay and lesbian rights has had a limited impact on Congressional roll-call voting. This is not to say that public opinion is irrelevant. If attitudes toward gays and lesbians had not dramatically improved since the 1950s, gay rights legislation might not have reached the floor of Congress. Still, our results show that public support does not necessarily translate into policy gains. Not all MCs are sensitive to liberalizing constituent attitudes, and those relatively impervious to public opinion often constitute a pivotal voting bloc in Congress.

Our findings speak to the standard of review federal courts ought to use in deciding cases affecting gays and lesbians, the most potentially effective political strategies for LGBT rights organizations, and the ongoing debate as to whether top-down or bottom-up forces produce civil rights gains (a strong opinion-vote relationship would support the latter). We offer a nuanced contribution to this literature: at least on gay rights issues, top-down forces (pro or con) influence some MCs (Republicans and those belonging to groups that have historically faced discrimination) while bottom-up forces influence others. Our results also contribute to debates in the government responsiveness literature over whether MCs follow an "instructed delegate" or "responsible party"

model (Miller and Stokes 1963). Finally, the extension to MRP we present expands the range of surveys that can be used to estimate opinion by congressional district, enhancing scholars' ability to study responsiveness in the House of Representatives.

2 Theoretical Expectations

Congress scholars have long argued that MCs' desire for reelection motivates them to consider their constituents' preferences when formulating policy positions (Mayhew 1974; Arnold 1990). Many studies have uncovered a positive correlation between some measure of public preferences and roll-call votes (e.g., Miller and Stokes 1963; Clinton 2006; Kousser, Lewis, and Masket 2007; Kastellec, Lax, and Phillips 2010), particularly on salient matters (Burstein 1981; Page and Shapiro 1983) and morality policy (Mooney and Lee 1995; Lax and Phillips 2012). Since debates over gay rights possess both characteristics, it seems reasonable to anticipate strong opinion effects on LGBT rights issues, akin to an "instructed delegate" model of representation in which MCs know the preferences of the median voter in their home state or district and act accordingly.

We argue, however, that one should not expect to observe the same opinion-vote relationship for all MC types. First, we anticipate differences by political party. By 1993, the national parties had already staked out divergent positions on LGBT rights. The 1992 Republican platform opposed the inclusion of sexual preference in federal civil rights statutes, the legal recognition of same-sex relationships, adoption of children by gay and lesbian couples, and open inclusion of gays and lesbians in the military; the Democratic platform called for civil rights protections for gays and lesbians and an end to discrimination in the Defense Department. Over time, the distance between the parties' official positions has grown, with the Republican platform not endorsing any gay rights legislation, while the national Democratic party has become increasingly liberal, supporting civil rights protections and marriage equality.

These policy positions are highly salient to important constituencies within each party's base—for Republicans, religious conservatives, and for Democrats, members of the LGBT community

and their allies. Their financial and electoral support has been courted, in large part, by party elites promising to either support or oppose legislative and judicial efforts to extend gay rights (see Fetner 2008). Such policy commitments, combined with ongoing interest group demands, are likely to pressure MCs to toe the party line, even if that means ignoring public opinion in their home district or state.

Elites who are themselves members of a group that has historically faced discrimination might believe in the need to set aside public opinion that is unfavorable to LGBT rights, drawing analogies between the civil rights struggles of their own group and the fight for gay rights. The case of black political elites is particularly instructive in this regard. The NAACP has supported gay rights since the debate over open military service reached the national stage in 1993, even over the objections of many of its members, and sometimes black public opinion more broadly (cf., Edsall 1993; Conant 2010; Wallsten 2012).¹ To justify these efforts, the NAACP frequently links the battle for LGBT rights to the struggle for black civil rights (cf., Robinson 2012).

3 Existing Empirical Research

While a few studies have attempted to evaluate the relationship between public opinion and government action on LGBT rights, they can provide only limited guidance for the questions we raise here. Most existing work has compared state-level opinion to state policy adoption (e.g., Haider-Markel 2001; Haider-Markel and Kaufman 2006; Lax and Phillips 2009b). Because this work focuses on system level outcomes, it cannot analyze the effects of constituent preferences on individual lawmakers' behavior. Moreover, we should not necessarily expect Congress to replicate patterns observed at the state level. Congressional votes are generally more visible to the public than votes in state legislatures, so federal lawmakers may be more sensitive to public preferences. Party pressures may also be greater in Congress than in most states.

¹The NAACP leadership also passed resolutions opposing the Federal Marriage Amendment, supporting civil rights protections, and (most recently) announcing support for same-sex marriage. The National Organization for Women (NOW) has supported the cause since 1971, when it expanded its mission to include lesbian rights.

While studies examining Congressional action on gay rights issues focus on individual MCs, they employ coarse measures of constituent preferences and legislative behavior. To capture the former, scholars create indices of pro-gay opinion by averaging constituent preferences across several issues; to capture the latter, researchers create indices averaging roll-call votes (Lewis and Edelson 2000; Haider-Markel 2001). But, surveys consistently document much greater support for some gay rights policies (e.g., protections against employment discrimination) than others (e.g., same-sex marriage). Further, indices of opinion and policy lack a common metric, constraining the inferences one can draw. Such an approach allows researchers to show the degree and direction of the correlation between constituent preferences and roll-call voting, but cannot tell us whether MCs follow their median constituent's wishes, whether policy is over- or under-responsive to opinion, how responsiveness varies across policies, or whether opinion change results in policy change. Our dyadic analysis overcomes these limitations by measuring constituent preferences on the particular roll-call votes we study.

4 Data and Methods

Roll-Call Votes. We evaluate the opinion-vote relationship in five issue areas, on a total of 23 roll-call votes. Some involve bills proposing extensions of gay rights relative to the status quo, while others are on bills proposing conservative changes to the status quo. For each vote, our estimates of opinion are specific to the issue being considered, and around the time of but almost always before the roll-call vote. So, if we are considering a 2010 vote to repeal the military's ban on service by openly gay men and women, we use survey data from 2010 and 2009. Tables in the Supporting Information (SI) show the roll-call votes and survey data used. The votes are:

- *Adoption*: Two House votes on amendments to the Washington D.C. appropriations bill seeking to prohibit couples in Washington D.C. who are not related by blood or marriage from adopting a child (passed in 1998 and failed in 1999).
- *Same-Sex Marriage*: Three proposals. (1) Defense of Marriage Act (DOMA), defining marriage

as a union between one man and one woman so that the federal government could not recognize same-sex marriages and no state would be required to recognize those from out of state (passed both chambers by wide margins). (2) Federal Marriage Amendment (FMA), which sought to amend the Constitution to define marriage as a union between one man and one woman (failed to receive the requisite supermajority in the House in 2004 and failed cloture votes in the Senate in 2006). (3) Amendment to the Health Care and Education Reconciliation Act, suspending the issuance of marriage licenses to same-sex couples in D.C. (rejected by the Senate in 2010).

- *Gays in the Military*: Four failed votes in 1993 and three successful votes in 2010. Of the four failures, two attempted to codify a full ban on military service by gays and lesbians, and two aimed to allow the President to decide the issue. We interpret a “yay” as a vote to allow gays to serve openly in the military, since this was President Clinton’s position. In 2010, the House voted twice and the Senate once to repeal “Don’t Ask, Don’t Tell” (DADT), the policy prohibiting the military from asking recruits about their sexual orientation, but allowing the military to discharge gay service members.

- *Jobs*: The Employment Non-Discrimination Act (ENDA) sought to prohibit employment discrimination on the basis of sexual orientation (defeated by one vote in the Senate in 1996 and passed the House in 2007). A 1998 effort to defund President Clinton’s executive orders prohibiting discrimination in the federal civilian workforce failed in the House.

- *Hate Crimes*: Votes in both chambers in 2000 and 2009 on a proposal to expand existing hate crimes protections to include sexual orientation. In 2000, the measure passed but died in conference committee. In 2009, the bill was signed into law.

4.1 Opinion Estimation

MRP Goes to Washington. To estimate opinion for each roll-call vote in our analysis, we use multilevel regression and poststratification (MRP). This technique, first presented by Gelman and Little (1997), uses national surveys and advances in Bayesian statistics and multilevel modeling to generate opinion estimates by demographic-geographic subgroups. MRP produces accurate

estimates of public opinion by state and congressional district (Park, Gelman, and Bafumi 2006; Lax and Phillips 2009a; Warshaw and Rodden 2012) using as few data as in a single national survey and fairly simple demographic-geographic models (Lax and Phillips 2009a).

MRP proceeds in two stages. In the first stage, we estimate a multilevel model of individual survey response, modeling opinion as a function of a respondent's demographic characteristics as well as her state and (where appropriate and available) her congressional district. The demographic variables used in our models are gender (male or female), race (black, Hispanic, or white and other), age (18-29, 30-44, 45-64, and 65+), and education (less than a high school education, high school graduate, some college, and college graduate). These build on standard predictors of social attitudes in general, and gay rights in particular (e.g., Cook 1999). We also include several state- and district-level variables that should be correlated with support for gay rights. State effects are modeled as a function of region (Northeast, Midwest, South, West, and Washington D.C.), the percent of the state's population that is African-American, the percent that is Mormon or Christian Evangelical, and the percent that voted for the Democratic presidential candidate in the prior election. District effects are modeled as a function of the region and state in which the district falls, the percent of the district population that is African-American, the share of the district vote received by the prior Democratic presidential candidate, and the percent of the state population that is Mormon or Christian Evangelical (since this data is not available at the district level). To control for slight differences across polls in question wording and ordering, we also include a poll variable. Overall, we find these predictors explain survey responses at the individual level well.

We use the results from this modeling stage to "predict" opinion for each demographic-geographic type of respondent (e.g., the probability that a black female in New York of age 18-29 with a college degree supports same-sex marriage). The second step is poststratification: the opinion estimates for each demographic-geographic respondent type are weighted (poststratified) by the percentages of each type in actual populations of the relevant geography (either the state or congressional district). This allows us to estimate the percentage of respondents within each type who support or oppose a particular policy. Population frequencies were obtained from either the Public Use Micro

Data Samples supplied by the Census Bureau. We convert the Census Public Use Microdata Area (PUMAs) to estimated congressional district frequencies using the Missouri Census Data Center's Geographic Correspondence Engine (geocorr2k). We use distinct poststratification files for the period before and after the 2000 national redistricting, after the 2003 Texas redistricting, and after the court-required 2003 Texas redistricting. For further details and validation of MRP, see Lax and Phillips (2009a, b, 2013) and Warshaw and Rodden (2012) for state and district, respectively.

“Cross-Level MRP:” One challenge in generating estimates by congressional district is that polling data for some issues do not include district identifiers, preventing the direct use of district-level predictors in the modeling stage even if we have them at the poststratification stage. One could employ MRP as is, using poststratification by congressional district, with demographic composition still leading to opinion variation. But we find we do better by incorporating additional district-level information, and our modification to MRP allows us to do so. We take the standard district-level response model, but use state-level (as opposed to district-level) values for presidential vote share and the share of the population that is African-American. Then, in the prediction stage, we combine the resulting coefficients on these variables with actual Congressional district values for presidential vote share and percent black to generate predicted public opinion by district. That is, the standard MRP would multiply district-level values of presidential vote by the coefficient on presidential vote measured at the district level, where the unit of analysis is an individual in a district. We cannot do this without a district identifier. But, if we assume the coefficient on presidential vote, say, has the same effect (value) when measured at the aggregate state level as it would when measured at the district level, then we can allow varying presidential vote by district to further capture district opinion variation.

FIGURE 1 shows how this modification improves opinion estimates (see caption for details). Our modified MRP strongly improves the accuracy of estimates, compared to using only state-level information in both the response model and prediction, producing estimates of district-level opinion that are very similar to those generated when district identifiers are available.

