

**POLITICAL
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**Challenging the Right,
Advancing Social Justice**

THE RIGHT'S MARRIAGE MESSAGE

Talking Tolerance,
Marketing Inequality

BY DAVID DODGE

JANUARY 2013

POLITICAL RESEARCH ASSOCIATES

Political Research Associates (PRA) is a progressive think tank devoted to supporting movements that are building a more just and inclusive democratic society. We expose movements, institutions, and ideologies that undermine human rights.

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FOREWORD

FOR MUCH OF THE U.S. LGBTQ LIBERATION STRUGGLE, the religious Right has easily dominated political discourse with homophobic rhetoric disguised as protecting “traditional” family values. In state after state, LGBTQ rights forces lost to the Right in ballot fights. Then in the fall of 2012, same-sex marriage wins swept four states.

For those wondering what happened, this retrospective report, *The Right’s Marriage Message: Talking Tolerance, Marketing Inequality*, begins to give some answers. Author David Dodge offers a breadth of knowledge for marriage equality advocates interested in knowing the past in order to be keenly aware of what kinds of rightwing tactics may emerge in the foreseeable future. Looking back at the political messaging strategies of the Right in ballot struggles from 1998 to today, Dodge debunks the notion that the Right wins only by speaking to its base. On the contrary, he finds the Right is quite savvy in creating messages that work for a range of audiences, and that in 2012 it left one of its most effective claims—that LGBTQ people somehow pose a threat to children—by the wayside.

The age of ballot struggles over LGBTQ marriage rights arguably began in 1993, when Hawaii’s highest court ruled in the landmark *Baehr v. Lewin* that the state’s constitution did not have a sound argument against same-sex marriage. Within three years, the U.S. Congress—in a bipartisan vote—had enacted the Defense of Marriage Act (DOMA), defining marriage as between a man and woman. DOMA blocked LGBTQ couples from accessing the rights, privileges, and protections of marriage under federal law. But that was not enough for the Christian Right as, state-by-state, it fought to replicate DOMA-like provisions throughout the land.

Dodge engages with this history as both an advocate and a scholar. During the historic election year of 2008, he was lead organizer in Dade County, Florida, trying to stop the juggernaut that was Amendment 2, a ballot initiative to inscribe marriage as between “one man and one woman” in the state’s constitution. The LGBTQ movement’s overwhelming defeat (which Dodge chronicled in Political Research Associate’s spring 2012 report [Resisting the Rainbow: Right Wing Responses to LGBT Gains](#)), inspired him to unpack how the opposition crafted such a long string of victories even in socially moderate states.

One answer, explored in this report, is through skillful, bloodless messaging created by such pros as Frank Schubert. For example, the National Organization for Marriage offers this talking point for use with broad audiences: “Gays and lesbians have a right to live as they choose, they don’t have the right to redefine marriage for all of us.” It sounds tolerant while denying rights to LGBTQ people.

Yet the Right’s determined strategizing was unable to block important changes won in the last two years by the fearless efforts of LGBTQ activists, allies, and faith and cultural leaders at the grassroots level. In 2011, President Obama’s Justice Department announced it would no longer defend the key section of the Defense of Marriage Act requiring that marriage be between a man and a woman. Next, in 2012 President Obama publicly affirmed the right for same-sex couples to marry. Finally, as Dodge also documents, LGBTQ rights advocates learned from previous state losses, particularly in California in 2008 over Proposition 8. In 2012 they created a broader, more diverse coalition of support, elevated the voices of progressive religious leadership, and personalized the case for marriage by declaring that at its heart, it’s about more than legal rights. It’s about two people lovingly commit-

ting to one another.

Despite the wins, Dodge cautions us to remain vigilant of the ways in which the agile opposition may regroup and retool their messaging for future battles in less hospitable states. They may return to dark warnings of LGBTQ people's threat to children or how LGBTQ marriage rights somehow threaten the religious liberty of conservative Christians. Or they may double down on efforts to create racial wedges after their tactics in Maryland—where 30 percent of the residents are African American—failed to defeat a potent coalition led by progressive African-American clergy and the NAACP.

Just as the Right will regroup, so must justice advocates. For instance, in battles to come, it will be vital for the well-resourced marriage movement to continue expanding its organizing reach and use its platform to highlight core issues facing LGBTQ people of color, young people, and other sectors of the community disproportionately vulnerable to violence and poverty. Thus as we celebrate the victories of 2012, I am reminded of the motto of the National Association of Colored Women, founded in 1896: "We must lift as we climb."

