Bound By *Bostock*: The Effect of Policies on Attitudes[*]

Cameron Deal[1]

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Abstract

Do laws affect attitudes? Traditional models of policy creation emphasize how public opinion shapes policy but isolating the effect of one on the other is empirically challenging. The unexpected and exogenous nature of the *Bostock v. Clayton County* Supreme Court decision, which banned employment discrimination for LGBT (Lesbian, Gay, Bisexual, and Transgender) people, lends credibility to the notion of isolating the effect of policies on attitudes. Additionally, the *Bostock* decision affects labor market policy, while prior work on the relationship between policies and attitudes has primarily examined changes in social policy. I use the Supreme Court's ruling in *Bostock*, paired with state variation in LGBT employment protections to estimate difference-in-differences and event study models to demonstrate that states that were "bound by *Bostock*" experienced a reduction in unfavorable attitudes towards LGBT people, supporting a legitimacy model of policy effects on attitudes. Finally, I examine heterogeneity in effects and find suggestive evidence that those who are interested in government, are male, or are Republican drive effects.

JEL Codes: K31, Z1

Key Words: attitudes; public opinion; sexual orientation; gender identity; employment discrimination

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Abbreviations: LGBT (Lesbian, Gay, Bisexual, and Transgender)

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[1] Vanderbilt University (Corresponding Author). E-mail: cameron.h.deal@vanderbilt.edu

1. Introduction

On June 15th, 2020, the U.S. Supreme Court decided that existing federal law prohibits employment discrimination based on sexual orientation or transgender status in *Bostock v. Clayton County*. While 22 states had already established employment protections based on sexual orientation and gender identity, 28 states gained these protections from the ruling.[2] Overnight, they became "bound by *Bostock*." This decision came as a surprise to many given the conservative composition of the court (Williams, 2020). Newspapers in places with preexisting employment protections highlighted how they had already implemented such laws, while those in states that were "bound by *Bostock*" emphasized the novel nature of the employment protections (Oxford, 2020; Watson, 2020). I leverage this state variation in employment discrimination policies to estimate the effect of newly imposed policies on attitudes towards LGBT people using data from the nationally representative Nationscape Survey, which tracked weekly social attitudes from July 2019-January 2021.[3]

Traditional models of democratic politics tend to emphasize how attitudes affect policies, but I examine the converse; how the introduction and implementation of a policy may impact attitudes. A contemporaneous analysis finds a positive effect of *Bostock* on attitudes towards the LGBT community, but it does not leverage state variation in employment protections to examine this shift (Thompson, 2022). Prior literature has begun to explore the relationship between policies and attitudes in the context of same-sex marriage (Abou-Chadi & Finnigan, 2019; Aksoy et al., 2020; Flores & Barclay, 2016). One limitation of these prior analyses is the empirical difficulty of isolating the effect of policies on attitudes given that policies are often created through processes that rely on attitudes. In contrast, the architects of the court viewed it as an institution insulated from public opinion. The *Bostock* decision offers an ideal setting for isolating the effect of employment protections on LGBT attitudes given that it was unanticipated and a judicial decision (rather than a legislative process).

In this analysis, I use the *Bostock* decision to employ a difference-in-differences approach that controls for state- and time-specific unobserved factors. I show that the Bostock decision decreased unfavorable attitudes towards LGBT people by 1.4 percentage points, an approximate 10.5 percent decrease. I add new evidence to the growing literature on how policies may affect attitudes, especially towards minority groups, and examine a change in labor market policy, rather than social policy.

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[2] Previous research has shown that employment discrimination protection laws can improve labor market outcomes (Neumark & Stock, 1999), which suggests *Bostock* could reduce LGBTQ labor market differentials (Badgett et al., 2021; Martell, 2021).

[3] Though infrequently used by economists, political scientists have begun to use Nationscape data to measure public opinion (Reny & Newman, 2021). Using sample weights, the demographic estimates obtained by Nationscape are close to government benchmarks, and I use weights throughout my analysis (Tausanovitch & Vavreck, 2021).

2. Methods

This analysis uses the repeated cross-sectional Democracy Fund + UCLA Nationscape survey, which collected data on political and social attitudes from approximately 6,000 Americans each week (Tausanovitch & Vavreck, 2021).