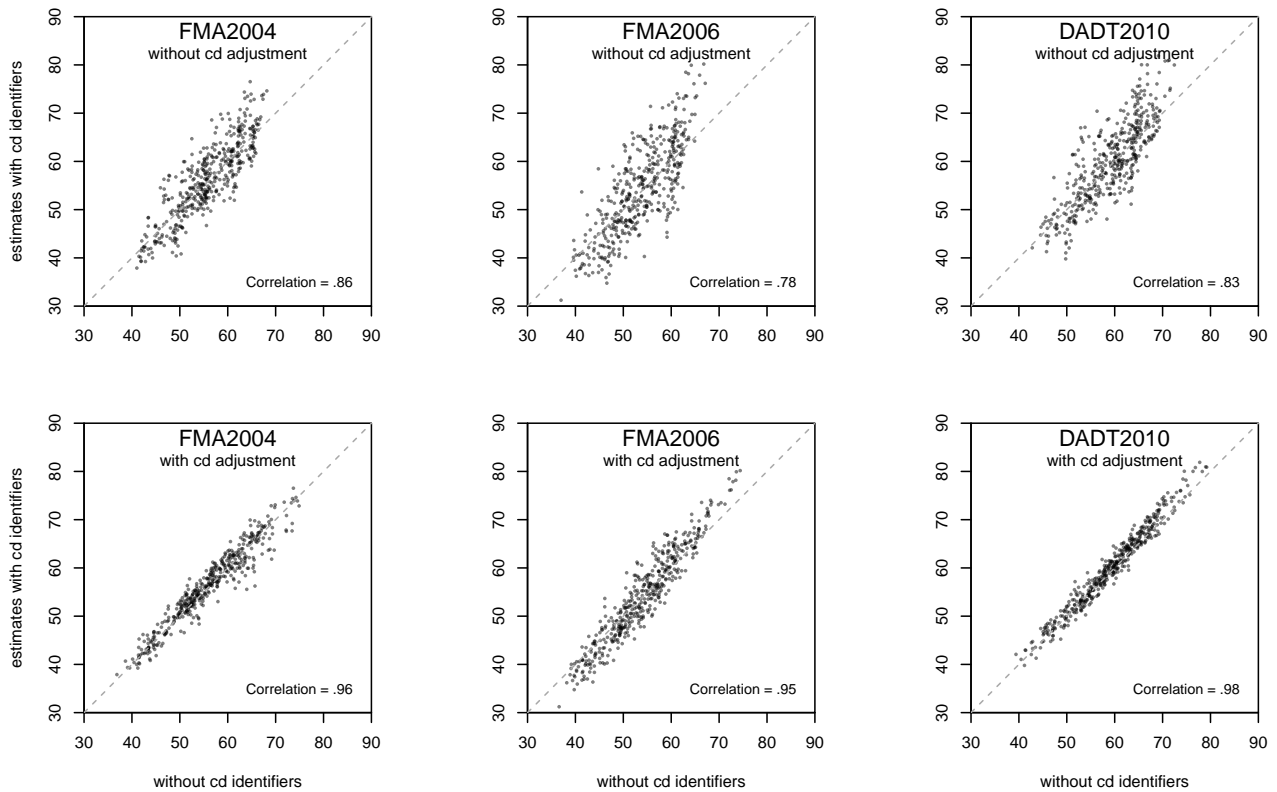


Figure 1: *Adjusting for Missing Congressional District Identifiers.* We take policies that do have congressional district identifiers in the survey data and estimate district opinion using: (1) a standard MRP that makes use of the congressional districts identifiers; (2) an MRP that uses state-level data for presidential vote and percent black in both the response model and in prediction; and (3) an MRP that uses state-level data for presidential vote and percent black in the response model, but district-level values for these variables in the prediction and poststratification phase (our modification). We plot estimates of district-level opinion for three issues using survey data that includes congressional district (cd) identifiers (on the y-axis) against similar estimates that do not make use of these identifiers (on the x-axis). The top panel uses state-level presidential vote and share black in both the response model and prediction phase; the bottom panel uses state-level values of these variables in the response model, but district-level values in the prediction phase. The 45 degree line is shown.

4.2 Opinion

TABLE 1 displays summary statistics for our 23 roll-call votes and issue-specific opinion at the time they occurred. Across all votes, our estimates are coded in the pro-gay direction, such that higher values always indicate higher support for gay rights.

Vote	Mean Pro-Gay Op. (%)	Min. Pro-Gay Op.(%)	Max. Pro-Gay Op.(%)	Pro-Gay Opinion Majorities (%)	Pro-Gay Vote (%)	Congruence (%)	Net Liberal Vote Bias House	Net Liberal Vote Bias Senate
ADOPTION1988house	44	21	63	35	46	69	43	
ADOPTION2000house	45	21	66	35	50	69	59	
DADT1993bansenate	46	26	66	40	63	61		18
DADT1993boxersenate	46	26	66	40	36	77		-8
DADT1993hunterhouse	48	21	76	45	66	63	79	
DADT1993meehanhouse	48	21	76	45	40	71	-30	
DADT2010house	59	39	79	87	54	68	-127	
DADT2010murphyhouse	59	39	79	87	59	65	-146	
DADT2010senate	58	45	70	88	68	74		-21
DCMARRIAGE2010senate	46	23	64	44	61	74		12
DOMA1996house	29	12	47	0	17	83	68	
DOMA1996senate	28	13	44	0	14	86		13
FMA2004house	56	38	77	80	45	62	-151	
FMA2004senate	55	42	73	78	51	59		-28
FMA2006house	54	31	80	65	44	73	-95	
FMA2006senate	53	40	67	58	49	80		-9
HATE2000house	69	47	90	98	54	56	-187	
HATE2000senate	67	51	82	100	58	58		-41
HATE2009house	71	49	92	100	59	59	-172	
HATE2009senate	69	51	83	100	69	69		-28
JOBS1995senate	56	29	76	72	48	64		-24
JOBS1998house	62	32	87	85	59	71	-113	
JOBS2007house	73	47	92	99	56	56	-180	
Mean	54	33	74	64	51	68	-73	-12

Table 1: *Opinion and Congruence by Roll-Call Vote.* The first three columns summarize opinion by district or state. The fourth is the percentage of constituencies with pro-gay opinion majorities. The fifth and sixth columns show percentages of pro-gay roll-call votes and congruent votes respectively. The final columns are the net number of pro-gay votes, by chamber, lost due to incongruence. There is a large range in opinion across states and districts.

5 Responsiveness and Congruence

If MCs act as instructed delegates on gay rights issues, we should expect their roll-call votes to be both highly responsive to and congruent with constituent preferences. By responsive, we mean there ought to be a strong positive correlation between the level of pro-gay public opinion in an MC’s home district or state and the probability that he or she will cast a pro-gay vote. By congruent, we mean that an MC’s roll-call vote aligns with majority opinion in his or her home district or state.

5.1 Responsiveness

Each graph in FIGURE 2 takes one roll-call vote and plots the probability of an individual legislator casting a vote in favor of gay and lesbian rights against our estimates of opinion. Responsiveness to public opinion is strong if the logit curve is steep and positively sloped. For each of our 23 roll-call votes, the probability of an MC casting a pro-gay vote is indeed positively correlated to

the level of public support for gay rights in the MC’s home district or state. Additionally, bivariate regressions show that the slopes of all of the logit curves are statistically significant at the 95% level. The strength of this relationship does, however, vary across policies. As we will show later, these correlations remain strong even in a multivariate setting.

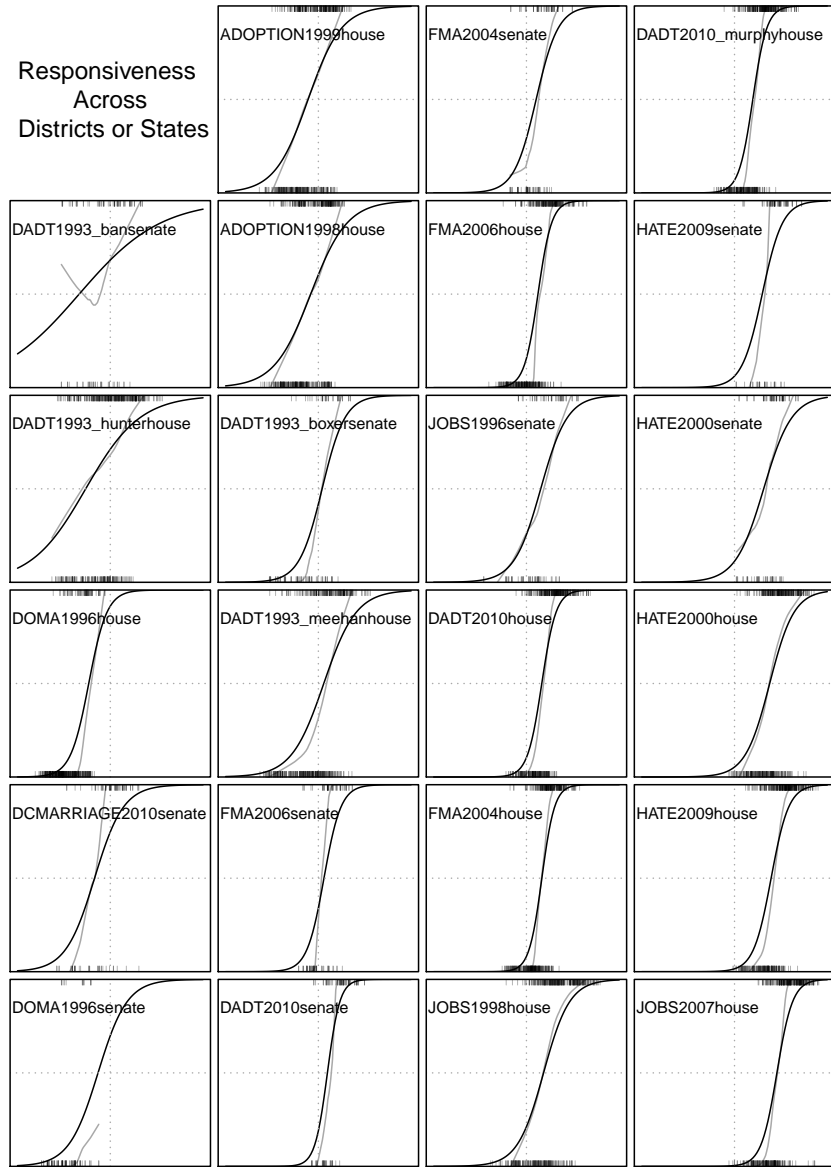


Figure 2: *Basic Relationships*. Each graph plots the probability of a pro-gay vote from a logistic regression curve (the dark line) given state or district opinion (lighter lines are lower curves). Each x- and y-axis runs from 0 to 100% for opinion and the probability of a pro-gay vote, respectively. Opinion in states/districts whose MC cast a pro-gay (anti-gay) vote are plotted in a “rug” on the top (bottom) axis. Dotted lines show the 50% marks in opinion and vote probability. Panels are ordered by the position of the curve relative to the 50% crosshair (top to bottom, left to right).

5.2 Congruence

If we look at congruence with majority opinion, however, the opinion-vote relationship appears weaker, and often biased in one direction or the other. Consider the following maps of majority opinion and roll-call votes on DADT and ENDA. There are far more conservative votes than there are conservative constituencies.