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ACKNOWLEDGEMENTS

I AM VERY THANKFUL TO Political Research Associates (PRA) for providing me with a platform to showcase the research included in this report, which, in many ways, was inspired by a case study I authored for PRA's recent [Resisting the Rainbow](#) report. In that piece, I explored the campaign strategies used by the Right Wing to successfully pass Florida's anti-LGBTQ "marriage amendment" during the 2008 electoral season. The research I conducted for that case study ultimately inspired me to take the issue one step further in this report, in which I attempt to identify, quantify and examine the effectiveness of various messaging techniques utilized by the Right Wing to help pass anti-LGBTQ ballot measures all across the country.

In particular, I am very grateful to Maria Planansky, Malika Redmond, Alex DiBranco, and Abby Scher of PRA for providing me with direction while crafting this report, as well as with research and editing support. I am also thankful to other PRA staff and interns for their editing and research support, particularly Alex Zadel.

An important piece of this research is based on data collected by the talented and hardworking staff at Vote for Equality (VFE) in California. Since the passage of Proposition 8 in 2008, VFE staff and volunteers have tirelessly canvassed neighborhoods in Los Angeles to gain an understanding as to why voters support anti-LGBTQ positions in ballot measure campaigns. Since 2008, they have held thousands of conversations, collected thousands of surveys, and documented hundreds of conversations on film. Through their work, they have helped persuade hundreds of previously opposed or undecided voters to support same-sex marriage and other rights for the LGBTQ community. It is my hope that this report will help spotlight the great work conducted by VFE's staff and volunteers, and that LGBTQ organizations around the country will be inspired to integrate some of VFE's effective messaging techniques into their own work.

I owe a great deal of gratitude to David Fleischer and Justin Kletcha of VFE, with whom I spent countless hours discussing the "dos" and "don'ts" of messaging and electoral strategies in LGBTQ ballot campaigns. Both David and Justin also provided research and writing support, and critiqued and edited multiple drafts of this report. I am also extremely thankful to the hundreds of VFE volunteers who spent countless hours collecting the data on which much of this report is based.

Parts of this report are based on research I conducted for my thesis while studying at the Harvard Kennedy School of Government. As such, much thanks is due to my thesis advisor, Dr. Timothy Patrick McCarthy, for providing feedback on multiple drafts of my thesis, and for proving moral support through many hours of research and writing.

-David Dodge

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EXECUTIVE SUMMARY

BY ALL ACCOUNTS, THE FIRST PART of the twenty-first century will be remembered as a time in which rights for lesbian, gay, bisexual, transgender, and queer (LGBTQ) people advanced with breathtaking speed. This is particularly true for the movement to advance legal relationship recognition for LGBTQ couples. Less than a decade ago, same-sex couples were forbidden to marry in every state in the country. This past November, voters in three states—Maine, Maryland, and Washington—legalized same-sex marriage, bringing the total number of states to do so to nine. A fourth state—Minnesota—voted down a constitutional ban on same-sex marriage.

These recent victories are particularly significant given the long running losing streak the LGBTQ community has suffered at the ballot box. While the LGBTQ rights movement made considerable advances in courthouses and legislatures across the country, the community historically suffered significant losses, most often at the hands of voters. From 1998 to May 2012, advocates proposed 40 separate statewide LGBTQ-related ballot measures; in all but three of these instances, voters in these states approved the anti-LGBTQ position, often with large margins.

This report culls lessons from how the Right has waged successful electoral campaigns in the past in order for LGBTQ rights groups to extend and defend their gains from November. In particular, this report tracks the effective media campaigns run by opponents of LGBTQ rights, such as the National Organization for Marriage (NOM), groups aligned with Family Research Council, and right-wing spin masters, such as Frank Schubert. This report also touches on previous pro-LGBTQ media campaigns, and their inability to connect with important middle of the road voters.

During the November 2012 elections, however, it appears this dynamic flipped; opponents of same-sex marriage ran surprisingly ineffective media campaigns compared to previous years, while pro-LGBTQ advocates did a much better job winning over the hearts and minds of voters with their advertising. The most notable change in the messaging this year was the Right backing away from a tried and true messaging strategy that seeks to convey to voters that LGBTQ marriage rights would threaten people's children.

