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Understanding the Adoption of State-Level Policies for Transgender Persons: Political Mediation and the Role of Litigation

Trey Green
Southern Illinois University Carbondale, tlg0309@gmail.com

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UNDERSTANDING THE ADOPTION OF STATE-LEVEL POLICIES FOR TRANSGENDER
PERSONS: POLITICAL MEDIATION AND THE ROLE OF LITIGATION

by

Trey Green

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A Research Paper

Submitted in Partial Fulfillment of the Requirements for the

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Approved by:

Dr. Kelsy Kretschmer. Chair

Dr. Kristen Barber

Graduate School
Southern Illinois University Carbondale
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Activists often seek to shape policies that are beneficial to marginalized people, and there may be no more marginalized group than transgender prisoners. After two years of local activism promoting transgender rights in Washington DC correctional facilities, the D.C. Trans Coalition, a volunteer based grassroots organization, successfully persuaded the Metropolitan Police Department to revise its policies addressing housing and handling issues of transgender inmates. After success in challenging the Metropolitan Police Department, the coalition moved on to challenge Washington DC's Department of Corrections (DoC) (Hagner 2010). After being challenged multiple times by the D.C. Trans Coalition and after several policy revisions, the DoC finalized its policy on transgender inmates, making it one of the only jurisdictions in the nation to allow individuals to be assigned to a facility that matches the self-identified gender, rather than their biological sex. This victory for the local activists demonstrates the potential effectiveness of local activists in policy revisions.

But cases like this raise the question, is activism always necessary for new policies to be adopted? What are other possible routes to beneficial policies for the most marginalized groups? One such route is illustrated by the 1998 California trans-inclusive hate-crime legislation. In this particular case, Assemblywoman Sheila Kuehl helped propose, draft, and sponsor the hate-crime legislation. This example shows the importance of having political supporters of transgender rights when it comes to passing transgender friendly legislation.

The purpose of this study is to find combinations of causal factors that influence state-level policies. In this paper, I seek to determine the importance of mobilization efforts under certain political and cultural contexts. The study has two distinct outcomes of interest: transgender policy regimes and transgender prison policies. A transgender policy regime refers to a wide set of favorable transgender policies such as; the ability to change gender on birth

certificates, state-level employment discrimination policy, state-level hate crime protection that includes gender-identity, and lastly a state-level prison policy that addresses the medical needs of transgender inmates. Transgender prison policies are when a state has a formal and written prison policy that addresses transgender inmates, specifically, one that provides medical coverage for the needs of transgender inmates, such as access to hormone therapy. The research questions I will address are: What conditions, that is, political, cultural, and social movement conditions, are most likely to be present for states with favorable transgender policy regimes and will these be the same conditions that are necessary for a positive outcome, meaning the policy was achieved, of transgender prison policies? Is the process for successful outcomes similar for broad institutional policies and policies of total institutions? That is, do prisons have distinct pathways that arrive at similar policies for marginalized persons, such as those who are transgender? The comparison between policy regimes and prison policies is important because pathways may be different depending on the nature of the institution as well as the increasingly marginal nature of transgender inmates. Whether they require similar or distinct pathways, the findings in this article should be useful for activists and scholars.

Prisons are both total institutions (Goffman 1961) and protected from routine democratic policy pressure. Prisons may not be subject to the same policy pressures as other institutions because those who are creating policy are often appointed officials rather than elected. Because of this, activists may have a more difficult time influencing these officials to change policy. Amenta and colleagues (2010) argue that in a political mediation model in order for a movement to have success, it must either be facilitating or disrupting a state actors own goals, particularly in terms of re-election and career advancement. Therefore, political mediation does not account for institutions in which the officials are appointed because these officials will not be concerned with

re-election. I compare the pathways to the different outcomes to find whether or not each use similar combinations of causal factors, or if the causal factors will differ because of the marginalized nature and tendency of appointed positions of total institutions, such as prisons. I predict that there are distinct pathways for each outcome due to the marginal nature of total institutions, particularly when the policies are for an already marginalized group, such as transgendered persons.

Transgender inmates are more marginalized than the general prison population, and even more so from the general non-incarcerated population (Sexton, Jenness, and Sumner 2010). Because of their marginalization, to gain successful policy outcomes for this particular underrepresented population social movement actors will likely need to use more aggressive strategies, such as protest events, rather than less aggressive strategies like letter writing or creating petitions (Amenta et al. 2010).

From a political sociological perspective we need to know why, what, and how certain states are successfully implementing policies that advance transgender rights. Additionally, this research could be used by social movement activists and other claimsmakers to successfully frame arguments for these policies in other states. In working towards policy formation it can be useful, not only to know what other states have done, but which characteristics they might share in common that provide an environment where policy formation is more likely. To discover possible commonalities this study uses a fuzzy set Qualitative Comparative Analysis (fsQCA) that allows for combinations of causal factors to determine which combination is most closely associated with the outcomes. This can shed light on policy formation of state prisons, which are highly marginalized institutions, and how that compares with mainstream institutional policy formation.

This paper begins with a brief literature review of theories of why some social movements are more successful than others in producing beneficial policies. This is followed by a review of literature that has focused on transgender inmates. I provide a section that clarifies the outcomes, that is, the policy outcomes, as well as the other variables and how the data were collected along with my hypotheses about how each should interact with the outcomes. Finally, the research methods are discussed before going into the analysis and conclusion.

SOCIAL MOVEMENT EXPLANATIONS FOR POLICY OUTCOMES

In the past decade, social movement literature has been particularly interested in the consequences of activism. In a review of this scholarship, Amenta et al. (2010) note that early on, scholars' hypotheses revolved around resource mobilization, framing, and political opportunities, each of which will be discussed in detail later in this section. These were most likely popular because each had already been studied extensively in social movement literature that focused on what led to social movement organizations. Amenta and his colleagues (2010) argue that rather than focusing on organizational forms, strategies, and political contexts independently, scholars should employ an integrative approach to when certain forms and strategies worked in certain political contexts. They propose a new integrated framework – political mediation – to make sense of how each different perspective contributes to policy outcomes. Here I give a brief review of some of these competing frameworks followed by a review of the various conceptualizations of social movement success, each of which plays a role in this study's research design. First however, I will discuss social movement success.

Social Movement Outcomes

Amenta et al. (2010) note that movements frequently seek a policy change, and that this goal can serve to gain new benefits for those that the movement represents. Activists often place emphasis on collective goods or benefits for a represented group, these goods or benefits can range from monetary goods through welfare policies, to intangible goods such as formal recognition and new ways of being referenced. The latter of these might be referred to as cultural consequences, which have been the focus of some social movement scholars' research (for review Earl 2004).

While success has commonly been used as a dependent variable in the literature, it has recently been used as an independent variable that may influence the future success or failure of social movement organizations (Gupta 2009; Kane 2010). Gupta (2009) focuses on how small victories may initially influence increased support from movement actors to the social movement, but over time may result in support from these movement actors declining. Similarly, Kane (2010) finds that legal success can lead to both increased levels of both short and long term mobilization, and further, that an unintended consequence of social movement success is that it can shape the political and cultural contexts which may influence the movement's ability to continue to succeed.