We can see this in FIGURE 2 as well. The dotted line extending from the x-axis indicates the 50% opinion level and the line from the y-axis indicates a 50% pro-gay vote probability. The y-value at which the logit curve intersects the vertical dotted line is the predicted probability of a pro-gay roll-call vote when public support is 50%. The x-value at which the horizontal dotted line intersects the curve is the needed level of public support for the predicted probability of a pro-gay vote to reach 50%. In a system of perfect majoritarianism (i.e., lawmakers act as instructed delegates and perfectly represent the preferences of the median voter), the regression curves would be very steep at 50% opinion and pass through the crosshair in the middle of each graph. This would yield perfect congruence. For some votes (cf. “FMA2006senate”), the curve comes close to this “majoritarian ideal,” but even a cursory glance at FIGURE 2 shows that we do not always observe perfect majoritarianism.

Indeed, we see some clear mismatches between preferences and votes. If the logit curve is shifted to the right of the crosshair, then a supermajority of liberal opinion is needed to bring about a 50% chance of a pro-gay vote. This indicates a potential conservative bias in policymaking. A curve shifted to the left of the crosshair demonstrates the opposite. The farther the logit curve falls from the crosshair, the greater the magnitude of the bias.

The 2007 House vote on employment non-discrimination (“JOBS2007house”) and the 2009 House vote on hate crimes (“HATE2009house”) both show a significant positive relationship between opinion and an MC’s vote and have steep responsiveness curves. When plotted, however, both fall to the right of the crosshair. This shift means that support has to be far above 50% to have a 50% chance of a pro-gay roll-call vote. Indeed, for “JOBS2007house,” constituent opinion needs

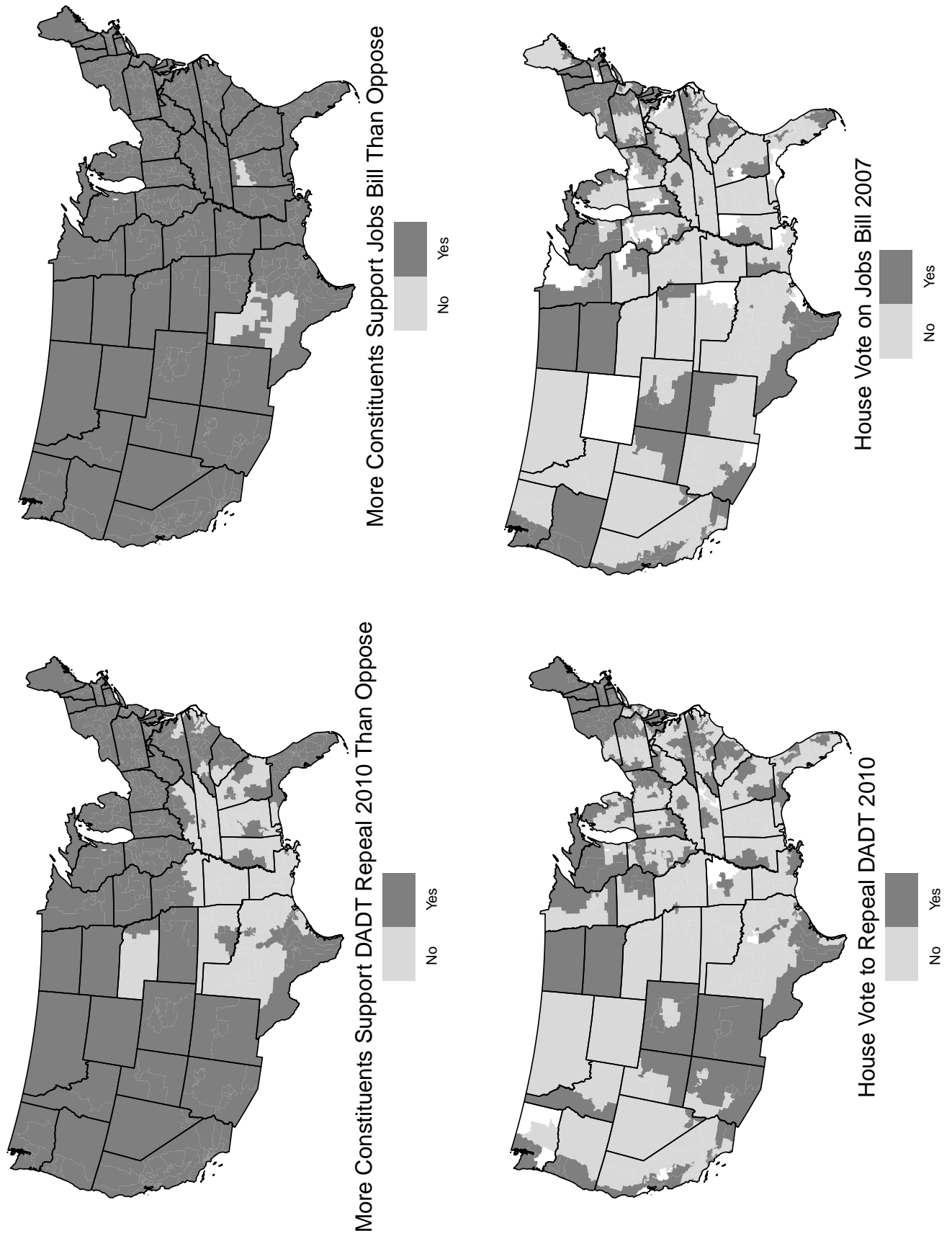


Figure 3: Maps of Opinion and Voting on "DADT2010house" and "JOBS2007house".

to be 71% before the MC has a 50% probability of casting a liberal vote. (This helps to explain the mismatch between opinion and voting displayed in the maps in FIGURE 3.) For “HATE2009house” constituent opinion needs to be 68%. Consequently, congruence for both is relatively low—only 56% for “JOBS2007house” and 59% for “HATE2009house.” In contrast, congruence for the 2006 Senate vote on the Federal Marriage Amendment (which has a responsiveness curve that passes through the crosshair) is a whopping 80%.

Overall, we find that 68% of the 4,982 terminal roll-call votes included in our analysis are congruent with majority opinion. If we only consider roll-call votes where the size of the opinion majority is greater than 60% or 70%, then congruence rises to 78% and 86%, respectively. By roll-call vote, congruence ranges from 56% to 86%. By issue area, congruence is highest on same-sex marriage (74%) and lowest on hate crimes (61%).²

Incongruence of different types could theoretically cancel out, but does not here. We observe far more conservative than liberal bias. Only 552 of 2,089 (26%) incongruent votes are in the liberal direction. When MCs vote against the preferences of their constituents, they tend to take a more conservative position. The final columns of TABLE 1 show the net liberal vote bias—the number of liberal incongruent votes minus the number of conservative ones. In the House, the greatest benefit the pro-gay side ever received from incongruence amounted to 79 votes (“DADT1993hunterhouse”), while they lost more than 150 votes four times (e.g., “HATE2009house”). These mismatches between opinion and voting can be very consequential. Under constituent opinion majorities, four roll-call votes would have flipped in the pro-gay direction (“FMA2004house,” “FMA2006house,” “FMA2006senate,” and “JOBS1995senate”), and three would have flipped the other way (“DADT1993senate,” “DADT1993hunterhouse,” and “DCMARRIAGE2010senate”).

²To put the 68% overall congruence figure for congressional votes into perspective, Lax and Phillips (2009b) find a similar 62% level of congruence between opinion and policy (not votes) at the state level, which is significantly higher than the 48% congruence level Lax and Phillips (2012) find over a much larger set of policy types. Matsusaka (2010) finds a 57% congruence level for a subset of those policies. Finally, Monroe (1998) finds a 55% match between national policies and national opinion majorities over a wide set of issues.

5.3 Differences by Party and Race

Our next step towards our multivariate models of responsiveness looks at “raw” data on voting records by MC, shown in FIGURE 4. Each graph plots mean pro-gay opinion against the career percentage of pro-gay votes cast by each MC.

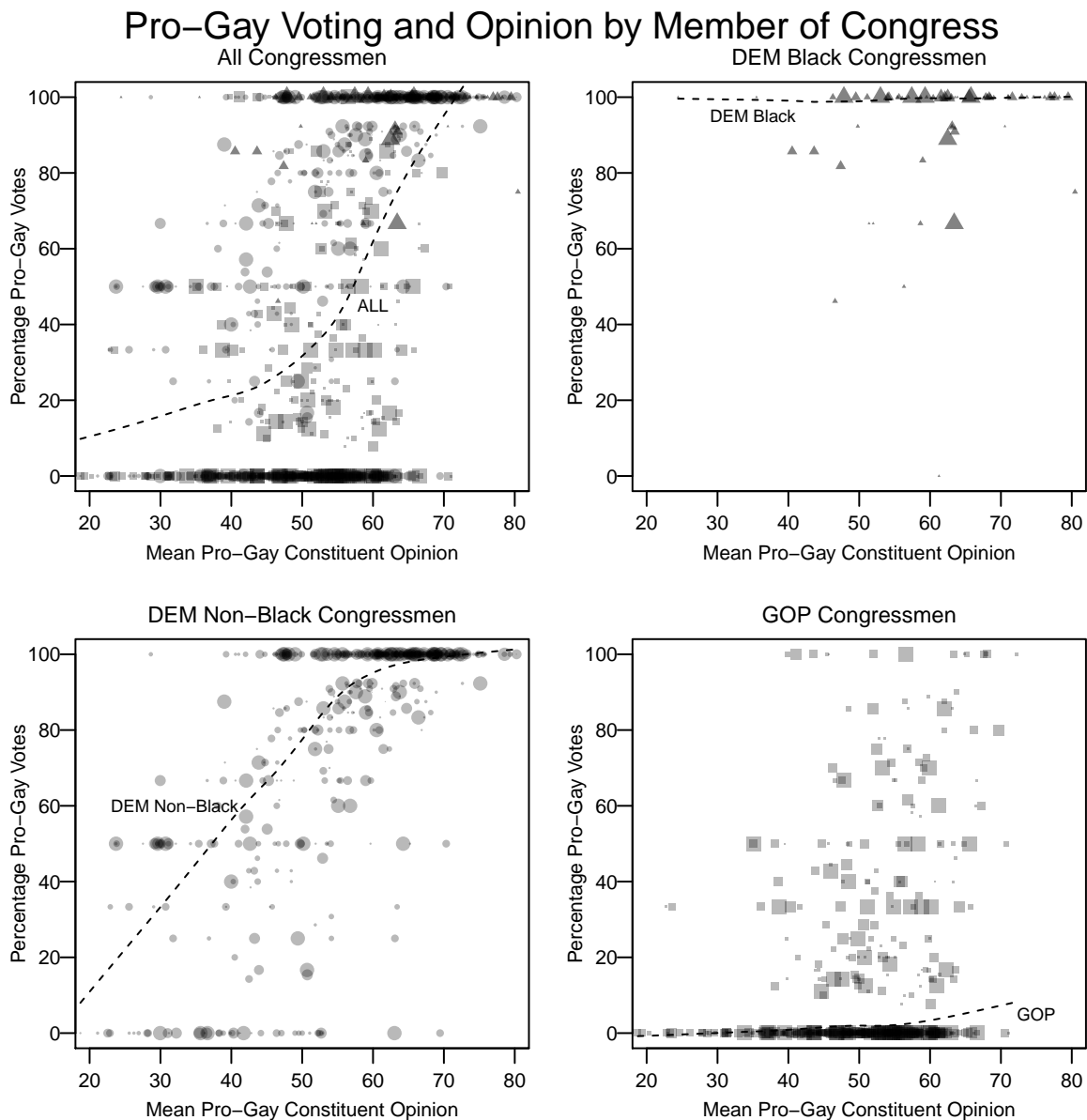


Figure 4: *Pro-Gay Voting Record Given Opinion, By Party and Race.* The unit is the member of Congress, plotted by mean pro-gay votes and mean pro-gay opinion. The size of the points shows the number of votes represented (from 1 to 14). Republicans are shown with squares, white Democrats with circles, and black Democrats with triangles. Lowess curves are displayed. Note that the overall direct relationship between voting and opinion (in the top left panel) is generally due to non-black Democratic MCs, and that neither black Democratic MCs nor Republicans show any simple relationship between opinion and voting.

