

Comparing the Strategic Efforts of Gay Marriage and Immigration Reform Advocates

In theory, the United States is a country committed to providing freedom, opportunities and fundamental rights to all. Yet, time and again, minority groups living in the U.S. are overlooked. From the woman's suffrage to the civil rights movement, these groups have come together and influenced policy change to gain protection and opportunity from the United States government. Now, in the early 21<sup>st</sup> century, two sub-populations are campaigning for their rights. Gay and lesbian couples are fighting for the chance to marry and obtain benefits associated with marriage, while illegal immigrants raised in America want the prospect of citizenship. Thus far, proponents in both groups have repeatedly faced failure within the federal legislature, and as a result, have adopted more unconventional ways to affect policy. Immigration advocates found an ally in the executive branch after President Obama initiated the Deferred Action for Childhood Arrivals (DACA) program and are focusing future efforts for reform within the Oval Office. Gay marriage proponents, on the other hand, have worked predominately in the courts to overturn gay marriage bans on the grounds of constitutionality. By increasing the visibility of those harmed by current policy, both immigration and gay marriage proponents strive to generate public support for reform, which can be enacted via the unconventional pathways mentioned above.

In pushing for policy change, both gay marriage and immigration advocates encouraged those affected by policy to stop hiding and speak out. In the case of immigration, the change was quite literal. Students informed teachers and classmates of their immigration status and started connecting with other illegal immigrants to form advocacy groups (Lind 2014). Further

discussion of immigration issues led more youth to take advantage of the Deferred Action for Childhood Arrivals (DACA) program, while simultaneously expanding support for the immigration reform movement. As a result, immigrants like Oscar Hernandez were more likely to speak to the media and share their personal stories (Lind 2014). This contrasted the previous coverage, which portrayed immigrants as individuals who lowered wages and increased unemployment (Borjas 2006). With many immigrants remaining invisible in proceeding years, the voice of the opposition was softer and consequently voters did not develop an appreciation for their peers. With advocates encouraging immigrants to disclose their legal status, American citizens began to recognize the positive effect their immigrant neighbors have on the community. Consequently, public opinion is slowly shifting, especially for those immigrants who have been in America for most of their lives.

Similarly, members of the gay community have been encouraged to share personal stories with friends, so the American public recognizes that gays are citizens who should enjoy equal rights when it comes to marriage. By highlighting what marriage and a loving relationship mean to them, gay couples can educate others on the inequalities experienced by homosexual and heterosexual couples (Graff 2006). Advocates go farther, knocking on strangers' doors to explain why legalizing gay marriage is important, in the hopes of creating a personal connection with voters (Talbot 2010). For gay marriage proponents, the increased visibility of harmed classes helped shape public opinion. Once a personal connection forms, voters are more likely to support policy that aids their friends and other community members. Since May 2007, polls show that support of same sex marriage has risen from 46 percentage of the population to 55 percent (Gallop). Recognizing gay couples as neighbors and coworkers, causes one to considering the

injustices they face when denied the right to marry and access associated benefits on both the state and federal level.

With increased public support, it is easier for gay marriage and immigration proponents to pursue policy avenues where public opinion plays an important role and the deciding body is relatively small. With 100 Senators and 435 Congressmen in the House of Representatives, it is often hard to reach consensus, especially considering the polarizing views present. As a result, it is difficult for the legislative branch to adopt controversial policy even when it lies in the direction of shifting public opinion. For example, the Gang of Eight failed to pass immigration reform because of disagreement within the House of Representatives. Even though a bipartisan effort in the Senate passed the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013, amid many compromises, the legislation was eventually tabled (Lizza 2013). Large legislative bodies with strongly opinionated career politicians can take a long time to adjust to small changes in public opinion, especially between election years. Thus, it provided a bad approach for immigration and same sex marriage proponents seeking change.

Alternatively, the relatively concentrated power given to the executive branches makes reform on contentious issues more plausible. Within the executive branch, the president, his staff and appointed agency heads all play a role in directing policy, but with the president's ability to hire and fire, it is the president who truly determines which issues the executive branch pursues (Kingdon 1995). Moreover, since the president is elected by a vote of all Americans, he is more sensitive to national trends in public opinion. If a topic is important to the president, has growing public support and not being acted upon by congress, the president is likely to take action. Using executive power, he can decide how laws are enforced via signing statements, and create policy

using executive orders (Moe and Howell 1999). For immigration reform activists recognizing the president's belief in reform and power to take executive action led to change.

President Obama's interest in immigration, the rising popularity of reform, and flexibility of executive power made immigration advocates focus on executive branch to enact said reform. In 2012, after Congress failed to pass reform, President Obama stepped in with DACA, allowing immigrants meeting certain criteria to remain in the United States legally for a period of two years (Lind 2014). This helped establish the president's commitment to immigration. Since, public opinion for a path to citizenship has risen, and still no new law exists due to debate in Congress. Again, immigration advocates return to the president. During the summer of 2014, reform proponents, particularly those from the tech industry have met with those in the White House on numerous occasions. While all negotiations have been behind closed doors, many suspect the president is preparing to take executive action for sweeping immigration reform (Davis 2014). In the case of immigration reform, focusing lobbying efforts within the executive branch offers the greatest probability of capitalizing on national trends.

Like the executive branch, the judicial branch is small, powerful and influenced by public opinion. It is the choice approach for gay marriage advocates. Varying slightly among courts, a panel of judges will hear arguments and rule based on what they believe fits within the law. For cases related to the constitution, such as gay marriage, judges must decide if a fundamental right is denied to a protected group (Tarr 2003). In general, the courts are sensitive to public opinion because they want their rulings to remain relevant and enforced by the legislative and executive bodies. Therefore, once gay marriage proponents felt that public opinion on gay marriage beginning to shift the courts provided an appropriate avenue for change.

Accordingly, many gay marriage victories were achieved through the courts. Cases argued in Massachusetts, Connecticut and California have led to the legalization of gay marriage. For example, in 2009, lawyers Theodore B. Olson and David Boies argued that Proposition 8, preventing same-sex marriage in California was unconstitutional and won (Talbot 2010). As gay rights supporters continue to win their legal battles and further publicize the battle for marriage equality, gay rights organizations like Gay & Lesbian Advocates and Defenders (GLAD) report overwhelming support and increase in donations. On constitutional grounds, it is hard to find evidence that marriage is not a basic right and that the government has a legitimate reason to strip Americans of said right. For a court to rule against gay marriage suggests wild unpopularity for sex marriage among Americans, an opinion which has lost ground in recent years.

Advocates for both same sex marriage and immigration reform struggled to pass legislation and turned to the judicial and executive branches respectively to seek alternatives. In each case, the proposed changes were controversial but slowly gaining public support. Going forward, it is important for advocates to continue sharing success stories and encouraging new individuals to join the cause. Once public opinion becomes overwhelmingly in support of reform, Congress will be forced to act. While executive action and legal decisions can advance the movement, they are unable to create new laws that force lasting change. Thus, it is imperative that both gay marriage and immigration reform proponents eventually garner the support of Congress. Continuing to win small battles among the public, within the courts and in the Oval Office will slowly beat Congress down until the consensus favors the advocates. In the immediate future proponents should continue their existing strategies, while preparing legislation proposals for the long game.

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