However, how movement actors arrive at political outcomes, the strategies that are most useful, and the conditions that must be present to arrive at those outcomes have been up for considerable debate amongst social movement scholars.

Resource Mobilization and Strategies

One of the essential elements of any social movement is its ability to mobilize a variety of resources in a way that promotes its particular cause. Theories of resource mobilization assert that it is this element of mobilization that will determine its success or failure (McCarthy and Zald 2002). Resource mobilization scholars have focused on a variety of resources, most common though, is the emphasis on economic, human, and organizational resources (McCarthy and Zald 2002). Resource mobilization theories can be summed up as those which focus on the resources and strategies of social movement organizations, and the impact they have on the success of these organizations. While there are no studies to my knowledge that compare different forms of mobilization used by transgender activists, there are plenty of examples of transgender activists mobilizing in a variety of ways; from the activists in Washington DC who

used grassroots activism combined with letter writing from lawyers supporting the cause (Hagner 2010), to participatory action research, in which student activists worked with faculty to initiate change in university policy (Case, Kanenberg, Erich, and Tittsworth 2012), and various other forms of activism and mobilization.

Political Opportunity

Theories of political opportunity tend to broadly focus on the political contexts surrounding social movement mobilization, and the influences that these contexts have on social movement outcomes (Amenta et al. 2010). Early frameworks of political opportunity focus on whether or not the political structure of the state is open to change (Kitschelt 1986). Kitschelt (1986) argues that "the capacity of political opportunity structures to implement policies-as well as their openness to societal demands-ought to be seen to determine the overall responsiveness of politics to social movements" (63). For instance, a fascist regime will be much less open to political change than a nation-state with a democratically elected government. However, some scholars have moved beyond this simplistic view of political structures either being open or closed to change, and have placed emphasis on the characteristics of the political structures, such as the existing policies and the nature of the political atmosphere (Amenta et al. 2002). McAdam et al. (1996), point out four dimensions of political opportunity structure; the openness of a political system, a stable base of elite alignments that are responsible for policy formation, the presence of elite allies, and the state's ability and likelihood to repress social movements. The political atmosphere, thus, not only can influence the development of social movements as Eisinger (1973) argued, but also the impact of these movements and whether or not they can successfully create political change through public policy.

For transgender activists, one indicated of political opportunity might be the existence of policies that benefit similar marginalized groups such as gay and lesbian persons. This would show openness to liberal policies that represent these marginal groups. Again, to my knowledge there have been no studies on political opportunity that specifically discuss transgender rights.

Cultural Opportunity

While some research has tended to focus on a narrow definition of political opportunity structures, which only gave attention to political factors, scholars have now begun to expand opportunity structures to the cultural level (McCammon et al. 2001; Kane 2003; Corral 2005). Cultural opportunity structures focus on the contexts not necessarily based around politics, such as community support and public opinion. Public opinion is important in this concept because of the larger role it plays with political opportunity. Some scholars have noted that public opinion may influence the political opportunity structure in a given democratic state because it gives politicians a personal incentive to support a cause if the public opinion is strong in its favor, however, if public opinion is mixed or weak for a given cause, politicians may be hesitant to give support to new policies (Burstein and Linton 2002; Kane 2003; Amenta et al. 2010).

Political Mediation

This study follows the literature on social movement outcomes that has focused on political mediation as a theoretical grounding (Amenta, Caren, and Olasky 2005; Burnstein and Linton 2002; Corral 2005; Kane 2003; Soule 2004). That is, I combine the factors of resource mobilization, political opportunities, and cultural opportunities to better understand how they operate together in producing policy changes. The previous literature has focused on three broad theoretical themes and in particular, the importance of their integration with one another: social movement activity and strategies; political opportunity structure (POS); and public opinion or

cultural opportunities. This study follows suit, using fuzzy-set qualitative comparative analysis (fsQCA), in order to determine the similarities between the states that have formal prison policies that address transgender inmates. Scholars using the political mediation model argue that mobilization and strategies of social movement organizations (SMOs) will be more or less important to political outcomes depending on the political contexts and further, that different political contexts call for different strategies (Amenta, Halfmann, and Young 1999; Amenta et al. 2005). For instance, Amenta et al. (2005) notes that from this perspective one would expect that the more closed the political opportunities are to challengers, the more mobilization will be necessary for successful movement outcomes. Further, political mediation theory posits that for movement actors to be successful, they must have elite allies, particularly state actors, who view the goals of the SMOs as similar to their beliefs and facilitating to their own goals (Amenta et al. 2010). Additionally, Amenta et al. (2010) note that the way goals are viewed by state actors who are elected may be reliant on public opinion, if a goal has wide public support, then success is likely. Some versions of political mediation (Amenta et al. 1999) argue that mobilization will be most important for groups who are underrepresented because it will be needed in order to bring light to the cause.

Additionally, Corral (2005), who also uses fsQCA, finds that institutionalized tactics are necessary for positive outcomes, however he finds little support of the presence of political elites influencing policy. Corral finds that the presence or absence of counter-movements are irrelevant to outcomes, instead, anti-GLBT constituency is more important. Therefore, while political elites may not matter, the constituency does, which provides partial evidence for political mediation theory.

Litigation

While political mediation accounts for many conditions, scholars have yet to add the role of litigation to the model. There is a vast literature on the role of courts in changing policy, particularly, how social movements might use the courts to find success. The idea of legal opportunity structure and legal opportunity were developed as a way of understanding how the courts may facilitate or debilitate social change (Hilson 2002). Legal opportunity structure refers to structural components such as court costs or access to legal defense, while legal opportunity was developed as a way of understanding components that aren't necessarily structural, such as the receptiveness to the judge of a particular issue. In this approach litigation is viewed as a strategic tactic of social movement actors, in which they may or may not be able to use to legal system effectively to gain civil rights. Vanhala (2011) explains reactive litigation as a strategy used by social movement actors to circumvent court costs. Rather than bringing their cases to the courts, movement actors provoke incarceration and use this as an opportunity to bring their issues to the courts. However, it is possible that in some cases litigation is used by non-social movement actors for their own personal benefit, which creates precedent for later court cases or legislation which grants civil rights to an entire group of constituents. That is, the previous decisions can be used by activist and politicians later on.

Courts and litigation can play a key role in determining the success of social movements and granting civil rights to those who are represented by those social movements. Legal opportunity may be an important pathway to policy adoption, particularly in creating legal precedent.

Litigation, however, has yet to be introduced into the political mediation framework. I use this study as a way of doing so, making the argument that when many other factors such as

social movement presence, political opportunity, and cultural opportunity fail to explain the presence of transgender friendly policies, it may be that litigation is the driving influence. Particularly, I argue that in these cases, the existence of legal precedent might explain the existence of transgender friendly policies. For example, if a state were to have very little social movement presence, very little political opportunity, and very little cultural opportunity, we would not expect to find a presence of a state-level prison policy that specifically benefits transgender prisoners. For these cases, I predict that the existence of at least one prior court case in which a transgender prisoner has successfully filed and won a suit against a prison or prison official demanding the right to hormone therapy, should explain the existence of a state-level prison policy, in that it sets the ground for legal precedent. In sum, I predict that when political mediation fails to account for policies, litigation may explain their existence. This is simply another pathway to social movement success that may be worked into the existing political mediation framework.