The top-left panel captures the positive overall relationship between opinion and roll-call voting. However, this aggregate panel is deceiving. The other three panels show clear evidence of differential responsiveness by party and race. The aggregate relationship between voting and opinion is actually due to Democratic non-black (i.e. white, Hispanic, or other race) MCs; neither Democratic black MCs nor Republicans show much of a relationship between opinion and voting. Black MCs are concentrated at the top of the graph, and, comparing the flat lowess curve in the top right graph to the steep curve in the lower left, there is a much weaker relationship between opinion and voting for black Democrats than for non-black Democrats. Republican MCs are also less responsive to opinion than Democrats. Two-thirds of Republicans in our sample have never cast a pro-gay roll-call vote, regardless of opinion. (In the SI, we show a comparison to MC Nominate score for context.)

Overall, Democrats are congruent 82% of the time, while Republicans are congruent 52% of the time. There is only a tiny difference in congruence between white and black Democrats (but see below). Incongruent votes cast by Republicans are, unsurprisingly, only liberal 6% of the time, compared to 76% for Democrats. Broken down by race, 74% of incongruent votes cast by white Democrats are liberal, compared to 85% for black Democrats. Facing a pro-gay opinion majority, black Democrats vote pro-gay 95% of the time; facing an anti-gay opinion majority, they still do so 75% of the time. White MCs facing a liberal opinion majority cast a pro-gay vote 58% of the time, but only do so 22% of the time when facing a conservative opinion majority. For white Democrats, these numbers are 93% and 48%; for (white) Republicans, they are 19% and 7%.

5.4 Vote Switching

Another way to see the limits of opinion is to consider whether changes in opinion lead to changes in voting. One of the benefits of analyzing responsiveness over a long time period is that we can study MCs who cast multiple votes on the same issues over time, assessing whether opinion change matters (we might not expect votes to change if opinion has not). There are five issues with roll-call votes in different sessions: adoption (1998, 1999), “Don’t Ask, Don’t Tell” (1993, 2010),

the Federal Marriage Amendment (2004, 2006), hate crimes (2000, 2009), and employment non-discrimination (1998, 2007). Since support for gay rights has been steadily increasing over time, we are most interested in studying the extent to which MCs shifted from opposition to support for gay rights. Hence, we will focus on the 687 (of 1,453) pairs in which the first vote was against gay rights (note that this is not a random sample of MCs, which should be kept in mind when interpreting the following findings).

Overall, vote switching is rare, occurring in only 6.3% of vote pairs (91 switches). However, when it does occur, it is correlated with opinion change and party. When opinion change was positive, 13% switched. When opinion change was negative, under 4% switched. Flipping this, switchers saw an 8% increase in pro-gay opinion between votes on average, while non-switchers saw only a 1% increase.

On the partisan dimension, Democrats are much more likely than Republicans to switch. White male Democrats who started out with an anti-gay vote in an anti-gay district, whose district shifted to being pro-gay, had a 65% chance of switching to the pro-gay position in the second vote. In contrast, white male Republicans whose districts started out as anti-gay and switched to pro-gay had only a 4% chance of switching. Where opinion change was positive, over half of Democrats switched, but only 3% of Republicans did.

FIGURE 5 plots pro-gay constituent opinion at the time of the first vote against pro-gay opinion at the time of the second vote. Each point represents a legislator who voted twice on a particular issue. The key area, from a responsiveness standpoint, is the top left quadrant. Here, we have MCs whose constituents did not support gay rights at the time of the first vote, but did at the time of the second. In a world of perfect majoritarian responsiveness, all of the dots in this quadrant would be black (i.e., every legislator should switch his vote). However, this is far from the case. In reality, only 16 of the 78 MCs (21%) in this quadrant switched their votes (14 of 23 Democrats switched, while only 2 of 55 Republicans did). We are not seeing fewer Republican switchers simply because their constituents are conservative on gay rights. As this graph indicates, many Republican states and districts crossed the 50% threshold between the two votes; yet, their MCs did not follow.

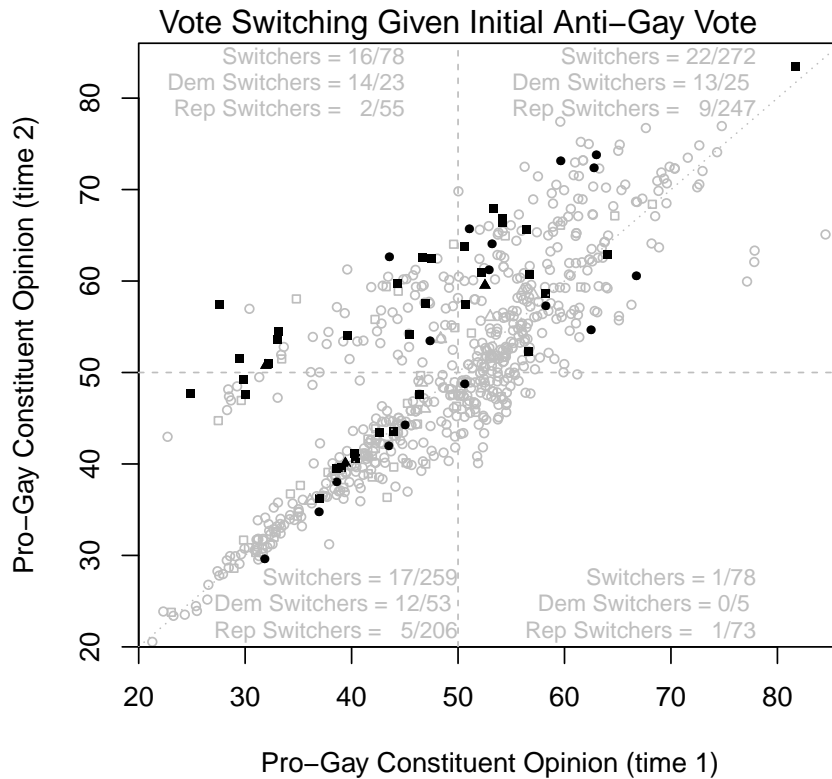


Figure 5: *Vote Switching*. We plot voting behavior for the 687 pairs of votes by the same legislator on the same issue where the initial vote was anti-gay. Each circle is a Republican, each square a Democrat, filled in when the second vote was pro-gay, and hollow when the second vote was anti-gay. The x-axis shows opinion at time 1 and the y-axis at time 2, with the 45 degree line showing where opinion has not changed. We break the votes into quadrants to show whether opinion at each time was above or below the 50% mark. The fraction switching within each quadrant is shown.

In the top right quadrant, we could see “corrective” votes: MCs who were incongruent at time one could become congruent at time two. This is rare. Only 22 of the 272 MCs (8%) in this quadrant switched their votes. The remaining 250 MCs voted against gay rights in both sessions, against the wishes of their constituents. The vast majority of MCs—247 of 272—in this quadrant are Republicans; and of these, only 3% switched to the pro-gay position in the second vote. Over half of the Democrats in this quadrant—13 of 25—switched.

6 Models of Roll-Call Votes

We present multivariate models of responsiveness in which the dependent variable indicates whether the roll-call vote cast was pro-gay (liberal). We include indicator variables for *Republican*, *Female*, *Latino*, *Black*, and *Senate* (compared to being a member of the House). We also include both dimensions of the Poole and Rosenthal measures of MC ideology, *DW Nominate 1* and *DW Nominate 2*. TABLE 2 displays results from eight model variants, to check robustness across specifications (with further notes in the SI) and to facilitate various “all else equal” comparisons (which is also to note that raw coefficients must be interpreted with caution). We allow for varying intercepts and slopes for opinion.

The basic relationship between voting and opinion holds: MCs whose constituents have higher levels of pro-gay opinion are far more likely to cast pro-gay votes, even after controlling for party and ideology (which are themselves strongly influenced by constituent preferences). The effects of opinion also remain when we control for Democratic presidential vote share in the state or district, and other similar predictors. At an average value of opinion (in Model 1), one additional point of policy-specific opinion increases the chance of policy adoption by approximately 5 percentage points.

Party is also a clear predictor of voting (e.g., Models 2, 4, and 7; in Models 6 and 8, the coefficient on *Republican* captures the effect thereof after controlling for Nominate score, making for a strange all-else-equal comparison). Model 4 also shows that blacks and Latinos tend to vote pro-gay relative to whites, controlling for opinion (and not controlling for Nominate). Models 5 and 6 show almost no difference between blacks and whites once we control for Nominate, but this is only true on average as explained later.

Regression results confirm that black MCs are more likely to cast pro-gay votes than white MCs (see the positive, significant coefficient on *black* in Model 4). Additional pro-gay support matters less for black MCs than white MCs, as indicated by the negative and significant coefficient on the interaction with opinion in models 7 and 8. These models allow for the effects of opinion

Responsiveness Regressions (Did the legislator cast a pro-gay vote?)								
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8
Opinion	6.2**	5.7**	4.5**	6.0**	4.5**	4.3**	6.0**	3.0**
	0.6	0.5	0.5	0.5	0.5	0.5	.5	.5
Slope St.Dev.	2.5	1.9	1.9	1.8	1.8	1.8	1.9	1.9
Republican		-3.70**		-3.6**		.7**	-3.7**	-1.1**
		0.1		0.1		0.2	0.1	0.3
Female				1.2**	1.1**	1.4**	1.3**	1.4**
				0.1	0.2	.3	.3	.4
Fem.*Rep.						-.6*	-.3	-.07*
						.3	.4	0.4
Latino				0.5*	0.2	0.2	0.5*	0.4
				0.3	0.3	0.3	0.3	0.3
Black				0.9**	-0.1	-0.2	0.5**	-1.0**
				0.2	0.2	0.2	0.2	.3
Senate				0.3	-0.1	-0.1	0.3	-.7**
				0.5	0.4	.4	0.5	0.3
Black*Op.							-2.0**	-2.2**
							0.5	.5
Latino*Op.							0.2	-0.4
							0.7	0.7
Republican*Op.							-0.8**	-.6**
							0.3	0.3
Female*Op.							.4	0.8
							.6	0.7
Fem.*Rep.*Op.							-.1	-0.5
							.9	1.0
DW Nom1				-5.0**		-5.0**		-5.5**
				0.1		0.1	0.3	.3
DW Nom2								-2.2**
								0.1
Intercept	0	2	0.2	1.7	0.1	-.2	1.8	1.0
	0.3	0.3	0.2	0.4	0.3	.2	0.4	.2
N	6435	6435	6427	6435	6427	6427	6435	6427
AIC	6198	3923	3454	3834	3405	3398	3823	3062

Table 2: *Responsiveness Models*. Standard errors are shown below the coefficients. Continuous variables are standardized (subtracting the mean and dividing by 2 standard deviations, putting them on the same scale as each other and roughly the same scale as the dichotomous variables). Two-tailed tests are used: * < .10, ** < .05.

to vary by MC type. For each additional point of policy-specific opinion (based on Model 7), the probability of a white male Democrat casting a pro-gay vote rises by 5. For white Republicans, the probability only rises by 4, and for black Democrats, it only rises by 3. We also used Model 7 to calculate the level of pro-gay opinion needed for a 50% probability of casting a pro-gay roll-call vote for different types of MCs, ordered from most pro-gay to least (for the average roll call):

<i>The “Coin Flip” Point</i>	
Black Female Democrats	31%
Black Male Democrats	38%
White Female Democrats	40%
Latino Male Democrats	44%
White Male Democrats	46%
White Female Republicans	58%
White Male Republicans:	66%

Overall, we find strong evidence for our hypothesis that support for gay rights should be especially high amongst MCs belonging to groups that have historically faced discrimination. Though our findings about Latinos depend on model specification, we consistently find that African-American and female MCs are especially likely to cast pro-gay votes. Turning to differential responsiveness, however, race seems to be more influential than gender. While women are not any more or less responsive to growing support for gay rights than men, changes in opinion have less influence on African-American MCs than their white colleagues. This is primarily because black MCs strongly support gay rights, even if their constituents do not.