This shift in messaging cannot fully account

for the big ballot wins of November 2012. A range of factors contributed to the victories, including a better ground game and outreach to faith communities by LGBTQ advocates, major cultural and political shifts in the national discourse including a sitting president endorsing marriage, and the hospitable territory offered by the four blue states. But the shift in messaging is part of the story and pro-LGBTQ rights advocates must be prepared to counter more effective messaging in less hospitable territory in the future.

For this report, we reviewed television and radio advertisements that ran in statewide LGBTQ-related ballot measures campaigns from 1998 to 2012 to identify the most common and most effective messages used by the Right to convince voters to support anti-LGBTQ positions. All the ballot battles were over marriage, civil unions, or domestic partnerships, except for an Arkansas measure seeking to ban gay adoption, an Alaska ban on state benefits for LGBTQ couples, and an Oregon measure about what is taught in public schools. We also reviewed data collected by the LGBTQ group Vote for Equality based in California after the 2008 Proposition 8 vote overturned same-sex marriage and tracked advertising from the fall 2012 campaigns.

This review reveals that, historically, the Christian Right is savvy about choosing the right message for the right community, speaking one way to its base and another way to moderate voters. The Right is also adept at evolving its messaging to reflect shifting cultural norms. Perhaps reflecting the advance of the LGBTQ community in recent years, we no longer see Anita Bryant-style ads warning the country it will fall down a slippery slope toward bestiality if LGBTQ people are granted rights. Today, the Right avoids messages that could be characterized as blatantly homophobic or narrowly religious. Instead, we found that from 1998 to May 2012:

- In states where they enjoy a large base of support, anti-LGBTQ advocates aired conservative Christian-oriented media describing the deep roots of traditional marriage between a man and a woman that is under threat. Seventy-five percent of the ads tracked used this argument.
- They reached moderate voters with advertising focused on the supposed harm to children that will occur if pro-LGBTQ ballot measures pass – particularly from

the teaching about same-sex behavior in schools. The California LGBTQ rights group Vote for Equality found this to be a potent argument for its opposition. Forty-eight percent of all media reviewed had this theme.

- Forty-two percent of the ads warned of elites like judges or powerful people from outside the state seeking to advance a “gay agenda” against the will of the people, resonating with right-wing populist arguments on the Right.
- In ten percent of the ads, the Right relays stories of Christians as “victims” suffering from religious persecution as same-sex marriage becomes legal.
- Twenty percent of the anti-LGBTQ media reviewed for this report prominently feature people of color, and were largely aired in Arizona, California, and Oregon. They tended to use arguments defending “traditional marriage.”

In their research, Vote for Equality found the “harm to children” message was particularly effective in swaying moderate voters to oppose marriage equality.

Given these findings, it is surprising that the Right did not make as much use of the “harm to kids” message this electoral season compared to previous years. Of 19 anti-LGBTQ television advertisements that ran in the four states facing LGBTQ ballot measures in November 2012, fewer than half prominently featured “harm to kids” messaging. In contrast, during California’s 2008 campaign and Maine’s Question 1 campaign in 2009, nearly every anti-LGBTQ advertisement warned voters that legalizing same-sex marriage would force public schools to discuss LGBTQ relationships and sexual behavior with children. When they did appear, “harm to children” messages were often a much less prominent feature of the ad than in years past.

This year anti-LGBTQ advocates also relied much more heavily on the “victims” media theme, which warns of the threat to people’s ability to act according to their conscience and religious beliefs if marriage equality passes.

Meanwhile, pro-LGBTQ ads in previous years sought to appeal to a heterosexual audience believed to be uncomfortable with same-sex relationships and avoided having actual people from the community as spokespeople. LGBTQ rights groups largely reversed this trend this year. ♦

INTRODUCTION

BY ALL ACCOUNTS, THE FIRST PART of the twenty-first century will be remembered as a time in which rights for lesbian, gay, bisexual, transgender and queer (LGBTQ) people advanced with breathtaking speed. It seems remarkable that less than a decade ago, before the Supreme Court's 2003 decision in *Lawrence v. Texas*, consensual sexual acts between same-sex partners remained illegal in fourteen states. Less than two years ago, before the repeal of the Clinton-era "Don't Ask Don't Tell" legislation in 2010, LGBTQ individuals were unable to serve openly in the military. Earlier this year, President Obama became the first sitting president to embrace marriage equality, and marriage rights for LGBTQ couples were formally incorporated into the Democratic Party's official platform. Finally, this past November, capping a decade of progress, voters helped make history by approving the legalization of same-sex marriage in Maine (51.5 percent), Maryland (52.4 percent), and Washington (53.7 percent), and by rejecting a constitutional amendment banning same-sex marriage in Minnesota (52.6 percent).