TRANSGENDER ISSUES AND POLICY OUTCOMES

We can explore and test these theoretical frameworks and issues through studying the pathways to policies that are beneficial for transgendered persons. For this study, a transgender person is defined as someone who does not fit the traditional notions of male or female. In many cases, this may be people who have the anatomy of one sex, yet identify themselves as the opposite gender. Further, many of these people may want to use hormone therapy and sex reassignment surgery to match their sex and their self-identified gender. The policies used as outcomes in this study may apply to various groups of people who all identify as transgender. For instance, prison policies that allow hormone therapy most likely apply to those seeking to medically match their sex and gender, while hate crime laws that protect transgender persons may apply to a wide range of people who identify as transgender. In sum, there is great diversity for those who identify as transgender, some of the policies studied will apply to all of those people, while others specifically apply to one group under this umbrella term.

Transgender persons face many problems that are associated with their gender identity. Common problems include discrimination in employment, public places, and available insurance coverage (Mann 2006). Transgender individuals are not protected from employment discrimination under Title VII of the Civil Rights Act of 1964 (Mann 2006). However, while not federally protected from employment discrimination, many states offer this protection.

Additionally, transgender persons who are living as their self-identified gender will often face problems entering public places that may require identification such as airports, bars, and clubs (Mann 2006). Without being able to change gender on government identification, such as one's birth certificate, these problems are exacerbated. Many states offer post-operative transgender individuals, that is, individuals who have followed through with sex re-assignment

surgery, the option of legally changing or reissuing their official identification documents (Mann 2006).

　　While transgender persons face many issues in society in the form of discrimination, these issues might be even further complicated within the prison system. Sydney Tarzwell's (2006) study of transgender prison policies gives a strong background on the existing state prison policies regarding transgender inmates. The study explores which states in the US have any kind of prison policy that addresses transgender inmates, the content of the policies, and how the policies can be improved. Tarzwell and others (Brown and McDuffie 2009) have noted that transgender individuals are incarcerated at higher rates than the general population, and that this could be explained because they are often excluded from a legitimate economy due to discrimination, forcing them into a criminalized economy (Tarzwell 2006).

　　Further, in many states, transgender prisoners are denied gender-affirming medical care (Tarzwell 2006). The leading example being hormone therapy, the discontinuation of hormone treatments can have many negative consequences. For instance, it can lead to physical and emotional stress, such as depression, vomiting, and painful reduction of breast tissue (Tarzwell 2006).

　　This study seeks to expand on Tarzwell's study in an attempt to determine the pathways to these policies, that is; why do some states have these policies while others do not? One hypothesis focuses on why certain states have these policies, it is expected that a high level of activism, combined with favorable political and cultural opportunities, should lead to a policy that is beneficial for transgender inmates. In states that do not have high levels of activism and favorable political and cultural opportunity, I expect that the existence of litigation that has been granted in favor of transgender inmates should be a predictor of a statewide policy. For example,

if an inmate sues a particular prison, or prison officials on the basis of a denial of hormone therapy, and the judgment is granted in favor of the plaintiff, I predict that it is likely for that particular state to have a state-level policy that provides inmates with hormone therapy. Similarly, I expect an absence of these conditions, along with a presence of counter-movement activity, should result in the absence of a policy.

I also focus on transgender policy regimes, that is; a collection of policies that are favorable for transgender persons more generally, including; the right to change one's gender on a birth certificate, being protected from discrimination in the workplace, being protected under hate crime laws, and having access to hormone therapy in state prisons. Because these policies are broader, and measured together as one outcome, I expect political opportunity and cultural opportunity to play key roles in the pathways to these policies, though, for states without favorable political or cultural opportunity, I expect activism to play a larger role.

DATA COLLECTION, VARIABLES, AND HYPOTHESIS

To assess the three integrated components of political mediation theory, I have collected multiple variables in order to operationalize each component separately; mobilization, political opportunity structure, and cultural opportunity. Here I discuss these variables and outcomes, and the reasoning for each. I also hypothesize how each variable is likely to relate to the outcomes.

Outcomes

This project focuses on two outcomes, which will be tested separately and compared with one another. I examine two outcomes because research that suggests marginalized populations will require greater mobilization for successful political outcomes, as such, I am interested in whether or not prisons will require a unique set of conditions that differs from a larger transgender policy regime (Amenta et al. 1999). Following this reasoning, I hypothesize that marginalized institutions such as prisons, mental institutions, military, and so on, require a different set of categories for policy influence than broad mainstream institutions. Therefore, I use two separate outcomes, each addressing policies that impact the same general group, transgender persons, while one represents policy in a marginalized institution, the other represents a range of policies that influence of a variety of aspects of life, from the prison to the work place, and life in general.

The first outcome is the presence of a state prison policy that grants transgender inmates the right to hormone therapy. If a state has such a policy it is measured as a positive case, however, if the state has no policy or specifically prohibits hormone therapy, then it is measured as a negative case. Therefore, this outcome is dichotomous, coded as 1 for states with a policy granting hormone therapy, and 0 for states that do not have a policy that allows for hormone therapy.

In order to find out which states had prison policies, I used a combination of searching and scanning each state's Department of Corrections (DoC) website for policies or administrative regulations. For states that had nothing on the DoC web page, I contacted the DoC by telephone for information on the existence of these policies.[1] After three phone calls made without speaking with someone who could discuss the policies, I reported the state as not responding, which accounts for the twelve missing states.[2]

The second outcome is the overall favorableness of transgender rights in a given state, what I will refer to as a policy regime. The policies this variable are focused on are identification policies that address whether or not a person can alter identity on official state documents, discrimination laws that specifically protect gender identity, hate crimes laws that specifically protect gender identity, and a state-level policy that grants hormone therapy to transgender inmates. I gathered data for the first three policies from the Human Right Campaign website (www.hrc.org), and cross checked the information with the American Medical Student Association website (www.amsa.org), both of which list state-by-state policies on GLBT issues.

Independent Conditions

This section discusses the independent conditions for each of the three integrated components of political mediation; SMO activity, political opportunity structures, public opinion, and litigation. The number of conditions is relatively small. However, this is appropriate for fsQCA (Ragin 2000). Because of the small number, I can explain each condition in greater detail and discuss the importance of each variable to the overall study.

Social Movement Organization Activity

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[1] Tarzwell (2006) gathered information from forty-four states to determine which states had formal written policies that addressed transgender inmates.
[2] The 12 missing states are; Florida, Georgia, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Jersey, North Dakota, Rhode Island, Utah, and West Virginia.