7 Time Trends

To some extent, the patterns noted thus far form a snapshot, one that obscures as much as it reveals. So, we now unpack these results over time. Setting aside party again for now, we assess time trends in opinion and voting, and the relationship between them, in FIGURE 6.

Reading these panels in order tells the following story:

- [1] Mean pro-gay opinion increased over time, from around 45% to around 60%.
- [2] The number of pro-gay opinion majorities increased more sharply, from around 35% to 85%.
- [3] However, the percentage of pro-gay roll-call votes cast increased far less dramatically, from 50% to 60%.
- [4] Surprisingly—for now—overall congruence stayed nearly constant (around 70%).
- [5] and [6] But, the nature of incongruence changed drastically. Incongruence, once leaning to the

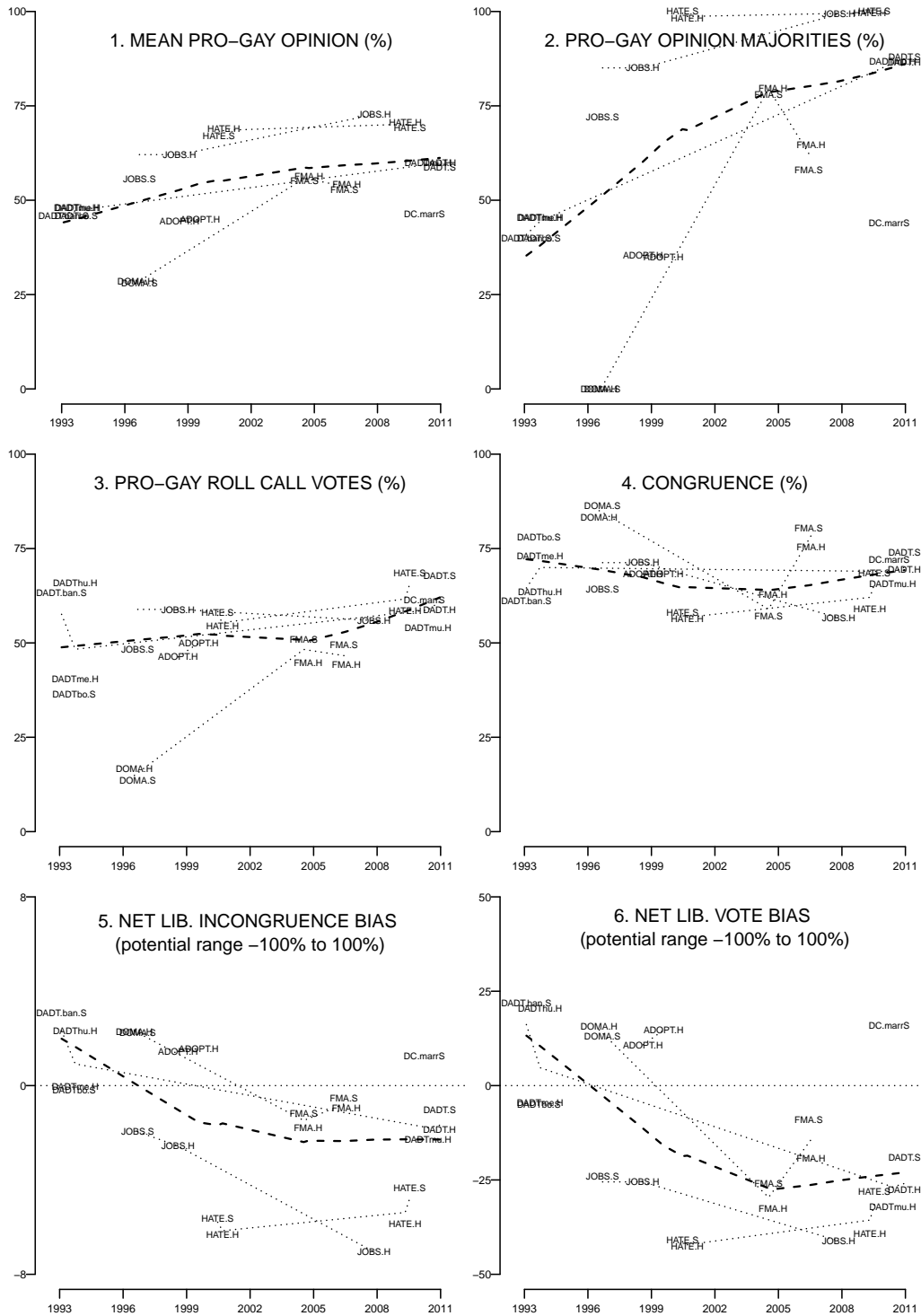


Figure 6: *Opinion, Votes, Congruence, and Bias Over Time*. Averages for each stated quantity are shown over districts or states, as appropriate, over time. The dashed line and dotted lines are lower curves for all policies and policy area subsets, respectively.

liberal side, now strongly cuts against pro-gay policy, measured either as a percentage of incongruence or by the net vote bias (under +15% to -25%). The predicted conservative vote bias from incongruence now averages 109 votes in the House (i.e., 109 votes are “lost” because MCs are not following constituent opinion) and 25 in the Senate.

This shows significant change over time, missed by our earlier snapshot, in which we showed that the pro-gay side lost an average of 73 votes in the House and 12 votes in the Senate (see TABLE 1). That snapshot also obscured the liberal voting bias occurring early in our time period, which cancelled out in the mid-1990s before tilting conservative.

These are important take-away points, but even more is revealed by exploring party differences over time, as in FIGURE 7. Five of the panels are parallel to the panels in the previous figure and are labeled [P] to indicate that. These graphs reveal the following additional points:

[1P] Support for gay rights has grown in both Democratic and Republican constituencies over time. While the parties started roughly in the same place, in terms of opinion in their districts/states, Democrat-represented constituencies (DRCs) have grown more liberal at a slightly higher rate than Republican-represented constituencies (RRCs), leading to a small party gap today (roughly 5 percentage points).

[2P] There is a much larger gap between the parties in terms of opinion majorities, but this gap has stayed constant over time. DRCs went from a rough split between pro-gay and anti-gay majorities to nearly 100% pro-gay majorities. However, even a majority of RRCs have been majority pro-gay since the late 1990s (75% as of 2011).

[3P] Within Congress, though, we observe something different. Democrats have steadily voted more pro-gay over time, starting from a relatively high base rate. Republicans, however, have remained relatively constant around a much lower rate (less than 15%) and have not changed along with their RRCs. In sum, as Democrats have moved into sync with their constituents, Republicans have dropped out of sync with theirs.

[4P] Since RRC pro-gay majorities have become far more common, Republican congruence rates have plummeted from 75% to 35%. Meanwhile, Democratic congruence has increased.

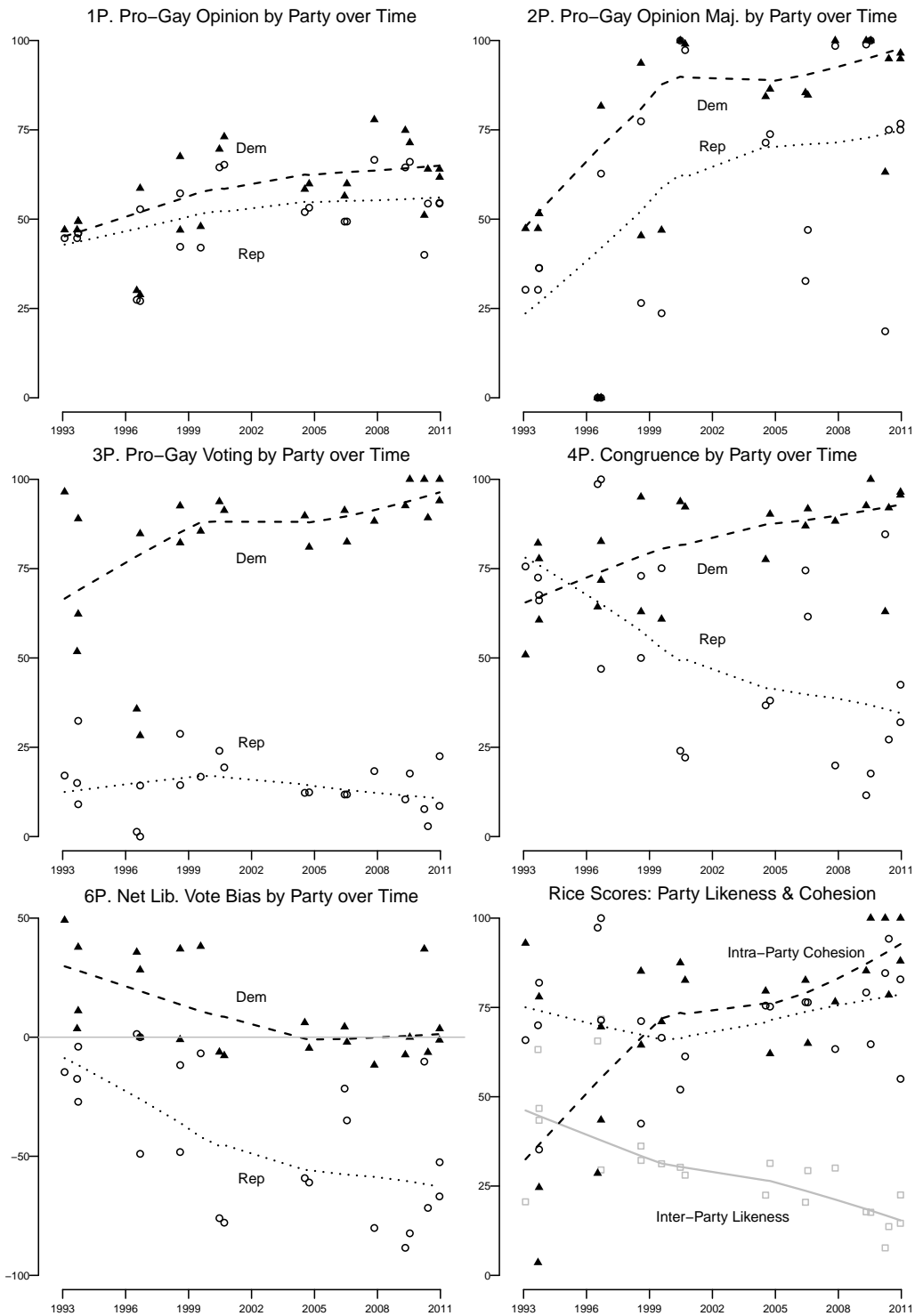


Figure 7: *Parties Over Time*. Panels other than the last are numbered in parallel with FIGURE 6, but broken down by party. Democrats are shown with solid triangles and a dashed lower curve; Republicans are shown with open circles and a dotted lower curve. The bottom right panel contains Rice Likeness Scores (shown with gray open squares and gray solid line) and Rice Cohesions Scores.

[6P] This is partly because DRCs have moved in line with the initial pro-gay voting rates observed, and partly because Democrats have moved to match their increasingly pro-gay DRCs by voting along those lines. The initial liberal vote bias by Democrats disappeared by the early 2000s, and they have stayed in line on average since (that is, the remaining incongruence cancels out). Republicans, who started out with balanced incongruence, now show clear conservative bias relative to their RRCs.