It would be a mistake, however, to characterize the last decade as one of pure progress. While the LGBTQ rights movement has made significant advances in courthouses and legislatures across the country, the community also suffered significant losses, most often at the hands of voters. From 1998 to May 2012, advocates proposed 40 separate statewide LGBTQ-related ballot measures; in all but three of these instances, voters in these states approved the anti-LGBTQ position, often with large margins. In May 2012, North Carolina voters enshrined the state's existing ban of LGBTQ marriage and civil unions in its constitution with 61 percent of the vote. These ballot measures set back progress for LGBTQ communities across the country, barring various forms of relationship recognition and adoption rights for LGBTQ couples, and revoking anti-discrimination ordinances.

This report seeks to identify the Right's messaging over a decade's worth of LGBTQ ballot measures in order to understand how the Right regroups and repackages its anti-gay message to appeal to voters as electoral and political landscapes change. In particular, this report closely examines the media campaigns waged by the opposition from 1998 to spring 2012 in an attempt to explain why voters, time and again, supported

anti-LGBTQ positions even when they did not embrace a religiously conservative worldview. These campaigns concerned adoption bans, bans on benefits, legalization of civil unions, and same-sex marriage bans.

Historically, Christian Right organizations, including state level groups aligned with Family Research Council and the relatively new National Organization for Marriage, have been savvy about choosing the right message for the right community. Additionally, the Right is also adept at evolving its messaging to reflect shifting cultural norms. Perhaps reflecting the advance of the LGBTQ community in recent years, for example, we no longer see Anita Bryant-style ads warning the country it will fall down a slippery slope toward bestiality if LGBTQ people are granted rights. It avoids messages that could be characterized as blatantly homophobic or narrowly religious. Instead,

- In states where they enjoy a large base of support, the Right airs conservative Christian-oriented media describing the deep roots of **traditional marriage** between a man and a woman that is under threat. Seventy-five percent of the ads tracked used this argument.
- They reach moderate voters with advertising focused on the supposed **harm to kids** that will occur if pro-LGBTQ ballot measures pass—particularly from the teaching about same-sex behavior in schools. Forty-eight percent of all media reviewed had this theme.
- Forty-two percent of the ads warned of elites like judges or powerful people from outside the state seeking to advance a **"gay agenda"** against the will of the people, resonating with right-wing populist arguments on the Right.
- In 10 percent of the ads, the Right relays stories of Christians as "victims" suffering from religious persecution as same-sex marriage becomes legal.
- Twenty percent of the anti-LGBTQ media reviewed for this report prominently feature people of color, and were largely aired in Arizona, California and Oregon. They tended to use arguments defending "traditional marriage."

In research conducted after Proposition 8, the California LGBTQ rights group Vote for Equality

found the “harm to kids” message was particularly effective in swaying moderate voters to oppose marriage equality.

Given these findings, it is surprising that the Christian Right did not make more use of the “harm to kids” message this electoral season compared to previous years. Of 19 anti-LGBTQ television advertisements that ran in the four states facing LGBTQ ballot measures in November 2012, fewer than half prominently featured “harm to kids” messaging. In contrast, during California’s 2008 campaign and Maine’s Question 1 campaign in 2009, nearly every anti-LGBTQ advertisement warned voters that legalizing same-sex marriage would force public schools to discuss LGBTQ relationship and sexual behavior with children. When they did appear, “harm to children” messages were often a much less prominent feature of the ads than in years past.

This year anti-LGBTQ advocates relied much more heavily on the “victims” media theme which warns of the threat to people’s ability to act according to their conscience and religious beliefs if marriage equality passes. In addition, the Right tried but largely failed to widen the racial wedge in heavily African American Maryland.

Pro-LGBTQ ads in previous years sought to appeal to a heterosexual audience believed to be uncomfortable with same-sex relationships and avoided having actual people from the community as spokespeople. LGBTQ rights groups largely reversed this trend this year.