SMO activity refers to the mobilization and strategies of social movement actors. This category is vital to the political mediation model because it provides an assessment of the level of mobilization a given social movement has, as well as the strategies being used. Included in this category is not only social movement activity, but also counter-movement activity, this will hopefully provide an understanding as to whether or not the presence or absence, as well as the level of activity of a counter-movement plays a role in policy outcomes.

The first measure of social movement activity is measured by the amount of media coverage of transgender activist groups within a given state. Using LexisNexis and a strict set of search terms, I systematically went through each state, finding articles that covered some form of activism that promoted transgender rights. Examples include, but are hardly limited to rallies in which transgender activists pushed for the inclusion of gender identity in non-discrimination and hate crime laws, performances in California that aim to raise awareness of transgender issues, and students in Illinois pushing for gender neutral restrooms on their university campus. I did not include articles that focused on general GLBT rights because it is not likely that these events would be focused on transgender issues, therefore they would not be valid as a measure of activism for transgender issues. Using media coverage as a measure of social movement activity is well-established in the literature (Amenta, Caren, Olasky, and Stobaugh 2009; for review Earl, Martin, McCarthy, and Soule 2004). As Earl et al. (2004) argue that the event data given in media coverage offer a way to get at the social movement activity that is likely to be most important for influencing a particular outcome. That is, because I am most interested in the effect of activism on policy change, the events covered in newspapers should be the most relevant. According to political mediation theory social movement activity will be more

important for outcomes under certain political and cultural contexts, for instance, when political and cultural opportunities are low, more activism may be necessary to secure civil rights.

I provide a measure of counter-movement activity using the media coverage of the Family Policy Council in a given state. The state-level Family Policy Councils are anti-Gay, Lesbian, Bisexual, and Transgender (GLBT) organizations that are formed by community leaders to protect family values through use of policies that are inherently anti-GLBT and fall under the larger national umbrella organization, Family Research Council (FRC). While perhaps not specifically against transgender rights, this provides a strong measure of counter-movement activity in each state, and the group has specifically targeted transgenderism in mission statements. One section of the FRC website states "FRC does not consider homosexuality, bi-sexuality, and transgenderism as acceptable alternative lifestyles or sexual 'preferences'; they are unhealthy and destructive to individual persons, families, and society" (http://www.frc.org/human-sexuality). Though labeled as counter-movement activity, it does operate independently from transgender activism, that is, there are states with high levels of counter-movement activity and very little or no transgender activism. A similar measure has recently been used to recognize GLBT counter-movement activity (Corral 2005). I hypothesize that states with a strong presence of counter-movement activity are less likely to have either of the two outcomes, transgender inmate policies, or broad transgender rights, and may explain negative policy outcomes depending on the level of transgender activism and the political and cultural contexts. If understood through political mediation theory, in order to influence policy outcomes in states with a strong measure of counter-movement activity, SMOs need to use more aggressive strategies.

Political Opportunity

This category is an assessment of the political context of a given state as open or closed to transgender rights. According to political mediation theory, the political opportunity will mediate the necessity and usefulness of SMO activity. The variables included in this category will thus be measures of a given state's openness to the outcomes of this study.

The first measure of openness is the political demographics of the state, particularly state actors such as state representatives and the governor that may serve as elite allies or opposition. To get a reliable measure of the state's ideology, I use a political ideology index that is widely used and cited in political science (Berry et al. 2010). This measure places each state on a scale from conservative ideology to liberal ideology. I hypothesize that states with strong measures of liberal political demographics will be more likely to have transgender friendly policies, for both inmates and the general public. However, while political mediation typically argues that in states open to change, mobilization will not be as important, I argue that because of the marginalized nature of the transgender community, strong mobilization efforts will be necessary. I also hypothesize that states with strong measures of conservative political demographics will be less open to each of the two outcomes of transgender rights.

An additional measure of the political context is the presence or absence of friendly or unfriendly state policies on the issues surrounding gay, lesbian, and bisexual (GLB) rights. I use Mapping Our Rights (www.mappingourrights.org), a ranking of states based on sexual and reproductive rights, with states which have more liberal policies being ranked higher, this ranking was created by the conglomeration of four social movement organizations; SisterSong Women of Color Reproductive Health Collective, Ipas, the National Gay and Lesbian Task Force (NGLTF), and the Center for Reproductive Rights (CRR). While this ranking includes reproductive rights, reproductive rights and GLBT rights are linked in that they are both liberal

human rights issues, the existence of reproductive rights is a sign of political openness to liberal policy, thus still providing a useful operationalization of political opportunity. Additionally, while the ranking does include reproductive rights, it also includes GLBT rights and was helped organized by a number of GLBT organizations. The hypothesis is that states with a strong presence of political openness to liberal civil rights policies will be more open to transgender policies, although, again, I predict that mobilization may still be important even if a state is open to these policies.

Cultural Opportunity

Cultural opportunity is used to assess the overall public opinion and cultural context surrounding transgender rights in a particular state. This can tell us not only whether mobilization is mediated by cultural opportunity, but also if political opportunity is mediated by the cultural opportunity. As stated earlier, some versions of political mediation (Almeida & Stearns 1998; Jacobs & Helms 2001; Kane 2003) hold that mobilization matters when political actors have something to gain by helping SMOs. In a democratized state it should hold that when public opinion is in favor of transgender rights, political actors will see more benefit in promoting policy, and when public opinion is against transgender rights, political actors may see promoting those policies as disruptive of their own individual goals.

The first measure of the cultural opportunity was gathered from a 2009 Gallup poll that is nationally representative and can be broken down state-by-state. This particular poll asks a total of eight questions about GLBT issues, because it is unlikely that there is a large data source for public opinion on transgender values specifically, using questions on GLBT issues serves as a proxy. Further, I use data on the number of GLBT friendly businesses collected from the Gayellow Pages (www.gayellowpages.com), which lists all GLBT friendly businesses at the country, state, and city-level.

Litigation

Litigation is used here to understand the existence of transgender prison policies. Again, litigation may be a useful addition to the political mediation model because many institutions, such as prisons, may not be vulnerable to various forms of political pressure, including activism. Therefore, litigation might be the only way to get at these institutions, further, it may account for policies in states which do not have much political pressure to create these policies. States that have a precedent of plaintiff inmates who have won litigation and the right to hormone therapy may be more likely to pass legislation or have future court cases that lead to a state-level policy that allows hormone therapy for transgender inmates. Therefore I use LexisNexis to find court cases in each state that dealt with this very issue, states that had at least one case granted in favor of the plaintiff, thereby allowing hormone therapy to be administered to the inmate, are coded as 1, while states that have no such litigation, or don't have at least one case granted in favor of the plaintiff, were coded as 0. This measure may be particularly useful for explaining how some states came to adopt a state-level policy that allows transgender inmates the opportunity to undergo hormone therapy, even when there may be little activism, political or cultural opportunity, and a presence of counter-movement activity.