Congruence remained constant overall because the increase in Democratic congruence made up for the decrease in Republican congruence. Until 2004 or so, both parties contributed to the growing conservative vote bias, with Democrats losing their liberal bias and Republicans gaining a conservative bias. Since then, Democrats have stayed in sync while Republicans have increased their conservative vote bias, mostly passively, by not following their constituents as they tipped over into pro-gay majorities.

The result is that while the gap between Democratic and Republican districts has grown only slightly, in Congress it has grown dramatically. We focus more directly on this polarization in the final panel of FIGURE 7. The Rice Likeness Score is the absolute difference between the percentage of yeas cast by each party, subtracted from 100, revealing the degree of similar pro-gay voting rates between parties. Cohesion is the Rice Cohesion Score for voting agreement within each party (absolute difference between the yea and nay votes cast within a party) (Rice 1925, 1928). Cohesion has risen and likeness plummeted, a clear display of polarization. Rather than responding to constituent opinion, Republican MCs are sticking with their party's conservative position.

8 The Civil Rights Analogy

While the number of black MCs is not large enough to affect many outcomes, given the vote margin on the roll-call votes we study, this finding still presents a puzzle about the relationship between race and representation. Around the time of the DOMA votes, surveys demonstrated that 25% of

African-Americans expressed support for same-sex marriage (30% of whites did so). But, black MCs cast 55% pro-gay votes on DOMA (whites cast 13%). Around the time of the two FMA votes, 58% of African-Americans in the electorate supported the pro-gay position (compared to 54% of whites), and black MCs cast 82% pro-gay votes (whites 41%).

If descriptive representation cannot explain black MCs' strong and consistent support for gay rights in Congress, might we be seeing the kind of anti-majoritarian minority rights protection advocated by Madison in *Federalist 10*? We hypothesized that MCs belonging to groups that have historically faced discrimination, like women and African-Americans, would be especially likely to support gay rights—even against the wishes of the majority—because they would view these as civil rights deserving especially strong protection.

To explore this, we coded all floor speeches made on “Don’t Ask, Don’t Tell” and its repeal in 2010, the Defense of Marriage Act, and the Employment Non-Discrimination Act (for details and examples, see SI). On all four votes, arguments involving civil rights play a greater role in speeches by black Democrats than white Democrats or Republicans. On the 2010 repeal of “Don’t Ask, Don’t Tell,” all arguments by African-American MCs centered around civil rights. We suspect that, in general, black MCs who were socialized in the civil rights era will be especially supportive of gay rights in the contemporary era. Regressions (not shown) reveal the expected cohort effect. Older cohorts of black MCs are more likely to cast pro-gay votes, relative to younger cohorts of black MCs, conditioned on opinion. We find no similar relationship for white or Latino MCs.

Though they might be less persuaded by the need for vigilance in minority protection, other members of the legislature seem to view gay rights as civil rights as well. While Poole & Rosenthal note that most conflict occurs on the first ideological dimension today (DW Nominate 1), we find that the second dimension, which tended to represent racial justice issues for much of the twentieth century, also influences voting on gay rights issues (see Model 8). MCs' preferences with regard to civil rights appear to be influencing their willingness to support gay rights.

9 LGBT Power and the Courts

Justice Scalia's dissent in *Lawrence v. Texas* (which overturned state bans on sodomy) received a great deal of attention for its blunt language on gay rights and the political influence of gays and lesbians: "[The Court's opinion is] the product of a law-professional culture, that has largely signed on to the so-called homosexual agenda, by which I mean the agenda promoted by some homosexual activists directed at eliminating the moral opprobrium that has traditionally attached to homosexual conduct." He invoked the lack of Congressional action or support for gay rights as evidence that pro-gay attitudes are counter-majoritarian: "So imbued is the Court with the law profession's anti-anti-homosexual culture, that it is seemingly unaware that the attitudes of that culture are not obviously 'mainstream'; that in most States what the Court calls 'discrimination' against those who engage in homosexual acts is perfectly legal; that proposals to ban such 'discrimination' under Title VII have repeatedly been rejected by Congress." This excoriation of the Court majority assumes that legislative action and inaction reflect the will of the people. Scalia accused the Court of "tak[ing] sides in the culture war, departing from its role of assuring, as a neutral observer, that the democratic rules of engagement are observed." Though he did not define "democratic rules of engagement," context suggests he meant legislative action taken in accordance with normal representative government: The "hand" of a legislature, he argued "should not be stayed through the invention of a brand-new 'constitutional right' by a Court that is impatient of democratic change."

Our findings suggest the core assumption above is incorrect. We do not address Scalia's arguments from a normative perspective; we merely point out that political science research does not back him up. While public opinion does influence legislative behavior on these issues, responsiveness is not only imperfect, but systematically (though not universally) biased in a conservative direction. Rather than the public having pro-gay policies imposed upon them by Congressional or other elites, it is instead failing to impose a majoritarian "homosexual agenda" on Congress.

When the courts deal with gay rights issues, they must decide upon a standard of review. In ascending order of rigorousness, the available standards are rational basis, intermediate scrutiny, and strict scrutiny. In order to uphold a facially discriminatory law under the first standard, the

Court must find only that there exists a rational basis for the law, and begin with a presumption of constitutionality. Strict scrutiny begins with a strong presumption of unconstitutionality: the government must have a compelling interest in the law, and the law must be narrowly tied to that interest. There are two reasons why a Court would apply strict scrutiny: if the state law violates a fundamental right, or if the population affected by the law constitutes a “suspect class.” In a now famous footnote in *United States v. Carolene Products*, Justice Stone wrote that “prejudice against discrete and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities,” such that in those kinds of cases, the Court may need to employ a more rigorous standard. At present, “suspect classes” include race, religion, and national origin. We do not speak here to the “fundamental right” basis for strict scrutiny, but can speak to the second basis.

While gays and lesbians are obviously a minority that has historically faced discrimination, that alone need not mean the normal political process will fail to protect them today. But, we have shown that gays and lesbians cannot necessarily rely on the political process to further their rights. The anti-gay bias in policymaking is actually countermajoritarian; even majority support is often insufficient for pro-gay policies to be adopted in Congress. Gay political power is limited when even majority support does not facilitate favorable policy outcomes.

10 Responsiveness, its Limits, and the Future of Gay Rights

We have studied congressional voting on gay rights issues, exploring responsiveness to policy-specific (district- or state-level) public opinion, and congruence between opinion majorities and roll-call votes, with attention to variation over time and across different types of MCs. We provide key new insights into the most important determinants of roll-call voting on an issue that lies at the heart of America’s ongoing “culture wars.” Methodologically, we have extended the reach of the MRP opinion-estimation technique to deal with data concerns for substantive district-level analysis, showing that one can generate accurate district-level opinion estimates using polls lacking

congressional district identifiers for each respondent. Substantively, we find that policy-specific opinion is a strong determinant of voting, even after controlling for legislator characteristics and various diffuse measures of opinion. Despite this strong degree of responsiveness, however, there is also persistent bias cutting against constituent will. We document substantial incongruence between votes and opinion majorities, which has significant implications for policymaking in this area. Disaggregating MCs by party, gender, and race illuminates important nuances in the opinion-vote relationship.

We also find increasing polarization at the elite level, which is particularly striking in comparison to the steady degree thereof at the constituent level. Though states and districts represented by Republicans have grown more supportive of gay rights over time, their representatives in Congress have not typically followed. In other words, while Democrats in Congress have steadily increased their support for gay rights, as their constituents have liberalized on these issues, Republicans have maintained the same positions against gay rights that they had in the early 1990s. This has led to a large partisan gap in responsiveness, and a growing conservative bias in policymaking.

Taking race and gender into consideration, we find even more nuance in the opinion-vote relationship. While public opinion has a major impact on a limited (though certainly not negligible) subset of MCs—white male Democrats—opinion is far less influential for others. On one side, black MCs and white female Democratic MCs generally cast pro-gay roll-call votes regardless of constituent preferences. On the other, white Republicans consistently vote against gay rights, even when there is a pro-gay opinion majority in their district or state. White male Democrats drive the overall responsiveness findings.

What does all of this mean for the future of gay rights politics in the United States? Do gains in public opinion portend real policy gains for gays and lesbians? For decades, political scientists have debated whether civil rights gains result from top-down or bottom-up forces. We find, like many before us, that public opinion does influence Congressional voting. In this sense, we can say with confidence that public opinion matters. This is a very technical answer, however. Does it matter in the end? Does change come from the bottom here?

Our findings resist an easy categorization into top-down or bottom-up forces. There seems to be a top-down process pushing for gay rights for black and female MCs, and bottom-up pressure from the public affecting white Democratic MCs. When Republicans vote against the wishes of their constituents, it is not to protect civil rights, but to suppress them. To be sure, this too represents a top-down process, though not the kind Madison endorsed. The gains we are observing in Republican represented states and districts might make news headlines, but they are likely insufficient to push Republican MCs, at least until the party position itself tips. Much, then, depends on the composition of Congress, and even member replacement among Democrats, since MCs seem resistant to switching their positions over time.

This does not mean the gay and lesbian rights movement is doomed to fail. As the recent repeal of “Don’t Ask, Don’t Tell” demonstrates, legislative gains are possible—if slow—at the federal level. The recent Supreme Court marriage cases also show potential for significant change. Indeed, the democratic deficit we uncover here suggests the legitimacy of judicial involvement.

We end not with policy and politics, but with a call for more political science, on this and other stoppages in the democratic process. We need to know more about public opinion’s influence on specific policies, and—perhaps more importantly—its limits.

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Opinion versus Ideology

We can see, in contrast to the results for policy-specific opinion, the extent to which ideology predicts pro-gay voting by looking at Figure 8. This is identical to the opinion figure in the main text, but invokes the first dimension of the Poole and Rosenthal Nominate score instead of opinion. The top left graph demonstrates a strong relationship between ideology and roll call voting, and this pattern remains even in the party/race subgroups.