This key shift in messaging cannot fully account for the big ballot wins of November 2012; a range of factors contributed to the victories, including a better ground game and outreach to faith communities by LGBTQ advocates, major cultural and political shifts in the national discourse, including a sitting president endorsing marriage, and the hospitable territory offered by the four blue states. But the shift in messaging is part of the story and pro-LGBTQ rights advocates must be prepared to counter more effective messaging on less hospitable grounds in the future.

BALLOT MEASURES AS RIGHT-WING STRATEGY

The ballot measure process, a form of direct democracy, is meant to empower ordinary citizens to engage directly in the political process by bypassing elected officials to bring a given public policy to a popular vote. Ballot measures,

alternatively known as “ballot initiatives,” “citizen initiatives,” and “public referendums,” came about during the Progressive Era of the late nineteenth and early twentieth centuries as a way to limit the influences of corporations and special interest groups on politicians and the policy-making process.¹ Historically, the ballot measure process has played an important role in advancing progressive social and economic issues in many states, including expanding women’s suffrage, raising the minimum wage, and creating the eight-hour workday.² Today, each electoral season, voters in states across the country continue to weigh in on any number of policy issues normally confined to state legislatures and courthouses.

Ironically, however, the ballot measure process is increasingly criticized for falling victim to the same corporate and moneyed influences that inspired the citizen initiative process in the first place. Though theoretically any citizen can influence public policy through public referendums, in practice, highly organized and resourced firms control much of the process. From 2004-2010, for instance, campaign committees across the country raised \$3.1 billion to influence the outcome of 776 separate ballot measures, an average of nearly \$4 million per ballot measure.³ Moreover, wealthy individuals, large corporations, and special interest groups provided the majority of this funding; in the 2006 electoral season, for instance, businesses and special interest groups donated 69 percent of all money raised.⁴

Increasingly, conservative and right-wing Christian organizations are among the special interest groups seeking to further their agenda through the citizen initiative process. For instance, right-wing groups like FreedomWorks and Federation for American Immigration Reform have helped fund and push a variety of statewide ballot measures seeking to limit the rights of immigrant families. Since 2004, fourteen separate anti-immigrant ballot measures have been proposed, several of which have successfully enacted proof of citizenship requirements in order to vote, and passed “English Only” laws that restrict government entities such as schools and courthouses from conducting official business in any language other than English. Other conservative Christian groups, including the Knights of Columbus, Family Policy Council, and Life Legal Defense Foundation, have similarly attempted to use the ballot measure process to restrict or outright ban reproductive rights for women. Since 2004, 13 ballot

FIGURE 1
STATEWIDE LGBTQ-RELATED BALLOT MEASURES 1998-MAY 2012

State	Electoral Cycle	Ballot Measure	Outcome
1. North Carolina	May 2012	Ban same-sex marriage and civil unions in state constitution	Passed
2. Maine	2009	Ban same-sex marriage	Passed
3. Washington	2009	Legalize Civil Unions	Passed (Pro-LGBTQ)
4. Arizona	2008	Ban same-sex marriage	Passed
5. Arkansas	2008	Adoption ban	Passed
6. California	2008	Ban same-sex marriage	Passed
7. Florida	2008	Ban same-sex marriage and civil unions	Passed
8. Alaska	2007	Ban government from providing benefits to LGBTQ couples	Passed
9. Alabama	2006	Ban same-sex marriage	Passed
10. Arizona	2006	Ban same-sex marriage and civil unions	Failed (Pro-LGBTQ)
11. Colorado	2006	Ban same-sex marriage	Passed
12. Colorado	2006	Legalize domestic partnerships	Failed
13. Idaho	2006	Ban same-sex marriage and civil unions	Passed
14. South Carolina	2006	Ban same-sex marriage and civil unions	Passed
15. South Dakota	2006	Ban same-sex marriage and civil unions	Passed
16. Tennessee	2006	Ban same-sex marriage and civil unions	Passed
17. Virginia	2006	Ban same-sex marriage, civil unions and domestic partnerships	Passed
18. Wisconsin	2006	Ban same-sex marriage and civil unions	Passed
19. Kansas	2005	Ban same-sex marriage and civil unions	Passed
20. Texas	2005	Ban same-sex marriage and civil unions	Passed
21. Arkansas	2004	Ban same-sex marriage and civil unions	Passed
22. Georgia	2004	Ban same-sex marriage and civil unions	Passed
23. Kentucky	2004	Ban same-sex marriage and civil unions	Passed
24. Louisiana	2004	Ban same-sex marriage and civil unions	Passed
25. Michigan	2004	Ban same-sex marriage, civil unions, and domestic partnerships	Passed
26. Mississippi	2004	Ban same-sex marriage and civil unions	Passed
27. Missouri	2004	Ban same-sex marriage	Passed
28. Montana	2004	Ban same-sex marriage	Passed
29. North Dakota	2004	Ban same-sex marriage and civil unions	Passed
30. Ohio	2004	Ban same-sex marriage and civil unions	Passed
31. Oklahoma	2004	Ban same-sex marriage and civil unions	Passed
32. Oregon	2004	Ban same-sex marriage	Passed
33. Utah	2004	Ban same-sex marriage and civil unions	Passed
34. Nevada	2002	Ban same-sex marriage	Passed
35. California	2000	Ban same-sex marriage	Passed
36. Nebraska	2000	Ban same-sex marriage and civil unions	Passed
37. Oregon	2000	Ban instruction of homosexuality in public schools	Failed (Pro-LGBTQ)
38. Nevada	2000	Ban same-sex marriage	Passed
39. Alaska	1998	Ban same-sex marriage	Passed
40. Hawaii	1998	Legislature has authority to ban same-sex marriage	Passed