One limitation of this study is the absence of a measure of legal precedent for both outcomes, rather than just the outcome that addresses prison policies. While its absence does not hinder the ability of fsQCA to find pathways among the given conditions to a transgender policy regime, it does leave open to question the role of litigation as a pathway to this particular outcome. However, litigation may be more important when studying prison policies because activism may not target this institution and its policies very often. Future studies should address

this issue and attempt to collect data that will be an appropriate measure of legal precedent for

each of the policies that make up a transgender policy regime.

METHODS

This study uses an approach known as "fuzzy set Qualitative Comparative Analysis" (fsQCA) to understand how political mediation works with the given conditions and outcomes. FsQCA, is a variant of Qualitative Comparative Analysis (QCA), and uses "fuzzy" dichotomies for variables rather than a strict presence/absence dichotomy used by standard crisp QCA (Ragin 2000). For instance, rather than a category being coded strictly 1 or 0, as with a crisp set, a fuzzy set allows codes scaled from 1, which would be considered completely in the category, to 0, which would be considered completely out of the category, but with variation in between the two, such as if a case was somewhat in the category but not fully. This approach allows researchers to create combinations of condition categories that lead to an outcome, and then compare the combinations across cases to determine which combination of conditions best explains the given outcomes.

This method is particularly useful for this study for a number of reasons. First, fsQCA is especially well-suited to study something that has a small number of cases. This is because it formalizes the logic of intensive qualitative studies, and provides a method in which a researcher can apply this logic and intensity to a situation that would normally call for a standard variable oriented approach. Because there are so few positive cases for states with strong measures of transgender rights, for both outcomes of prison policies as well as broad state policies, this allows us to understand this subject more fully. Further, because political mediation is particularly focused on multiple pathways that lead to an outcome, fsQCA is a perfect fit because it uses Boolean language to create combinations of conditions that can be applied across cases to find which combination is most likely to lead to a positive outcome. Additionally, fsQCA is useful for explaining negative cases as well as positive cases, this can tell researchers not only

what combination of conditions lead to positive outcomes, but also what combination of conditions are likely for negative cases.

There have been some recent attempts to use fsQCA to study political mediation theory (Amenta et al. 2005; Corral 2005). Edwin Amenta and colleagues (2005) use fsQCA to study political mediation, which examines the U.S. old age pension movement and its influence on policy outcomes. Amenta et al. conclude that in politically open states, little more than mobilization is needed to influence policy, whereas, in closed states, more assertive mobilization is necessary. Further, it is concluded that the more radical, or difficult to reach outcomes, will require greater mobilization (Amenta et al. 2005). Stephen Corral (2005) also uses the fsQCA model to test the political mediation of state-level outcomes of pro-GLBT and anti-GLBT policy regimes.

Before moving to the analysis stage, I code the variables and created the condition categories. To do this, I set standards for each variable for what would be considered completely in the category, and what would be completely out of the category. After setting these standards, I then began coding the "fuzzy" cases, those which were almost in, somewhat in, somewhat out, almost out, etc. Not every variable used the exact same code points, but rather, I tailored those depending on the variable. Table 1 lists each condition category and the code points used for its measurement.

Table 1: Coding for each condition category

transprisonpolicy	1(yes), 0(no)
transpolicyregime	1(all 4 policies), .75(3 policies), .5(2 policies), .25(1 policy), 0(no policies)
activism	1(high activism), .83, .67, .5, .33, .17, 0 (no activism)
counter	1(abundant counter activity), .67, .5, .33, 0(no counter activity)
politicalopp	1(very open), .9, .8, .7, .6, .5, .4, .3, .2, .1, 0(not open)
culturalopp	1(very open), .9, .8, .7, .6, .5, .4, .3, .2, .1, 0(not open)
litigationwon	1(at least 1 case won), 0(no cases won)

After coding each variable, I merge the variables into condition categories, which are ultimately what I use in the analysis. These categories, as discussed above, are activism (*activism)*, counter-activism (*counter*), political opportunity (*politicalopp*), and cultural opportunity (*culturalopp*). Activism, counter-activism, and litigation won, are only comprised of a single variable, so there is no need to merge them into a condition category. However, for political opportunity and cultural opportunity, both are represented by two variables. To merge these variables, I simply use their respective fuzzy-set score, and average them together and then round to the nearest tenth, creating a scale from 0-1, in .1 intervals. This creates a clean, but still accurate scale for the fuzzy-set. Below, in Table 2, I explain each outcome and condition category and what each consists of.

Table 2

transpolicyregime	Combination of 4 policies at state-level; changing gender on identification, employment discrimination protection, hate-crime protection, and hormone therapy allowed for inmates.
transprisonpolicy	Inmates allowed to use hormone therapy while incarcerated.
activism	Level of activism in a state that specifically targets transgender issues.
counter	Level of anti-GLBT movement activity in a state.
politicalopp	Consists of 2 measures averaged and rounded to the nearest tenth; rank on Mapping Our Rights and political ideology score.
culturalopp	Consists of 2 measures averages and rounded to the nearest tenth; number of GLBT friendly businesses in the state and openness to GLBT rights and lifestyles obtained from 2009 Gallup poll.
litigationwon	Whether or not at least one court case has been granted in favor of a plaintiff inmate allowing the administering of hormone therapy.

ANALYSIS

To analyze the data I use the fuzzy-set truth table algorithm that is provided in the fsQCA

software (Ragin, Dross, and Davey 2006), which works similarly to a crisp-set truth table, but

takes into account all of the "fuzzy" cases, or that that fall somewhere between 1 and 0. The

truth table provides 2^k combinations of categories, where k equals the number of condition

categories. For instance, when using 4 condition categories, there will be 2^4, or 16, combinations

of condition categories. Next, the truth table points to the number of cases that follow each

combination, or pathway, and the consistency of the combinations having membership in the

outcome. Table 3 provides a visual of each case and its respective fuzzy-set scores for each

condition category as well as each outcome.