The outcome of interest is attitudes towards LGBT people. Respondents could say they were (1) "very favorable," (2) "somewhat favorable," (3) "somewhat unfavorable," or (4) "very unfavorable." I dichotomize this outcome several ways, constructing a continuous favorable attitudes variable from 0 to 3 from the initial 4-level outcome, combining categories 1-2 and 3-4, combining the 2-4, and for the main outcome, combining 1-3 compared with 4. I exclude those respondents who did not answer the question or who said they "had not heard enough" to form an opinion (N=66,082).[4]

I classify those states which already had employment protections (J=22) as untreated in this analysis, and those states which gained employment protections for LGBT people as treated (J=28).[5] The treatment begins on June 15th, the day that the *Bostock* ruling was issued. This motivates the difference-in-differences analysis, in which I estimate the following equation:

$$Y_{ist} = \alpha + \gamma S_s + \lambda W_t + \delta(T_s \cdot D_t) + \varepsilon_{ist} \quad (1)$$

Y_{ist} is the outcome of LGBT attitudes, T_s is an indicator variable for treatment status, D_t is an indicator variable for post-*Bostock*, S_s is state fixed effects, W_t is week fixed effects, and ε_{ist} is an idiosyncratic error term (clustered by state following Bertrand et al., 2004). For additional models, I add in a vector of individual characteristics (age, age squared, gender, education, employment, religion, party affiliation, and race) and state-specific linear time trends.[6] I estimate the coefficient of interest, δ, by interacting the indicators for treatment and post-*Bostock*; it represents the effect of the new employment protections on attitudes towards LGBT people.

[4] Results are statistically similar when including the "had not heard enough" group as unfavorable.
[5] Results are statistically similar if considering those states that had sexual orientation protections, but not gender identity protections prior to *Bostock* to be treated.
[6] Refer to Appendix Table A.1 for details on covariates.

3. Results

Table 1: The Effect of Employment Protections on LGBT Attitudes

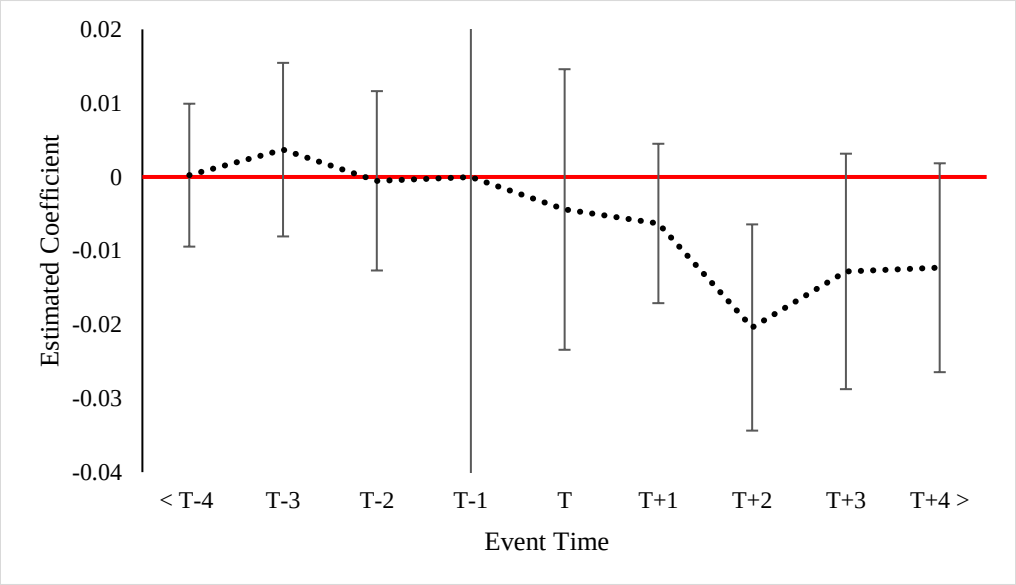
		(1)	(2)	(3)	(4)	
		"Very Unfavorable" Attitudes	"Very Favorable" Attitudes	"Very Favorable" and "Somewhat Favorable"	Continuous Favorability	N
(a)	State and Week FEs	-0.0145**	-0.00249	0.0145**	0.0268*	398648
		(0.0065)	(0.0048)	(0.0065)	(0.0143)	
(b)	(a) plus individual controls	-0.0135**	-0.00143	0.0156***	0.0295**	398648
		(0.0061)	(0.0043)	(0.0057)	(0.0128)	
(c)	(b) plus state-specific time trends	-0.0124**	-0.00125	0.00679	0.0204	398648
		(0.0058)	(0.0072)	(0.0068)	(0.0167)	

*p<0.1 **p<0.05 ***p<0.01. Robust standard errors, clustered by state, are shown in parentheses.