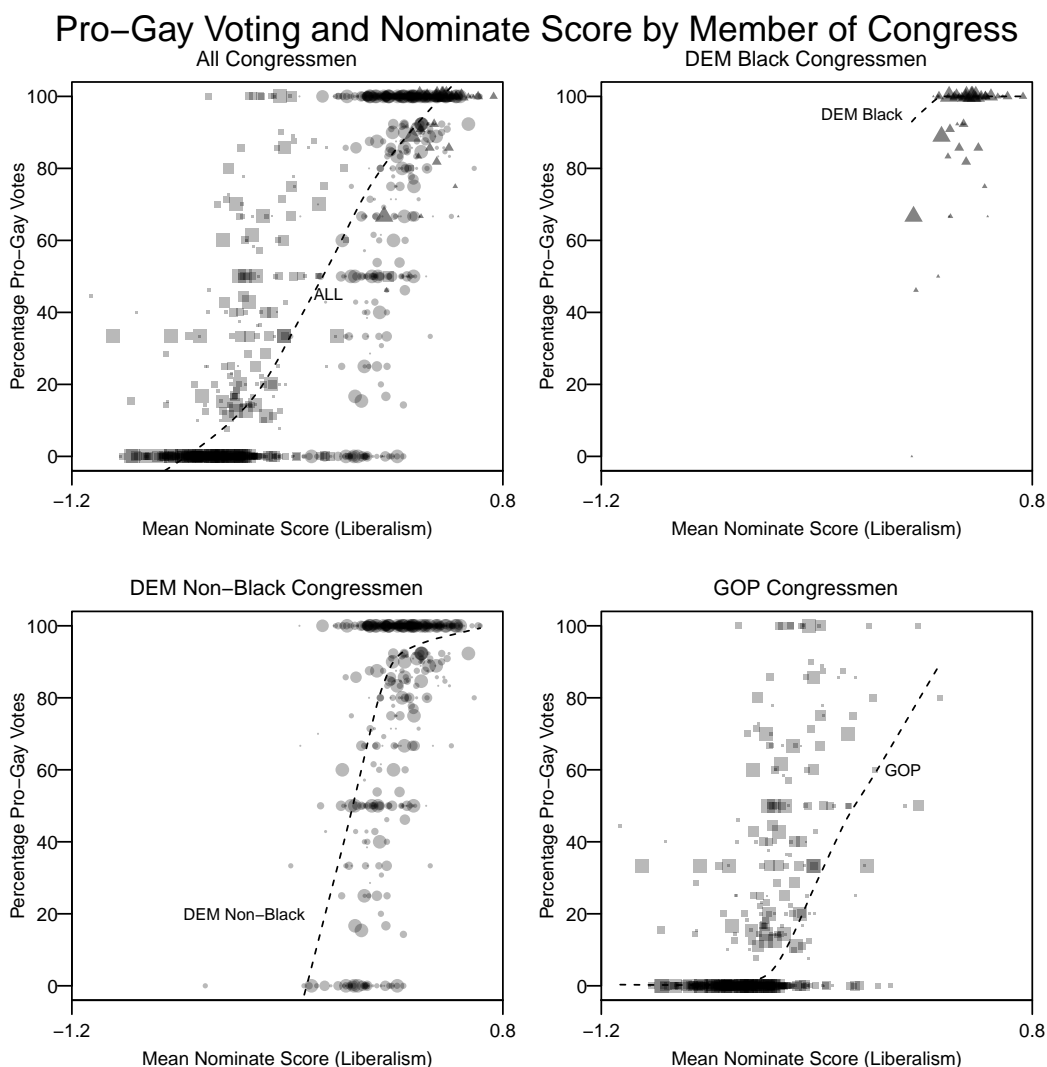


Figure 8: *Pro-Gay Voting Record Given Nominate Score (Liberalism), By Party and Race*. The unit is the member of Congress, plotted by percentage of pro-gay votes and mean first dimension DW Nominate score. The size of the points shows the number of votes represented (from 1 to 14). Republicans are shown with squares; white Democrats with circles; and black Democrats with triangles. Lowess curves are shown. Note that all subgroups show some relationship between voting and Nominate score.

Figure 9 facilitates an even more direct comparison between opinion and ideology. Each circle represents a member of Congress, plotted by mean pro-gay opinion (across issues) and Nominate score. See caption for details. Note that if voting were only responsive to legislator ideology, and not opinion, these isolines would be vertical. If only opinion mattered and not legislator ideology, the isolines would be horizontal. The lines are steepest for black Democrats, showing opinion is nearly irrelevant for their votes, compared to ideology. For non-black Democrats, there is a greater balance between these two forces.

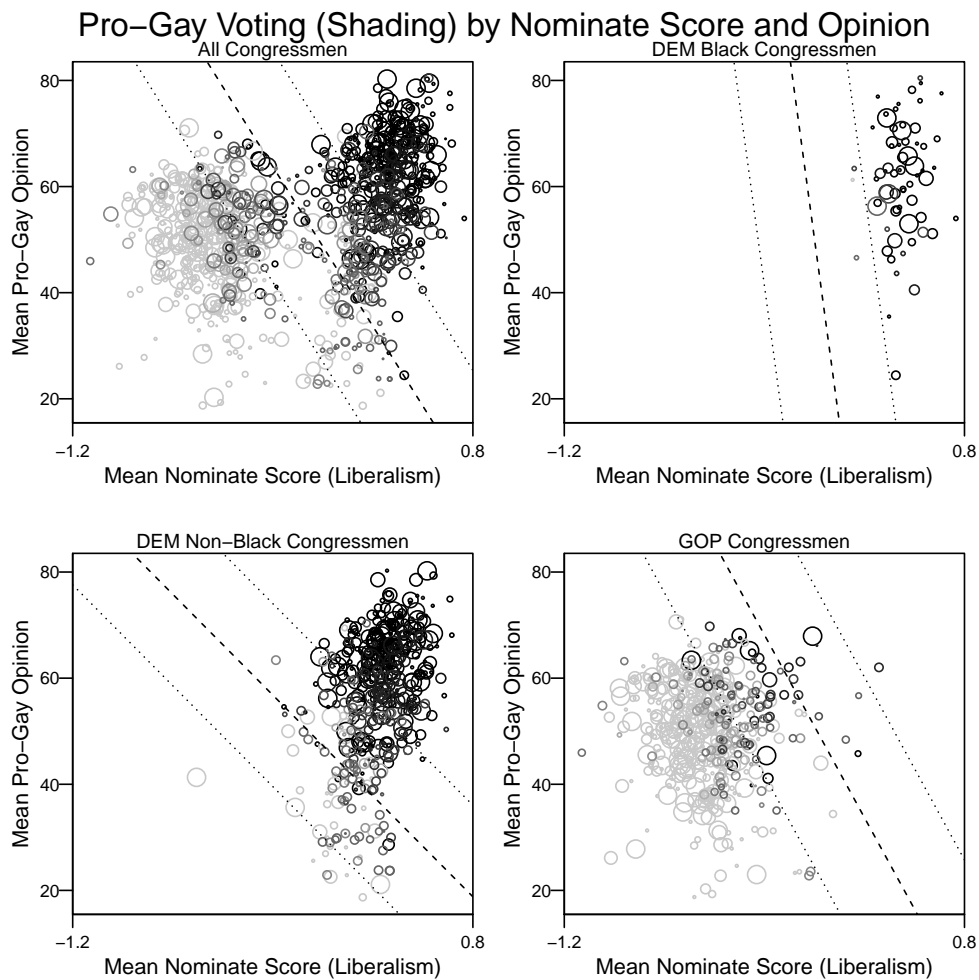


Figure 9: *Pro-Gay Voting Record Given Opinion and Nominate Score, By Party and Race.* The unit is the member of Congress, plotted by mean pro-gay voting and Nominate score. The size of the points shows the number of votes represented (from 1 to 14). The shading captures how pro-gay the voting record was, ranging from light gray (0%) to black (100%). The dashed line shows where the voting record is predicted to be 50% pro-gay, based on OLS regression on opinion and Nominate score, weighted by number of votes cast. Dotted lines to the left and right of it show the 25% and 75% levels respectively.

Additional Robustness Checks, Comments, and Results

1. Key results are unchanged if we use additional random effects by state or member of Congress, or fixed effects for state or issue. Results are similar if we shift the dependent variable to congruence. Results are similar if we allow the slope of DW Nominate to vary by demographic subgroup. We find very little difference between the House and Senate in responsiveness to opinion.
2. Key results are unchanged if we use additional random effects by state or member of Congress, or fixed effects for state or issue.
3. Party seems to perform inconsistently across models. However, it is not that the “effect” of party varies so greatly across specifications. Rather, these models each have a different conception of “holding all else equal.” Which model one should use to evaluate the impact of being Republican depends on what the substantive questions is—that is, what one wishes to hold constant. (It can be a rather odd thought experiment to hold constant the Nominate score of a black Democratic MC when “changing” him to a white Republican MC.)
4. We also compared terminal to procedural votes, finding that 68% of the former were congruent, compared to 60% of the latter. This 8% gap did not have a specific ideological direction, however—some was liberal, some was conservative, and it cancelled out.
5. If we examine salience, we find no difference in congruence between roll call votes above and below the average level of salience. This whole issue area is of high salience, however.
6. It is not the case that MCs in more marginal districts are more congruent with majority opinion. We did find, though, that those who were marginal in their general election were very slightly less responsive to opinion, while those who were marginal in the primary were very slightly more responsive to opinion. Overall, however, marginality does not seem to play a major role.

7. It is difficult to draw inferences relating to race and gender in the “switcher” analysis because almost all female and minority MCs began with pro-gay votes.

Textual Analysis of Floor Speeches

Arguments were sorted into 18 categories: civil rights, constitutionality, equal protection, first amendment, full faith and credit clause, right to privacy, economic interests, equality, federalism, military and national security interests, morality, religious arguments, traditional values, no effect, political posturing, privacy, procedural and technical arguments, and public opinion. FIGURE 10 displays the percentage of arguments made by Republicans, white Democrats, and black Democrats invoking civil rights related matters (that is, civil rights, equal protection, or equality).

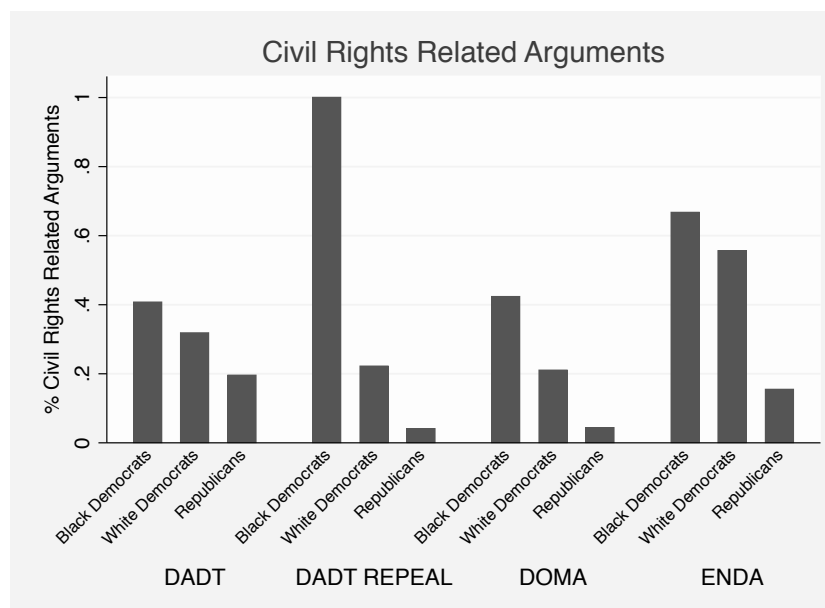


Figure 10: *Textual Analysis*. This graph shows the percentage of arguments made by Republicans, white Democrats, and black Democrats invoking civil rights related matters (a combination of civil rights, equal protection, and equality), as opposed to other bases for supporting or not supporting gay rights (ex. privacy, economic interests, etc.).

Examples of what we refer to in the text include the following. In the DADT debate, Alcee L. Hastings (D-FL) drew an explicit analogy to the civil rights struggles of African-Americans, stating, “The current ban on gays and lesbians from the military is parallel to the racial bigotry that

African-Americans faced in the 1940's and 1950's." John Lewis (D-GA), who served as chairman of the Student Nonviolent Coordinating Committee (SNCC) from 1963 to 1966, made a similar point in floor discussions of the Defense of Marriage Act, arguing: "I have known racism. I have known bigotry. This bill stinks of the same fear, hatred and intolerance." And James Clyburn (D-SC), former president of an NAACP youth chapter, expressed a similar sentiment in debates over the Employment Non-Discrimination Act, stating, "Whether you are talking allowing people of color to sit and eat at lunch counters or about ensuring that gay and lesbian Americans can freely go to work and earn a living without fear of being discriminated against, you are talking about basic human rights." All three men had been civil rights activists earlier in their careers.