measures seeking to limit the reproductive rights of women were proposed, though only two of these measures passed. While conservative groups have met with only limited success at the ballot box on issues such as immigration and abortion, they made remarkable progress furthering anti-LGBTQ legislation through the citizen initiative process. Conservative groups opposing LGBTQ rights won 37 of the 40 statewide LGBTQ-related ballot measures proposed from 1998 through May 2012 (see *Figure 1*).

Several political analysts contend that ballot measures such as these are part of a concerted effort by Republican strategists to increase voter turnout among socially conservative voters. Many strategists contend, for example, that the litany of anti-LGBTQ ballot measures in 2004 and 2006 were part of this strategy. By some measures, moreover, this strategy works; following the 2004 elections, in which eleven states approved anti-LGBTQ ballot initiatives, exit polls found that “moral issues” were among the most important concerns to voters.⁵ Some analysts even attribute President Bush’s successful reelection that year to social and religious conservatives drawn to the polls in support of anti-LGBTQ amendments.⁶

MESSAGING IN LGBTQ BALLOT MEASURES

Before examining messaging more closely, it might prove useful to entertain other potential contributing factors to the electoral disadvantage LGBTQ rights groups faced in the past. We might readily blame a lack of fundraising abilities, for example, if they were being outspent during these campaigns; after all, the winning position in most elections is the side that raises and spends the most money. However, LGBTQ-related ballot measures prove to be an exception to this rule: pro-LGBTQ advocates raised more funds than their opponents not just in November 2012 but in all but seven of the previous 33 LGBTQ-related statewide ballot initiatives.⁷ From 2004 to 2009, pro- and anti-LGBTQ campaign committees collectively raised over \$185 million to spend during LGBTQ-related ballot initiative campaign.⁸ Pro-LGBTQ advocates raised \$110 million of this amount, or 60 percent of total funds. The LGBTQ community’s historic inability to persuade voters to support their positions, in other words, cannot be attributed to a failure to raise sufficient funds to wage the campaign.

It would also be easy enough to lay the blame on the social conservatism of many American voters, and claim that public opinion is simply not in favor of LGBTQ rights and issues. Many of these anti-LGBTQ ballot initiatives, in fact, were passed in traditional “red states” known for high levels of religiosity and social conservatism. Support for LGBTQ rights in many of these states remains remarkably low; for instance, according to recent polls, only 13 percent of Mississippi voters and 22 percent of Utah voters support marriage rights for LGBTQ couples.⁹ Clearly, even extremely well run campaigns in states such as these stand very little chance of defeating anti-LGBTQ ballot measures.

However, voters approved anti-LGBTQ measures in politically moderate and liberal states as well. In fact, five of the top 15 most liberal states, as ranked by Gallup, have passed anti-LGBTQ measures since 1998.¹⁰ While the social conservatism of voters may well explain losses in certain states, where anti-LGBTQ positions passed with overwhelming majorities, it fails to do so in others, such as California and Maine in 2009, where public opinion was more evenly split and the campaigns more competitive.

