



“THE SUPREME COURT CHANGED MY MIND” HOW OBERGEFELL V. HODGES (2015) INFLUENCES PUBLIC ATTITUDES ON SAME-SEX COUPLE ADOPTIONS

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Abstract

The connection between the Supreme Court and U.S. citizens is a complex relationship that a chorus of researchers has studied. This project considers the extent of the Court’s ability to influence public attitudes. Whereas previous literature has identified the Court’s influence on attitudes on same-sex marriage, this project evaluates whether the Court’s decision to legalize same-sex marriage in *Obergefell v. Hodges*, 576 U.S. (2015) influenced public attitudes on another LGBTQ+ related-policy: same-sex couple adoptions. This study tested a hypothesis that the Court has a legitimizing function by conducting fifteen separate chi-square tests and a single independent t-test using the American National Election Survey (ANES) data from 2012 and 2016. This study is the first to examine the effects of the Court on a national scale in this light. The study reveals an overall increase in public support for same-sex couple adoptions after *Obergefell* (2015), which lends support to the idea that the Supreme Court legitimizes public attitudes and makes citizens re-think their previous opinions.

Keywords: Supreme Court, public opinion, same-sex marriage, same-sex couple adoptions, and legitimizing function.

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Purpose and Overview

There exists an age-old question within the political science community: does the United States Supreme Court influence public opinion? While the research remains mixed at best, many scholars have examined this issue through the lens of Supreme Court decisions on gay civil rights. This research has increased the understanding of how the Court's decisions affect public attitudes toward lesbian, gay, and bisexual (LGB) individuals. The most current research has examined the public's attitude toward same-sex marriage after the landmark Obergefell v. Hodges, 576 U.S. (2015) ruling to legalize same-sex marriage nationwide. However, an unexplored area of this research is how Obergefell (2015) has influenced attitudes on same-sex couple adoptions. This is the first study to examine this inquiry on a national scale.

This study hypothesizes that when comparing U.S. citizens, those surveyed before Obergefell v. Hodges (2015) are more likely to oppose same-sex couple adoptions and have negative feelings toward LGB people, compared to those surveyed after the decision. To test this hypothesis, this study conducted two tests using the American National Election Survey (ANES) data in 2012 and 2016. Test one examines attitudes toward same-sex couple adoptions with the use of chi-square analyses. Test two examines attitudes on LGB individuals in general by using an independent t-test.

The results from both tests show an increase in support for same-sex couple adoptions and overall positive feelings for the LGB community. This study provides support for the idea that the Supreme Court does influence public opinion and that U.S citizens have rethought their opinions on LGB people and support for same-sex couple adoptions following the Obergefell (2015) decision. In other words, this study lends support to the idea that the Supreme Court legitimizes support for LGB individuals and for LGB policies like same-sex couple adoptions.

Adding to the evidence that the Supreme Court is a legitimizing function is essential, as Americans may be more inclined to vote for a President based on who they might select for the Supreme Court. Alternatively, more evidence showing the Supreme Court as a legitimizing function may encourage advocacy groups to direct more resources to judicial advocacy if it means more easily swaying overall public opinion.

This paper will begin by presenting a review of the literature, before outlining the research method, research design, and expectations based on previous research. Then, this paper will present the results of the tests, accompanied by an analysis and discussion. Finally, the paper will examine the limitations and weaknesses of these tests, before proposing future research ideas.



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Review of Literature

The Supreme Court and Public Attitudes

Among the ongoing debate as to whether the Supreme Court is a legitimizing function, some political scientists assert that it is more likely that citizens are persuaded by Supreme Court actions and not that the Supreme Court is more likely motivated by citizens' public opinions (Mondak, 1992; Bartels and Mutz, 2009). A premier study conducted by Franklin and Kosaki (1989) measured whether the Supreme Court decision *Roe v. Wade*, 410 U.S. 113 (1973) affected attitudes on abortion rights. They tested their structural response hypothesis by using two cross-section samples, one before and after the ruling (Franklin and Kosaki, 1989).

Franklin and Kosaki found that the Court played a significant role in an overall increase in support for abortion rights (1989). This study also defined the notion that the Court is not only responsible for the immediate reaction after the decision, but also the following media coverage and responsive policy action (Franklin and Kosaki, 1989). In other words, Franklin and Kosaki's study broadened the extent to which researchers hold the Supreme Court responsible for the "effects" of its decision (1989).