Table 3

Cases	Condition Categories					Outcomes	
State	*activism*	*counter*	*politicalopp*	*culturalopp*	*litigationwon*	*transpolicyr egime*	*transprison policy*
Alabama	0	0	0	0	1	0.25	0
Alaska	0	0	0	0	0	0.25	0
Arizona	0.5	0.67	0.6	0.6	0	0.25	0
Arkansas	0.17	0.67	0.4	0.5	0	0.5	1
California	1	0.5	0.8	0.7	1	1	1
Colorado	0.17	0	0.1	0.1	0	1	1
Connecticut	0.33	0	0.2	0.1	0	0.75	0
Delaware	0.17	0	0.1	0.1	0	0.25	0
Hawaii	0	0.5	0.3	0.4	0	1	1
Idaho	0.17	0	0.1	0.1	1	0.25	1
Illinois	1	0	0.5	0.3	0	0.5	0
Indiana	0.33	0.33	0.3	0.3	1	0.25	0
Iowa	0	0	0	0	0	0.5	0
Kansas	1	0.33	0.7	0.5	0	0.25	0
Kentucky	0	0	0	0	0	0.25	0
Maine	0.5	1	0.8	0.9	0	0.5	0
Maryland	1	0	0.5	0.3	0	0.75	1
Massachusetts	1	1	1	1	1	0.75	1
Michigan	0.33	0	0.2	0.1	1	0.5	1
Minnesota	0.83	0	0.4	0.2	0	0.5	1
Nevada	0.67	0	0.3	0.2	0	0.25	0
New Hampshire	0.33	0.33	0.3	0.3	0	0.5	0
New Mexico	0.17	0	0.1	0.1	0	0.75	0
New York	1	0	0.5	0.3	1	0.5	1
North Carolina	0.33	0.33	0.3	0.3	0	0.25	0
Ohio	.17	1	.2	.3	0	0	0
Oklahoma	0.17	0	0.1	0.1	0	0.25	0
Oregon	0.33	0	0.2	0.1	0	0.75	0
Pennsylvania	0.83	0.67	0.8	0.7	0	0.25	0
South Carolina	0	0	0	0	0	0	0
South Dakota	0.33	0.33	0.7	0.5	0	0.25	0
Tennessee	0	0	0	0	0	0.25	0
Texas	1	0	0.5	0.3	0	0.5	1
Vermont	0.17	0	0.1	0.1	0	0.75	0
Virginia	0.17	0.67	0.4	0.5	0	0.25	0
Washington	0.33	0.33	0.3	0.3	0	0.75	0
Wisconsin	0.33	0.33	0.3	0.3	1	0.5	1
Wyoming	0	0	0	0	0	0.25	0

I begin by running a fuzzy-set truth table algorithm for the positive outcome of *transpolicyregime*, which creates a table of combinations of condition categories that lead to a positive transgender policy regime. I set the consistency threshold at .8, conceptually this means that if the consistency threshold is met, the combinations of conditions can be interpreted as "almost always" necessary and/or sufficient predictors of the outcome. Table 4 provides the truth table for analyzing the pathways to *transpolicyregime*, after it has been edited and sorted to list those pathways that meet the consistency threshold and exists in the data at least one time. The 1s and 0s represent different corners of the vector space for each condition category. The *number* represents the number of cases that have greater than .5 membership in the vector space, that is; the amount of cases that roughly follow this pathway. There are 16 possible pathways, however, many of these pathways may have no cases that use that set of condition categories. *Raw consist* refers to the amount of membership in that particular corner of vector space that is a consistent subset of the outcome. Generally speaking, this number represents the number of cases for a given pathway that results in the outcome. The pathways are then analyzed in an attempt to explain the existence of *transpolicyregime*. To assist in interpreting the output and pathways, I've provided a key below in Table 5.

Table 4

activism	counter	politicalopp	culturalopp	number	transpolicy regime	raw consist.
0	0	0	1	1	1	0.934142
1	0	1	1	1	1	0.922674
0	0	1	1	6	1	0.909091
1	0	0	1	1	1	0.881435
1	1	1	1	1	1	0.82505
1	0	0	0	1	1	0.818331
0	0	1	0	3	1	0.808059
1	1	0	1	1	0	0.73385
1	1	0	0	1	0	0.723404
0	0	0	0	8	0	0.580675

Table 5

italics	Condition category
~	Negated condition category
*	And

The output provides a list of solution terms which constitute the entire solution, as well as the overall solution consistency, which measures how well the entire solution predicts the outcome. Raw coverage refers to the proportion of the membership in the outcome that is explained by each solution term, while unique coverage is the proportion of the membership in the outcome that is solely explained by the solution term. Solution coverage is the proportion of membership in the outcome that is explained by the entire solution. Here, in figure 1 I've provided the outcome predicting *transpolicyregime*, using the condition categories; *activism, counter, politicalopp,* and *culturalopp.*

Figure 1

	raw coverage	unique coverage	consistency
*~counter*culturalopp*	0.688116	0.019710	0.837685
activism~counter*~politicalopp*	0.332174	0.002899	0.777476
~activism~counter*politicalopp*	0.578551	0.101449	0.793954
*activism*politicalopp*culturalopp*	0.492174	0.084058	0.877973

solution coverage: 0.878261
solution consistency: 0.733301

Here we have four solution terms that make up an entire solution; each solution term is essentially a different pathway to the same outcome. First, is *~counter*culturalopp,* which can be interpreted as, a lack of counter movement activity and a presence of cultural opportunity, which yields an individual consistency of .838. As seen in the output, *~counter,* is in three of the four solution terms, however, the other condition categories vary. In one solution term it is *~counter* paired with the presence of activism and the absence of political opportunity that leads

to the outcome, while in the other, the conditions are reversed and it is a lack of activism and a presence of political opportunity that lead to the outcome. This suggests that a lack of counter-movement activity is the more important condition category, and if paired with either *activism, culturalopp,* or *politicalopp,* then it is likely that these pathways will lead to a positive outcome. Examples include California, which has a lower score on counter movement activity and higher scores on activism, cultural opportunity, and political opportunity; and Maryland, which has a very low score in counter movement activism, and a very high score in activism. Lastly, the fourth and most consistent solution term is *activism*politicalopp*culturalopp,* which tells us that the combination of the condition categories is likely to result in a positive outcome. That is, a state with these conditions will likely have a strong transgender policy regime. Both California and Massachusetts are examples of this combination. Together, these solution terms make up the entire solution. These are the set of pathways that are likely to lead to a state having a strong transgender policy regime. The overall solution consistency of .733, indicates that the solution is fairly strong, meaning that the solution as a whole is a fairly reliable predictor that a state will have a strong transgender policy regime.

Next I analyze the outcome of *transprisonpolicy* using the same method, however, in this analysis I include *litigationwon*. Again, I set the consistency threshold to .8 to get the strongest results and the truth table provided below, Table 6, is edited and sorted to include the most relevant pathways.

Table 6

activism	counter	politicalopp	culturalopp	litigationwon	number	tgprisonpolicy	raw consist.
1	0	1	1	1	1	1	0.950739
1	1	1	1	1	1	1	0.944444
0	0	0	1	1	1	1	0.846154
0	0	0	0	1	3	0	0.557491
1	0	0	1	0	1	0	0.340956
1	0	0	0	0	1	0	0.301255
0	0	1	1	0	6	0	0.168719
0	0	1	0	0	3	0	0.161893
0	0	0	0	0	5	0	0.148148
1	1	0	0	0	1	0	0.058621

The truth table indicates that *litigationwon,* is an important factor in predicting if a state

has a transgender prison policy because it is present in each of the three pathways that meet the

consistency threshold as well as have at least one case in the data. The outcome provided below

in figure 2 shows a much more parsimonious solution than the solution offered for

transpolicyregime.