THE ROLE OF MEDIA IN LGBTQ BALLOT MEASURE CAMPAIGNS

At least part of this losing streak may be attributed to the media campaigns waged by both sides during LGBTQ ballot initiative campaigns. Media, as the primary vehicle for communicating to mass numbers of voters during elections, plays a central role in modern electoral politics and ballot measure campaigns are no exception; the majority of funding raised during ballot measure campaigns is spent developing and distributing media, including television, radio, print, and Internet-based advertising.¹¹

Figure 2 displays the amount of money spent developing and airing television advertisements during recent same-sex marriage ballot measure campaigns in North Carolina in 2012, Maine in 2009, and California in 2008. In these campaigns, advocates on both sides collectively spent over \$58.6 million on television-related media expenditures. This represents over 65 percent of all money spent during these campaigns. Moreover, the actual amount of money spent by campaigns on media is higher as this figure does not include less expensive forms of media, such as radio, print, and Internet-based advertising. It also does not include

FIGURE 2

EXPENDITURES ON TELEVISION ADVERTISING

	Television Buy & Production Costs	Total Expenditures	% of Total
North Carolina-2012			
Vote for Marriage	\$736,194.72	\$1,596,543.10	46.11%
Coalition to Protect NC Families	\$1,124,390.00	\$2,849,096.87	39.46%
Maine-2009			
Stand for Marriage Maine	\$1,542,054.91	\$3,064,867.18	50.31%
Protect Maine Equality	\$2,122,926.06	\$4,593,770.00	46.21%
California-2008			
ProtectMarriage.com	\$20,319,846.47	\$36,672,042.03	55.41%
No on 8 Equality for All	\$32,826,790.92	\$40,780,331.78	80.50%
Total	\$58,672,203.08	\$89,556,650.96	65.51%

the money spent on research, focus groups, and polling, the data of which is used to help develop messaging for advertisements.

RESEARCH METHODOLOGY, GOALS & GUIDING QUESTIONS

The ultimate goal of this report is to identify how anti-LGBTQ groups influence socially moderate voters with their messages, and the messaging that helps advocates dispel anti-LGBTQ bias among voters. This report also examines the changes that occurred in messaging strategy that helped lead to an historic pro-LGBTQ electoral sweep this past November. In working towards that goal, this research was guided by the following research questions.

- What messages are most successful in persuading voters to support anti-LGBTQ positions?
- What messages successfully persuade voters to support pro-LGBTQ positions and dispel anti-LGBTQ bias?

These questions, in turn, led to two different research phases:

PHASE 1: MEDIA REVIEW

In order to identify the various messaging techniques

employed by both pro- and anti-LGBTQ advocates, we reviewed 163 different television and radio ads that ran during various anti-LGBTQ ballot initiatives between 1998 and 2012 (though not including the November 2012 campaigns); these initiatives concerned adoption bans, benefits bans, legalization of civil unions, and same-sex marriage bans. Of these ads, 100 were developed and aired by pro-LGBTQ advocates, and 63 by anti-LGBTQ advocates. These ads were coded and analyzed for major themes.

PHASE 2: VOTE FOR EQUALITY CANVASS DATA

To explore messaging that effectively persuades voters to support pro-LGBTQ positions, we analyzed survey and video data on same-sex marriage collected by Vote for Equality (VFE). In 2011, VFE canvassers collected 1,283 surveys from voters in the Los Angeles metropolitan area.¹² Additionally, VFE has captured 599 of their conversations with voters on film.¹³ During this phase of research, the results of these surveys were quantified, and a random sample of videos was transcribed, coded and analyzed for the effectiveness of various messaging techniques employed by VFE canvassers.

TERMINOLOGY

Throughout this report, the term “media” will refer to the variety of ways advocates communicate

information to voters. Most often, this paper will focus on advertisements created for television and radio audiences. However, other forms of media are at times examined as well, including online and print-based advertisements as well as pamphlets and fliers mailed to the homes of voters. At times, the words “media” and “advertisement” will be used interchangeably.

Additionally, the term “messaging” will refer to the specific idea or set of ideas that advocates attempt to communicate to voters through various forms of media. The media review portion of this report will seek to identify and assess the effectiveness of various messaging techniques employed by both pro- and anti-LGBTQ advocates.

The ways ballot measures can be brought before voters vary significantly by state. With the exception of Delaware, every state allows voters to amend state constitutions through public referendum, but only eighteen states allow voters to initiate constitutional amendments, meaning they do not first need to pass through state legislatures to qualify for the ballot. Twenty-two states, moreover, allow citizens to put various laws and statutes before voters through the ballot measure process.