Table 1 presents the estimation of equation (1) for my full sample, with the four different outcome definitions in the columns at the top. Row (a) displays the results of a model with state and week fixed effects, and rows (b) and (c) show models that add individual controls and state-specific time trends, respectively. For unfavorable attitudes, I estimate δ to be -0.014. This suggests that the newly imposed employment protections of *Bostock* led to an average decrease in unfavorable attitudes towards LGBT people by 1.4 percentage points (an approximate 10.5 percent decrease from the mean). This is a relatively modest effect, but it aligns with prior literature on the effects of policies on attitudes, which tends to find effect sizes of approximately 3-4 percentage points (Aksoy et al., 2020). I find similar improvements in attitudes in other definitions of the outcome, but there is no effect on very favorable attitudes.

I estimate an event study of the effects of *Bostock* on unfavorable LGBT attitudes, displayed in Figure 1. These results clearly illustrate how *Bostock v. Clayton County* decreased unfavorable attitudes towards LGBT people. There is no significant divergence between the treated and untreated states before treatment, supporting the assumption of parallel pre-trends.

Figure 1: Event Study of LGBT Attitudes



LGBT attitudes by three-week increments (95% confidence intervals in bars). Dependent variable is respondents who selected "Very Unfavorable" (coded as 1) vs. all other categories (coded as 0). Estimates derived from regression of attitudes on the interaction of treatment with indicators for three-week periods since *Bostock*. Regression includes state and week fixed effects.

Table 2: Heterogeneity Analyses for Unfavorable Attitudes, Difference-in-Differences Estimates

	(1)	(2)
	Yes	No
Interested in Government	-0.0224***	-0.00732
	(0.00703)	(0.00946)
N	180039	218609
Democrat	-0.0119	-0.0243*
	(0.00858)	(0.0124)
N	147263	123131
White, non-Hispanic	-0.0118*	-0.0184*
	(0.00659)	(0.00990)
N	270986	127662
Female	0.00303	-0.0317***
	(0.00658)	(0.0101)
N	221854	176794
Bachelor's Degree or Higher	-0.0108	-0.0147**
	(0.0131)	(0.00627)
N	144325	254323

*p<0.1 **p<0.05 ***p<0.01. Dependent variable is unfavorable attitudes towards LGBT people (those who answer they are "very unfavorable"). All regressions include state and week fixed effects, individual controls, and state-specific linear time trends. Robust standard errors, clustered by state, are shown in parentheses. Variable of stratification is at left, and column (1) reports results for the subsample that holds that characteristic, while column (2) reports results for those that do not.

Additionally, I explore the heterogeneity of this effect by restricting to subsamples and estimating equation (1) with individual controls and state-specific linear time trends. Table 2 displays these results, where each entry is a difference-in-differences estimate. Each panel is for a different variable of stratification. Column 1 displays the estimates for those who hold the binary characteristic to the left of the panel, and Column 2 displays the estimates for those who do not. Some estimates are similar across stratification, but I find larger effects for men, Republicans, and those who are interested in government.

4. Conclusion

This analysis quantifies the effect of the Supreme Court's decision to impose employment protections in *Bostock v. Clayton County* on attitudes towards LGBT people. I show that the effects of policies on attitudes are not restricted to social policies; instead, labor market discrimination policies can produce similar effects on attitudes. After controlling for potential confounding factors, I find a modest but significant improvement in attitudes towards LGBT people. One might expect smaller effects because previous research has found more muted reactions to LGBT employment protections than same-sex marriage (Kam & Estes, 2016). Interestingly, I find no effects on the top category of favorability, indicating that the effects across the spectrum of public opinion were not uniform.

Policies may inspire *backlash* (worsening attitudes towards a specific group), *legitimacy* (increasing acceptance of the group), or *polarization* (widening the differences between supporters and opponents) (Flores & Barclay, 2016). My findings support the *legitimacy* framework and demonstrates the ability of policies to change societal attitudes about minority groups. The effects I identify are broad-based across demographic characteristics, and the consistent estimation of improvements in attitudes, even for groups that may traditionally oppose LGBT people, lends evidence against a *backlash* effect. I do not find evidence of *polarization*, as point estimates for both Democrats and Republicans are positive.

Finally, I find stronger effects among men, Republicans, and those who are interested in government. This may suggest that these groups consume more political media, or that these groups may be more receptive to the legitimacy of the LGBT community given that Justice Gorsuch authored the decision. In other words, *elite framing* by a prominent conservative justice may be legitimizing LGBT people. Those respondents who are interested in government may be more civically engaged broadly, indicating that their views on public attitudes could be more responsive to government actions. Future work that can identify specific mechanisms will be fruitful additions to the literature.

As more countries begin to consider employment protections for LGBT people, my results suggest that these policies may contribute to reductions in unfavorable attitudes towards sexual and gender minorities. This could translate into less discrimination in broad areas and additional benefits associated with reductions in anti-LGBT attitudes.

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