Polls and Roll Call Votes

Roll Call	Chamber	Vote	Purpose	Yes	No
ADOPT1998	House (105)	Amendment 871 to the District of Columbia Appropriations Bill for Fiscal Year 1999	Prohibit couples in Washington D.C. who are not related by blood or marriage from adopting a child	227	192
ADOPT2000	House (106)	Amendment 356 to the District of Columbia Appropriations Bill for Fiscal Year 2000	Prohibit couples in Washington D.C. who are not related by blood or marriage from adopting a child	213	215
DADT1993ban	Senate (103)	Amendment 19 to the Family and Medical Leave Act	Codify the existing explicit ban on gays and lesbians serving in the military. Motion to table the amendment	62	37
DADT1993hunter	House (103)	Amendment 317 to the National Defense Authorization Act for Fiscal Year 1994	Amendment to reinstate the explicit ban against gays in the military by requiring that recruits be asked about their sexual orientation (A vote for the Hunter Amendment was seen as a vote for a total ban on gays serving in the military).	144	291
DADT1993meehan	House (103)	Amendment 316 to the National Defense Authorization Act for Fiscal Year 1994	Lift the ban on gays serving in the military (a vote for the Meehan amendment was seen as a vote to allow gays to openly serve in the military)	169	264
DADT1993boxer	Senate (103)	Senate Amendment 783 to the National Defense Authorization Act for Fiscal Year 1994	Strip "Don't Ask, Don't Tell" from the defense authorization act and leave the decision about gays serving in the military to the President (A vote for the Boxer Amendment was seen as a vote to allow gays to openly serve in the military)	33	63
DADT2010	House (111)	HR 2965, Don't Ask, Don't Tell Repeal Act	Repeal of "Don't Ask, Don't Tell" policy prohibiting gays and lesbians from serving openly in the military	250	175
DADT2010murphy	House (111)	Amendment 672 to the National Defense Authorization Act for Fiscal Year 2011	Repeal of "Don't Ask, Don't Tell" policy prohibiting gays and lesbians from serving openly in the military	234	175
DADT2010	Senate (111)	HR 2965, Don't Ask, Don't Tell Repeal Act	Repeal of "Don't Ask, Don't Tell" policy prohibiting gays and lesbians from serving openly in the military	65	31
DOMA1996	House (104)	HR 3396, Defense of Marriage Act	Defines marriage as a legally recognized union between one man and one woman. No state is required to recognize a same-sex marriage performed elsewhere.	342	67
DOMA1996	Senate (104)	S 1740, Defense of Marriage Act	Defines marriage as a legally recognized union between one man and one woman. No state is required to recognize a same-sex marriage performed elsewhere.	85	14
FMA2004	House (108)	HJ Res 106, Federal Marriage Amendment	Amend U.S. Constitution to define marriage as a union between one man and one woman	227	186
FMA2004	Senate (108)	Cloture vote on SJ Res 40, Federal Marriage Amendment	Amend U.S. Constitution to define marriage as a union between one man and one woman	48	50
FMA2006	House (109)	HJ Res 88, Federal Marriage Amendment	Amend U.S. Constitution to define marriage as a union between one man and one woman	236	187
FMA2006	Senate (109)	Cloture vote on SJ Res 1, "Federal Marriage Amendment"	Amend U.S. Constitution to define marriage as a union between one man and one woman	49	48
DCMarriage2010	Senate (111)	Amendment to the Health Care and Education Reconciliation Act	Suspend the issuance of marriage licenses to same-sex couples in the District of Columbia and require a referendum	36	57

Table 3: Roll Call Votes Used.

Roll Call	Chamber	Vote	Purpose	Yes	No
Hate2000	House (106)	Conyers motion to Instruct on HR 4205, the Defense Authorization Act for Fiscal Year 2001	Motion to instruct House conferees to accept the Senate-passed Kennedy-Smith hate crimes amendment... extend existing fed. hate crime protections to include sexual orientation.	231	191
Senate2000	Senate (106)	Kennedy-Smith amendment to S 2549, the Defense Authorization Act for Fiscal Year 2001	Extend existing federal hate crime protections to include sexual orientation.	57	42
Hate2009	House (111)	HR 1913, Local Law Enforcement Hate Crimes Prevention Act	Extend existing federal hate crime protections to include sexual orientation.	249	175
Hate2009	Senate (111)	Cloture vote on S Amendment 1511 to Defense Authorization Act for Fiscal Year 2010	Extend existing federal hate crime protections to include sexual orientation.	63	28
Jobs1995	Senate (104)	S 2056, Employment Non-Discrimination Act	Prohibit discrimination against employees on the basis of sexual orientation	49	50
Jobs1998	House (105)	House Amendment 855 to Depts. of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999	Prohibit any funds to be used to implement or enforce Executive Order 13087 of May 28, 1998 or Executive Order 13083 of May 14, 1998. These orders ban discrimination based on sexual orientation in the federal civilian workforce.	176	252
Jobs2007	House (110)	HR 3685, Employment Non-Discrimination Act	Prohibit discrimination against employees on the basis of sexual orientation	235	183

Table 3: *Roll Call Votes Used (continued).*

Firm	Year	Issue	Survey Question	Respondents
NES	1992	Adoption	Do you think gay and lesbian couples, in other words, homosexual couples, should be legally permitted to adopt children?	2,485
NES	2000	Adoption	Do you think gay and lesbian couples, in other words, homosexual couples, should be legally permitted to adopt children?	1,807
PSRA	1994	Adoption	Do you think there should or should not be adoption rights for gay spouses?	750
PSRA	1996 (May)	Adoption	Do you think there should or should not be adoption rights for gay spouses?	779
PSRA	1996 (September)	Adoption	Do you think there should or should not be adoption rights for gay spouses?	929
PSRA	1997	Adoption	Do you think there should or should not be adoption rights for gay spouses?	753
PSRA	1998	Adoption	Do you think there should or should not be adoption rights for gay spouses?	602
Time	1992	Adoption	Do you think that homosexual couples should be legally permitted to adopt children?	1,250
Time	1994	Adoption	Do you think that homosexual couples should be legally permitted to adopt children?	800
Time	1998	Adoption	Do you think that homosexual couples should be legally permitted to adopt children?	1,036
NAES	2004	FMA	Would you favor or oppose an amendment to the U.S. Constitution that would allow marriage only between a man and a woman?	81,068
CCES	2006	FMA	President Bush recently spoke out in favor of a Constitutional Amendment defining marriage as strictly between a man and a woman. Do you support or oppose a Constitutional amendment banning gay marriage?	16,236
Gallup	2004	FMA	Would you favor or oppose a constitutional amendment that would define marriage as being between a man and a woman, thus barring marriages between gay or lesbian couples?	515
Gallup	2004	FMA	Would you favor or oppose a constitutional amendment that would define marriage as being between a man and a woman, thus barring marriages between gay or lesbian couples?	993
Gallup	2004	FMA	Would you favor or oppose a constitutional amendment that would define marriage as being between a man and a woman, thus barring marriages between gay or lesbian couples?	502
Gallup	2005	FMA	Would you favor or oppose a constitutional amendment that would define marriage as being between a man and a woman, thus barring marriages between gay or lesbian couples?	899
Gallup	2005	FMA	Would you favor or oppose a constitutional amendment that would define marriage as being between a man and a woman, thus barring marriages between gay or lesbian couples?	512
Time	1992	DOMA	Do you think that marriages between homosexual men or between homosexual women should be recognized as legal by the law?	1,250
Time	1993	DOMA	Do you think that marriages between homosexual men or between homosexual women should be recognized as legal by the law?	1,800
Time	1994	DOMA	Do you think that marriages between homosexual men or between homosexual women should be recognized as legal by the law?	800
Gallup	1996	DOMA	Do you think that marriages between homosexuals should or should not be recognized as valid, with the same rights as traditional marriages?	1,008
PSRA	1994	DOMA	Do think there should or should not be legally-sanctioned gay marriages?	744
PSRA	1996	DOMA	Do think there should or should not be legally-sanctioned gay marriages?	779
ABC	2010	DC Marriage	Do you think it should be legal or illegal for gay and lesbian couples to get married?	1,004
PSRA	2010 (July)	DC Marriage	Do you strongly favor, favor, oppose, or strongly oppose allowing gays and lesbians to marry legally?	3,003
PSRA	2010 (August)	DC Marriage	Do you strongly favor, favor, oppose, or strongly oppose allowing gays and lesbians to marry legally?	3,509
NES	1988	Jobs	Do you favor or oppose laws to protect homosexuals against job discrimination?	2,040
NES	1992	Jobs	Do you favor or oppose laws to protect homosexuals against job discrimination?	2,485
NES	1996	Jobs	Do you favor or oppose laws to protect homosexuals against job discrimination?	1,714
NES	2000	Jobs	Do you favor or oppose laws to protect homosexuals against job discrimination?	1,807

Table 4: *Poll Data Used.*

Firm	Year	Issue	Survey Question	Respondents
NES	2004	Jobs	Do you favor or oppose laws to protect homosexuals against job discrimination?	1,202
NBC	1994	Jobs	Do you favor enacting laws that would give gays and lesbians protection legal protection against discrimination?	505
Time	1994	Jobs	Do you favor or oppose the passage of equal rights to protect homosexuals against job discrimination?	800
Los Angeles Times	2000	Jobs	Do you favor or oppose laws to protect gays against job discrimination?	2,071
Los Angeles Times	2004	Jobs	Do you favor or oppose laws to protect gays against job discrimination?	1,616
PSRA	2005	Jobs	Do you think there should or should not be laws to protect gays and lesbians from prejudice and discrimination in job opportunities?	2,558
Time	1998	Hate	As you may know, some states have laws crimes that are committed against a person because of the victim's race, religion, or ethnic background.mandating stricter sentences for so-called hate crimes—that is, From what you know, do you think that it is a good idea or a bad idea to expand hate crime laws to include crimes committed on the basis of the victim's sexual orientation?	1,025
Gallup	1999	Hate	If a hate crime law were enacted in your state, which of the following groups do you think should be covered? How about...homosexuals?	1,014
Gallup	2000	Hate	If a hate crime law were enacted in your state, which of the following groups do you think should be covered? How about...homosexuals?	1,008
Gallup	2009	Hate	As you may know, federal law currently allows prosecution of hate crimes committed on the basis of the victims race, color, religion or national origin. There is a proposal to expand federal hate crime laws to include crimes committed against people because they are gay or lesbian. Would you favor or oppose expanding the federal hate crime laws in this way?	1,015
Los Angeles Times	1992	DADT	Do you approve or disapprove of allowing openly homosexual men and women to serve in the armed forces of the United States?	1,833
Los Angeles Times	1993 (January)	DADT	Do you approve or disapprove of allowing openly homosexual men and women to serve in the armed forces of the United States?	1,735
Los Angeles Times	1993 (February)	DADT	Do you approve or disapprove of allowing openly homosexual men and women to serve in the armed forces of the United States?	1,273
Los Angeles Times	1993 (June)	DADT	Do you approve or disapprove of allowing openly homosexual men and women to serve in the armed forces of the United States?	1,474
CCES	2010	DADT	Do you favor or oppose allowing gays and lesbians to serve openly in the military?	55,400
CNN	2010 (February)	DADT	Do you favor or oppose permitting people who are openly gay or lesbian to serve in the military?	1,023
CNN	2010 (May)	DADT	Do you favor or oppose permitting people who are openly gay or lesbian to serve in the military?	1,023
CNN	2010 (September)	DADT	Do you favor or oppose permitting people who are openly gay or lesbian to serve in the military?	1,010
CNN	2010 (November)	DADT	Do you favor or oppose permitting people who are openly gay or lesbian to serve in the military?	1,014
PEW	2010 (February)	DADT	Do you favor or oppose allowing gays and lesbians to serve openly in the military?	1,383
PEW	2010 (July)	DADT	Do you favor or oppose allowing gays and lesbians to serve openly in the military?	3,003

Table 4: *Poll Data Used (continued).*