Supreme Court Legitimizing Social Issues

Dahl (1957) asserts that the Supreme Court may legitimize support for a social issue. This is a "positive response" or "legitimacy" hypothesis. Dahl concludes that this hypothesis exists because the U.S. public holds the Supreme Court in such high regard (1957). Research by Scheingold (2004) endorses this assertion, citing that the general public holds profound respect for the rule of law. As a result, Scheingold finds that the general public is likely to honor the Court's ruling and deem the Court's ruling as legitimate (2004).

Furthermore, Dahl's research suggests that the public is likely to adjust their own opinions according to the view held by the Supreme Court (1957). In other words, the Supreme Court can normalize a different opinion. Dahl's findings are consistent with a recent study by Christenson and Glick (2015), which found that following the Supreme Court's ruling to uphold the Affordable Care Act's individual mandate as constitutional, the public's support for the mandate increased. This is a prime example of how the Supreme Court may legitimize public opinion. Some researchers have used LGB-related Supreme Court cases to advance their theories as to whether the Court has legitimized the public's support for LGB social issues.



Supreme Court Legitimizing Public Attitudes toward LGB Individuals

A study by Flores and Barclay (2015) tested the effects of states' same-sex marriage policy and the Supreme Court legitimizing support for LGB individuals. Using ANES data, Flores and Barclay found that state judicial action in favor of same-sex marriage made respondents reconsider their previous opinions on same-sex marriage and attitudes toward LGB individuals (2015). Flores and Barclay noted an increase in support for same-sex marriage and warmer attitudes toward LGB individuals (2015). Later researchers Tankard and Paluck (2017) expanded this model to the federal level by measuring the effects of Obergefell (2015) on social norms and personal attitudes. Similarly, their study determined that Obergefell (2015) shifted the respondents' support of same-sex marriage in a positive direction (Tankard and Paluck, 2017).

An analysis by Kazyak and Stange (2018) complements Tankard and Paluck's (2017) findings. Kazyak and Stange's analysis, which used t-tests with data from the Nebraska Annual Social Indicators Survey (NASIS), indicated an overwhelming increase in support for same-sex marriage among Nebraskans from 2013 to 2015 (2018). They concluded that public opinion shifted to be aligned with the Court's decision (Kazyak and Stange, 2018). Overall, their study indicated support for the legitimacy hypothesis of how the Supreme Court's ruling in Obergefell (2015) affected public opinion of LGB issues (Kazyak and Stange, 2018). Kazyak and Stange's findings from Nebraska mirror the national trend. As of 2017, a majority of U.S. citizens support same-sex marriage (McCarthy, 2017).

Furthermore, Kazyak and Stange's study found that the Obergefell (2015) decision also increased support for same-sex couple adoptions and protections for LGB individuals from facing discrimination in housing and employment (2017). Anderson and Fetner (2008) offer evidence to support why Obergefell's (2015) decision on same-sex marriage also affected views on same-sex couple adoptions. Anderson and Fetner determined that increased support for gay marriage following state judicial decisions has also shifted U.S. citizen's overall acceptance of same-sex individuals (2008). Put another way, when the Court legitimizes one LGB social issue, it may also facilitate other forms of LGB social acceptance.

Study Design

Theory and Expectations

Overall, the literature supports the idea that Obergefell (2015) has swayed public opinion to increasingly support same-sex marriage. Furthermore, when the Court legitimizes one LGB social issue, it facilitates other forms of LGB social acceptance. Putting those concepts together, this study evaluates whether Obergefell (2015) increased the support of LGB couple adoptions. This study would be the first to do so on a national scale - in this light. Based on the literature review, one would expect to observe a national increase in support for same-sex couple adoptions following Obergefell (2015).

This study hypothesizes that when comparing U.S. citizens, those surveyed before Obergefell (2015) will be more likely to oppose same-sex couple adoptions and have negative feelings toward LGB people, compared to those surveyed after the decision. This is a legitimacy hypothesis. The null hypothesis states that when comparing U.S. citizens, those surveyed before Obergefell (2015) will have the same likelihood to oppose same-sex couple adoptions and have negative feelings toward LGB people, compared to those surveyed after the decision. If this legitimacy hypothesis is untrue, this study may suggest a divergence from the consensus of current literature and empirical studies on this matter.

Operationalization and Measurement of Concepts

The method utilized will mirror a similar method conducted by Flores and Barclay to measure the effects of judicial action on attitude change (2015). Flores and Barclay used ANES data from 2012 and a re-contact study from 2013 to analyze the effect state same-sex marriage legalization policies had on attitudes toward the LGB community (2015). Their study used an ANES question asking whether same-sex marriage should be legal, coupled with a 100-point scale feeling thermometer on the LGB community as dependent variables (2015). The independent variable was the years 2012 and 2013, accounting for when four states faced ballot measures and referenda on same-sex marriage (2015).