Figure 2

	raw coverage	unique coverage	consistency
	----------	----------	----------
culturalopp*litigationwon	0.333333	0.333333	0.952381

solution coverage: 0.333333
solution consistency: 0.952381

In this solution, there is only one solution term; *culturalopp*litigationwon,* which can be

interpreted as a presence of strong cultural opportunity and at least one favorable court case

granting an inmate hormone therapy. In addition to being parsimonious, this solution is very

consistent at .952, meaning that this pathway is a very strong predictor of transgender prison

policies. When looking back at Table 1, we see that in six of the eight cases that have legal

precedent (*litigationwon*), there is also a state-level policy that provides transgender inmates access to hormone therapy. Further, some cases that can't be explained by any of the other condition categories, yet still have transgender prison policies, such as Idaho and Wisconsin, might be explained by the fact that each have legal precedent. This may provide evidence that prisons and similar institutions may be immune to expected forms of democratic pressure and may have distinct pathways to policy changes, including litigation.

The pathways that are present for an absence of policies may be equally as important as the conditions present when there is a policy. Explaining why certain states may not have these policies is an indirect way of understanding what conditions are important for policy change. Following this logic I use the fuzzy-set truth table algorithm to explain negative outcomes, first I analyze the pathways to ~*transpolicyregime*, the negated form of *transpolicyregime,* which can be interpreted as a weak transgender policy regime. The truth table for this algorithm is provided below in Table 5, and is edited and sorted with a consistency threshold of .8.

Table 7

activism	counter	politicalopp	culturalopp	number	~transpolicyregime	raw consist.
1	1	0	0	1	1	0.946809
1	0	0	0	1	1	0.93126
1	1	0	1	1	1	0.922481
0	0	0	0	8	1	0.908842
1	0	0	1	1	1	0.879875
0	0	0	1	1	1	0.852686
1	0	1	1	1	1	0.821756
0	0	1	0	3	1	0.819724
1	1	1	1	1	0	0.755467
0	0	1	1	6	0	0.669623

Here we see eight pathways that meet the requirements of having a consistency of .8 or more, and at least one instance in the data. One explanation for the larger number of pathways

could be that there are simply more cases that have a weak transgender policy regime than there

are case with a strong transgender policy regime. However, the algorithm is able to sort these

pathways down into a parsimonious solution that simplifies the pathways, below in figure 3.

Figure 3

	raw coverage	unique coverage	consistency
~politicalopp~culturalopp*	0.625000	0.426000	0.842886
counter~politicalopp*	0.241000	0.042000	0.935922

solution coverage: 0.667000
solution consistency: 0.851308

This solution has a combination of two solution terms. The first solution term, or

pathway, is low political opportunity and low cultural opportunity. Examples include Alabama,

South Carolina, and Ohio. The second is solution term is high counter movement activity and

low political opportunity.

Examples of this include Ohio and Virginia. The entire solution has a consistency of

roughly .85, this indicates that these two pathways together do a fairly good job at explaining a

weak transgender policy regime.

Lastly, I analyze the pathways that lead to an absence of a state-level transgender prison

policy, using the same condition categories that were used in the analysis of pathways that lead

to a presence of the same policies. The truth table below, provided in Table 8 below, is edited

and sorted using a .8 consistency threshold. Additionally, Figure 4 below provides the output

with the solution terms.

Table 8

activism	counter	politicalopp	culturalopp	litigationwon	number	~tgprisonpolicy	raw consist.
1	1	0	1	0	1	1	0.942761
1	1	0	0	0	1	1	0.941379
0	0	0	0	0	5	1	0.851852
0	0	1	0	0	3	1	0.838107
0	0	1	1	0	6	1	0.831281
1	0	0	0	0	1	0	0.698745
1	0	0	1	0	1	0	0.659044
0	0	0	0	1	3	0	0.442509
0	0	0	1	1	1	0	0.153846
1	1	1	1	1	1	0	0.055556

Figure 4

	raw coverage	unique coverage	consistency
	----------	----------	----------
~litigationwon*~activism	0.602692	0.521923	0.847027
~litigationwon*~politicalopp*counter	0.140769	0.060000	0.839449

solution coverage: 0.662692
solution consistency: 0.858923

The solution offered above uses two solution terms; the first is *~litigationwon*~activism,* or no legal precedent and not much activism, examples include Alaska, Iowa, and Kentucky among others. The second solution term is *~litigationwon*~politicalopp*counter,* or no legal precedent and little political opportunity and a strong presence of counter-movement activity; examples for this pathway include Virginia and Ohio. The solution consistency is fairly strong at .859, meaning that the overall solution is "almost always" necessary and/or sufficient for explaining an absence of state-level transgender prison policies. This once again, illustrates the importance of legal precedent.

CONCLUSION

This analysis has shown that there are many pathways for explaining transgender policy regimes and transgender prison policies, as well as an absence of these two outcomes. This provides evidence for political mediation theory, which suggests that different levels of activism will lead to different outcomes under different circumstances. Further, for some institutions that might be less influenced by political pressure, adding litigation to the political mediation model may be the best way to explain policies that benefit marginalized persons. In the case of predicting transgender policy regimes, it is not the activism that matters depending on the contexts, but the counter-movement activity. We see that a lack of counter-movement activity when paired with cultural opportunity, activism, or political opportunity, is likely to lead to a stronger transgender policy regime. Similarly, a combination of activism, political opportunity, and cultural opportunity are also likely to lead to a stronger transgender policy regime.

One of the major research questions of this paper asks if there are different pathways to transgender policy regimes than there are to state-level transgender prison policies. In this case, we find that for predicting these policies, legal precedent and cultural opportunity are most important. Of particular interest is that six of the eight states with legal precedent also have a transgender prison policy, this emphasizes the significance of the courts in determining state-level policy. Perhaps litigation is more important for total institutions because activism may not often target these institutions, or because these institutions are not vulnerable to common political pressure due to their insulated nature, that is, the positions in control of policy are most often appointed rather than elected. Future studies should explore the role of litigation, particularly reactive litigation, in predicting state-level policies.

Another research question addresses the negative outcomes, that is; what pathways lead to an absence of transgender policy regimes and state-level transgender policies? In predicting a lack of transgender policy regimes there is an unexpected solution term that suggests that a presence of activism and lack of counter-movement activity is a pathway to not having a transgender policy regime. This is unexpected, but can perhaps be explained conceptually, that is, if activism is more likely to occur in places that do not have a policy regime, it could very well be that the reason there is activism is because there is a need for a policy regime. Gupta (2009) suggests that social movement success might eventually lead to declining support, therefore, in states that already have a strong transgender policy regime, activism may be less likely because it is seen as unnecessary by the social movement actors.

In predicting an absence of state-level transgender prison policies, I have shown that an absence of legal precedent and low levels of activism, as well as, an absence of legal precedent, low political opportunity, and a presence of counter-movement activity, are likely to lead to an absence of a state-level transgender prison policy. Again, litigation seems to be the most important factor in these pathways, for predicting both a presence and absence of state-level transgender prison policies.

This research adds to the existing literature on political mediation at the state level, and adds an interesting component of determining whether or not successful policy outcomes in marginalized institutions require different mobilization strategies, political contexts, or cultural opportunities; or whether it is something else entirely, such as legal precedent. This could be applied, not only to prisons, but other marginalized institutions such as the military and mental institutions. Further, future research could turn attention back to what drives mobilization, as it could be interesting how positive outcomes influence future mobilization, as recently discussed

by Devashree Gupta (2009) and Melinda Kane (2010), in their articles on the effects of political outcomes on social movements. Overall, this research provides new insights on political mediation theory, which leads to possible directions for future research on social movement theory focused on the influences of outcomes on mobilization.