Therefore, this study will also use data from ANES. The independent variable will be the timing of surveys, pre-and-post the Obergefell (2015) decision legalizing same-sex marriage. To measure the independent variable, the study will use ANES survey data based on the years 2012 (pre-ruling), and 2016 (post-ruling). The dependent variables will be (1) the support of same-sex couple adoptions and (2) general feelings toward the LGB community. To operationalize the dependent variables, this study will similarly mirror Flores and Barclay's usage of two ANES questions and responses (2015). Although, it is important to recognize that this study will not be making use of a re-contact study, which differs from the Flores and Barclay model (2015).



To measure the first dependent variable, support for same-sex couple adoptions, this study will use responses from the question: “Do you think gay or lesbian couples, in other words, homosexual couples, should be legally permitted to adopt children?” Answers to this question are coded in ANES with only two values “yes” or “no.” To measure the second dependent variable, general feelings toward the LGB community, this will use responses from the question: “How would you rate: gay men and lesbians (that is, homosexuals)” on a 100-point feeling thermometer scale. A score of 100 indicates a very warm or favorable feeling, 50 indicates no feeling, and 0 indicates a very cold or unfavorable feeling.

Research Design:

To test the proposed hypothesis, this study will perform two tests using ANES data in 2012 and 2016. One test will examine attitudes toward same-sex couple adoptions, and the other will examine attitudes toward LGB individuals in general. The independent variable will be the same for both tests: the year 2012 (measuring pre-Obergefell) and the year 2016 (measuring post-Obergefell). In test one, when measuring attitudes on same-sex couple adoptions, the independent (years) and dependent (“yes” or “no” support of same-sex couple adoptions) variables will be nominal. Therefore, this study will conduct a chi-square test. If the results suggest a significant relationship, the analysis will report an appropriate proportional reduction in error measures. In test two, when measuring general feelings toward LGB individuals, the independent variable will be nominal (years) and the dependent variable will be interval. Therefore, this study will conduct a t-test to compare the means of LGB feelings.

There are variables that could skew the results or cause one to conclude that the relationship is spurious. To account for these variables, this study will control for the respondent’s gender, education, age, political affiliation, race, if they are religious, and if they know someone who is LGB for the chi-square tests. Previous research indicates that support of LGB issues varies among different demographics. More specifically, studies show that women, higher educated people, non-religious people, younger generations, and liberals support same-sex marriage at higher levels compared to men, lower educated people, religious individuals, older generations, and conservatives (Andersen and Fetner 2008; Brumbaugh et al. 2008; Galupo and Pearl 2007; Haider-Markel and Joslyn 2005; 2008; Kreitzer, Hamilton and Tolbert 2014; Lewis 2011; Lewis and Gossett 2008; McCarthy, 2017; Sherkat, de Vries and Creek 2010; Whitehead 2010; Woodford et al. 2012; as cited in Kazyak and Stange, 2018).

Moreover, research by Lewis (2003) shows that, in general, Black people disapprove of homosexuality more strongly than White people. Although, evidence in the field regarding Black-White differences in LGB acceptance is limited (Lewis, 2003). Lastly, research indicates that people who report knowing an LGB individual are more likely to have a positive attitude towards gay rights, as compared to people who do not (Fetner 2016; Herek 2002; Herek & Capitanio 1996). A study by DellaPosta (2018) determined that people who know at least one LGB person were more likely to later change their minds about LGB civil rights issues and become more accepting of LGB people overall.

In order to control for the variable of age, this study will subgroup respondents into "18-39," "40-59," and "60+." To control for education, this study will subgroup respondents into two groups of "high school or less" and "college/advanced degree." To control for race, this study will subgroup respondents as "White people" and "Black people." The study will control for religiosity by subgrouping respondents as "religious" and "not religious." To control for if the respondent knows someone who is LGB, the study will subgroup the respondents in "yes" and "no" based on the question: "Among your immediate family members, relatives, neighbors, co-workers, or close friends, are any of them LGB as far as you know?" To control for gender, this study will subgroup the respondents into two categories: "male" and "female." To control for political affiliation, the study will subgroup a 7-point political ideology scale into two categories: "liberals" and "conservatives."

Analysis:

Test 1: Chi-Square Tests Measuring Support for Same-Sex Couple Adoptions

The study was conducted in an attempt to reject the null hypothesis. The first test examined support for same-sex couple adoptions. Separate chi-square tests for 15 control variables were performed with the appropriate proportional reduction of error (PRE) conducted. By comparing support for same-sex couple adoptions over two surveys from 2012 and 2016, a simple cross-tab analysis shows that overall support has increased. Without controls, overall support increased from 61.6 percent in 2012 to 73.2 percent in 2016.

Table - 1: Chi-Square Model Analyzing Support for Same-Sex Couple Adoptions

IV: Time of the ANES Survey (2012, 2016) DV: Support Gay-Couple Adoptions Tests: Control variables in Italics	<u>Chi-Square</u>	<u>P-Value</u>	<u>Lambda</u>	<u>N</u>	<u>Cramer's V</u>
Support for Gay-Couple Adoptions	143.761	.000	.000	6580	.121
<i>Race</i> White People: Black People:	87.053 4.685	.000 .030	.007 .000	640 0 1341	.117 . .059
<i>Gender</i> Male: Female:	90.993 54.797	.000 .000	.000 .000	3001 3547	.139 .103
<i>Age</i> 18-39 (Gen Z and Millennial) 40-59 (Gen X): 60+ (Baby Boomer):	50.011 40.498 50.111	.000 .000 .000	.000 .000 .000	3135 3568 3037	.126 .107 .128
<i>Knows Gay Person?</i> Yes: No:	53.337 44.907	.000 .000	.015 .000	4679 4815	.106 .097
<i>Religious?</i> Yes: No:	93.094 32.933	.000 .000	.000 .000	6665 3197	.118 .101
<i>Highest Education</i> High School/Less: College:	37.351 33.212	.000 .000	.000 .019	3041 3979	.111 .091
<i>Political Ideology</i> Liberal: Conservative:	21.573 79.615	.000 .000	.000 .097	3630 2123	.123 .194

A very high chi-square value of 143.761, coupled with a p-value of 0.00 (passing the .05 significance test), indicates that there is a significant relationship between the two variables. As a result, this study can confidently reject the null hypothesis, which hypothesized that when comparing U.S. citizens, those surveyed before Obergefell v. Hodges (2015) will be no more likely to support same-sex couple adoptions and have the same feelings toward LGB people, compared to those surveyed after the decision.

Furthermore, a wide range of control variables was tested to see if the relationship is spurious. When looking at the control tests, every p-value was less than 0.05, which indicates statistical significance for all variables. Overall support increased between every control demographic: White people, Black people, high school educated or less, college-educated, conservatives, liberals, religious individuals, non-religious individuals, individuals with gay friends, individuals without gay friends, and all age groups (18-39, 40-59, 60+). Since none of the controls rendered the relationship insignificant, one cannot conclude that the relationship between the variables is spurious.

An analysis of Lambda values may provide a more in-depth answer when it comes to interpreting the strength of the relationship between the variables. According to Pollock (2016), Lambda values measure the strength of the relationship between two categorical variables, with at least one being nominal in nature. Lambda values of less than 0.1 indicate that there is a weak or no (0.0) relationship between the variables (Pollock, 2016).

Every chi-square test, including control variable tests, had a lambda value of less than 0.01, many of which were 0.00 (Pollock, 2016). On its surface, this may indicate that there was either no or very little strength of association between the variables (Pollock, 2016). However, according to Pollock, Lambda has its limitations (2016). While all the other evidence leads us to believe a relationship does exist, the Lambda values may fail to detect the relationships (Pollock, 2016). This is not uncommon. As a result, in situations like these, we rely on the value of Cramer's V, which is measured on a range of 0 (no association) to 1 (perfect association) (Pollock, 2016).

Generally speaking, the minimum threshold indicating there is a moderately-strong but significant relationship between variables is a Cramer's V value of .10 (Pollock, 2016). When analyzing Cramer's V results, it became clear of the relationship between the variables, especially when looking at the controls (Pollock, 2016). These results indicated that there was at least a weak relationship (Cramer's V value of .10 or higher) between the variables when accounting for the controls except for the control demographics of Black respondents, college-educated respondents, and respondents who knew someone who was LGB (Pollock, 2016). Overall, this study can conclude that the relationship between the variables is significant, but weak in nature.