REFERENCES

Amenta, Edwin, Neal Caren, Elizabeth Chiarello, and Yang Su. 2010. "The Political Consequences of Social Movements." *Annual Review of Sociology* 36:287-307.

Amenta Ewin, Neal Caren, Tina Fetner, and Michael P. Young. 2002. "Challengers and states: toward a political sociology of social movements." *Research in Political Sociol*ogy 10:47–83.

Amenta, Edwin, Neal Caren and Sheera Joy Olasky. 2005. "Age for Leisure? Political Mediation and the Impact of the Pension Movement on U.S. Old-Age Policy." *American Sociological Review* 70:516-538.

Amenta, Edwin, Neal Caren, Sheera Joy Olasky, and James E. Stobaugh. 2009. "All the Movements Fit to Print: Who, What, When, Where, and Why SMOs Appeared in the New York Times in the Twentieth Century." *American Sociological Review* 74:636-56.

Amenta, Edwin, Drew Halfmann, and Michael Young. 1999. "The Strategies and Contexts of Social Protest: Political Mediation and the Impact of the Townsend Movement in California." *Mobilization: An International Journal* 4(1):1-23.

Berry, William D., Richard C. Fording, Evan J. Ringquist, Russell L. Hanson and Carl Klarner. 2010. "Measuring Citizen and Government Ideology in the American States: A Re-appraisal." *State Politics and Policy Quarterly* 10(2):117-135.

Brown, George and Everett McDuffie. 2009. "Health Care Policies Addressing Transgender Inmates in Prison Systems in the United States." *Journal of Correctional Health Care* 15(4):280-291.

Burstein, Paul and April Linton. 2002. "The Impact of Political Parties, Interest Groups, and Social Movement Organizations on Public Policy: Some Recent Evidence and Theoretical Concerns." *Social Forces* 81(2):381-408.

Case, Kim A., Heather Kanenberg, Stephen "Arch" Erich, and Josephine Tittsworth. 2012. "Transgender Inclusion in University Nondiscrimination Statements: Challenging Gender-Conforming Privilege through Student Activism." *Journal of Social Issues* 68(1):145-161.

Corral, Stephen. 2005. "Effects of Social Movements on State-Level Policy Regimes for Gays, Lesbians, Bisexuals and Transgender Individuals." *Conference Papers -- American Sociological Association*, pp. 1-20.

Earl, Jennifer. 2004. "The Cultural Consequences of Social Movements." Pp. 508-530 in *The Blackwell Companion to Social Movements* edited by David A. Snow, Sarah A. Soule and Hanspeter Kriesi. Malden, MA: Blackwell.

Earl, Jennifer, Andrew Martin, John D. McCarthy and Sarah A. Soule. 2004. "The Use of Newspapers in Studying Collective Action." *Annual Review of Sociology* 30: 65-80.

Eisinger, Peter K. 1973. "The Conditions of Protest Behavior in American Cities." *American Political Science Review* 67(1):11-28.

Goffman, Erving. 1961. *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates.* New York: Anchor Books.

Gupta, Devashree. 2009. "The Power of Incremental Outcomes: How Small Victories and Defeats Affect Social Movement Organizations." *Mobilization: An International Journal* 14(4):417-432.

Hagner, Drake. 2010. "Fighting for Our Lives: The D.C. Trans Coalition's Campaign for Humane Treatment of Transgender Inmates in District of Columbia Correctional Facilites." *The Georgetown Journal of Gender and the Law.* 11(3):837-867.

Hilson, Chris. 2002. "New Social Movements: The Role of Legal Opportunity." Journal of European Public Policy 9(2): 238-255.

Kane, Melinda. 2003. "Social Movement Policy Success: Decriminalizing State Sodomy Laws, 1969-1998." *Mobilization: An International Journal* 8(3):313-334.
———. 2010. "You've Won, Now What? The Influence of Legal Change on Gay and Lesbian Mobilization, 1974-1999." *The Sociological Quarterly* 51:255–277.

Kitschelt Herbert P. 1986. "Political opportunity structures and political protest: antinuclear movements in four democracies." *British Journal of Political Science* 16:57–85.

Mann, Rebecca. 2006. "The Treatment of Transgender Prisoners, Not Just an American Problem - A Comparative Analysis of American, Australian, and Canadian Prison Policies Concerning the Treatment of Transgender Prisoners and a "Universal" Recommendation To Improve Treatment." *Law & Sexuality: A Review of Lesbian, Gay, Bisexual & Transgender Legal Issues.* 15:91-133.

McAdam D, McCarthy J, Zald M. 1996. "Introduction: opportunities, mobilizing structures, and framing processes—toward a synthetic, comparative perspective on social movements." In *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings*, edited by Doug McAdam, John D. McCarthy, and Mayer N. Zald, pp. 1–22. New York: Cambridge University Press.

McCammon, Holly J., Karen E. Campbell, Ellen M. Granberg, and Christine Mowery. 2001. "How Movements Win: Gendered Opportunity Structures and the State Women's Suffrage Movements, 1866-1919." *American Sociological Review* 66(1):49-70.

McCarthy John D. and Mayer N. Zald. 2002. The enduring vitality of the resource mobilization theory of social movements. In *Handbook of Sociological Theory*, edited by Jonathan H. Turner, pp. 533–65. New York: Kluwer Academic/Plenum

Ragin, Charles. 2000. *Fuzzy-Set Social Science.* Chicago: University of Chicago.

Ragin, Charles C., Kriss A. Drass and Sean Davey. 2006. *Fuzzy-Set/Qualitative Comparative Analysis 2.0.* Tucson, Arizona: Department of Sociology, University of Arizona.

Sexton, Lori, Valerie Jenness, and Jennifer Macy Sumner. 2010. "Where the Margins Meet: A Demographic Assessment of Transgender Inmates in Men's Prisons." *Justice Quarterly.* 27(6):835-866.

Soule, Sarah. 2004. "Going to the Chapel? Same-Sex Marriage Bans in the United States, 1973-2000." *Social Problems* 51(4):453-477.

Tarzwell, Sydney. 2006. "The Gender Lines are Marked With Razor Wire: Addressing State Prison Policies and Practices for the Management of Transgender Prisoners." *Columbia Human Rights Law Review.* 38(1):167-219.

Vanhala, Lisa. 2011 *Making Rights a Reality? Disability Rights Activists and Legal Mobilization*. Cambridge: Cambridge University Press.

VITA

Graduate School

Southern Illinois University

Trey Green

tlg0309@gmail.com

East Carolina University

Bachelor of Science, Sociology, May 2011

Research Paper Title:

     Understanding the Adoption of State-Level Policies for Transgender Persons: Political Mediation and the Role of Litigation

Major Professor: Kelsy Kretschmer