Test 2: Independent T-Test Measuring Overall Support for LGB Individuals

Test two performed a simple independent t-test to test the independent variables of before and after *Obergefell* (2015) against the feeling thermometer on LGB people. The mean for the year 2012 was 52.16 and the mean for the year 2016 was 60.73. Further, the test computed a p-value of 0.00, a t-statistic of -14.549, and a mean difference of -8.574. Since the p-value was less than .05, the result passes the test of significance and is considered statistically significant. Since the t-statistic is far from zero, it is even more likely that there is statistical significance.

Table -2: Difference of Means, T-Test Results (IV: Year of Survey); DV: Feeling Thermometer

Gay Feeling Thermometer	<u>Year of Survey</u>	<u>N</u>	<u>Mean</u>	<u>Standard Deviation</u>	<u>Standard Mean Error</u>
	2012	5549	52.16	27.555	.373
	2016	3598	60.73	27.356	.456

<u>T-Statistic</u>	<u>P-Value</u>	<u>Mean Difference</u>	<u>Std. Error Difference</u>	<u>Confidence Interval</u>	
				<u>Low</u>	<u>High</u>
-14.549	.000	-8.574	.589	-9.730	-4.419

The test also revealed that the 95 percent confidence interval of the difference had a lower value of -9.730 and an upper value of -7.419. The effect is significant since all values in the confidence interval are on the same negative side of zero. Since zero is not contained within the confidence interval, this also agrees with the very small p-value of 0.00. When it comes to the null hypothesis. Given all these results, the test lends further support that we can reject the null hypothesis. This result also reflects the chi-square results, as overall support for an LGB-issue (same-sex adoption) increased between 2012 and 2016.

Conclusions

The results of the chi-square tests are consistent with the work by Kazyak and Stange (2018). As indicated in the literature review, Kazyak and Stange tested whether state same-sex marriage legalization affected the support of other LGB-related issues, like same-sex couple adoptions (2018). Using data from the Nebraska Annual Social Indicators Survey (NASIS), they found an overwhelming increase in support for same-sex couple adoptions among Nebraskans from 2013 to 2015 (2018). This study, which brought this analysis to a national scale, complements their findings. Moreover, the results of the independent t-test are consistent with the general trend that U.S citizens increasingly support same-sex or LGB-related policy (McCarthy, 2017; Pew Research, 2014).

Overall, the results of this study can reject the null hypothesis. This study’s two tests lend support to the hypothesis that when comparing U.S. citizens, those surveyed before Obergefell v. Hodges (2015) will be more likely to oppose same-sex couple adoptions and have negative feelings toward LGB people,

compared to those surveyed after the decision. This study provides support for the idea that the Supreme Court does influence public opinion, by legitimizing support for the LGB population and for specific LGB policies like same-sex couple adoptions.

Limitations and Suggestions for Future Research

It is important to note some of the major weaknesses of this study. First, this study may not reflect other significant changes in society, such as an increased representation of LGBTQ+ individuals in the media. Perhaps a good future question to study is: “How has increased representation of LGBTQ+ people in the media and on TV affected the public’s views of the community at large?” Second, the scope of this paper does not extend to attitudes toward transgender individuals, as ANES has separate data for attitudes toward transgender individuals. Moving forward, a vital expansion of this study would be to include attitudes toward transgender individuals. For example, an interesting addition to this study may be to examine if Obergefell (2015) facilitated a changing of attitudes towards transgender individuals and support for anti-discrimination laws.

Another expansion of this study would be to include data from 2018 and 2020. With the Donald J. Trump presidency, there may be a “pendulum swing” into a more negative general public opinion on LGB-related issues. Additional avenues for further research could be exploring how the presidency affects the public’s perception of Supreme Court cases. After all, research suggests that support for the LGB community has declined dramatically since President Trump has been elected. According to the Accelerating Acceptance Index, a national survey conducted by the Harris Poll, 2018 signaled a most severe drop in support for LGBTQ acceptance, especially among male respondents aged 18-34 (GLADD, 2018). The 2018 Accelerating Acceptance report indicates that this drop began in 2016 (GLADD, 2018).

Moving forward, the LGBTQ+ research community might benefit from applying this study’s tests to other LGBTQ+ issues, such as public support for anti-discrimination protections in housing and workplaces for LGBTQ+ individuals. With the recent passage of the Equality Act in the House of Representatives and the newly appointed Justice Amy Coney Barrett, there may be another colossal LGBTQ+ policy enacted, or Supreme Court decision handed down in the near future. Overall, the results of this study may prompt researchers to more strongly consider the Supreme Court as a legitimizing function when analyzing how public attitudes on LGBTQ+ civil rights will progress in the future.



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