RESEARCH LIMITATIONS

Several factors limited the media review conducted for this research. First, the media review was limited by the availability of advertisements through primary, online sources. As a result, several states that ran media during ballot initiative campaigns during the time period examined, such as Kentucky, Michigan and Ohio, were not included in the media review for this report.

Second, information on the cost of producing and running ads was not publically available, nor were the frequency or media markets in which these ads were run. As such, there was no systematic way to weight media messages by the frequency with which they were aired during these campaigns. Additionally, many of the 156 ads included in this media review were from ballot initiative campaigns in California in 2008 and Maine in 2009. These campaigns were more competitive than most, and thus more media was developed by both sides as a result.

Lastly, for the purpose of narrowing the field of study for the media review, only media related to statewide LGBTQ-related ballot initiative campaigns are included in this review. As a result, no media developed during county or city LGBTQ-

related ballot initiative campaigns are included in this study. Similarly, the media review does not include ads that ran during LGBTQ-related legislative campaigns in which voters were not asked to weigh in on the issue through a referendum.

VFE SURVEY DATA

The review of VFE canvass data was similarly limited by several factors. VFE chose canvass locations based on several factors, such as density of unsupportive voters and proximity to the organization’s office. The resulting survey and video data, therefore, do not reflect a randomized sample of voter attitudes towards same-sex marriage in Los Angeles. Additionally, demographic information on voters is limited. Through publically available registered voter files, VFE has access to certain demographic information, such as age, gender, and political party. Other information, such as race, household income, and education levels, however, are not publically available. VFE canvassers, moreover, did not collect this information from voters at the doors.

A NOTE ON PUBLIC POLLING DATA

This report relies on a variety of public polls conducted by various organizations to assess public opinion with regard to LGBTQ rights. However, it should be noted that previous research has demonstrated public polling to be particularly unreliable on issues related to LGBTQ relationship recognition.¹⁴ One study, conducted by Patrick J. Egan of New York University, found that the share of voters saying they will vote to ban same-sex marriage in pre-election surveys is around seven percentage points higher come Election Day.¹⁵ Interestingly, in contrast, Egan’s study found that public polls tend to accurately assess the share of voters intending to support pro-LGBTQ positions.

This inflation in support for LGBTQ rights may partly explain losses in states like California and Maine, where same-sex marriage advocates held a seeming polling advantage early on in the campaigns.

Several theories have been put forward to explain the tendency to underestimate opposition to LGBTQ rights in public polls. For example, some researchers have contended that polling on LGBTQ issues is subject to a “social desirability” bias, meaning that some voters may give opinions to pollsters in a way thought to be viewed favorably or more socially acceptable to others.¹⁶ Others have contended that “wrong way voting,” may play

a role, meaning some voters are confused about the difference between a “yes” and “no” vote, and cast their ballots incorrectly in LGBTQ ballot measure campaigns.¹⁷ Egan, however, found no evidence to support either of these theories in his study.

Another potential reason, as advanced by several researchers and pollsters, is the limited nature of the questions included in many polls conducted on LGBTQ relationship recognition. For instance, several recent national polls conducted by a variety of poll organizations, including CNN/ORC International, NBC News/Wall Street Journal, and USA Today/Gallup, suggest that support for same-sex marriage hovers around 50 percent of the population. However, when voters are also asked about their views on civil unions, outright support

for same-sex marriage drops considerably; a recent CBS/New York Times poll, for instance, found that just 38 percent of the population supported legalizing same-sex marriage, while another 24 percent support a more limited legal relationship in the form of civil unions.¹⁸ Many voters, therefore, likely hold a more nuanced opinion towards same-sex marriage than is accurately captured in many public polls.

All of the state-based polls included in this report are based on surveys that did not attempt to assess voter attitudes towards a variety of types of relationship recognition for LGBTQ couples. As such, this paper will take into account the tendency of public opinion polls to underestimate opposition to pro-LGBTQ positions.

ANTI-LGBTQ MESSAGING

THE CHRISTIAN RIGHT IS A POLITICAL movement that opposes LGBTQ rights as part of a larger conservative religious worldview about gender roles, marriage, and family. As Pam Chamberlain explained in PRA’s report [“Resisting the Rainbow”](#):

These frames, or ways of describing reality to influence political attitudes, are based on the fundamental beliefs of the Christian Right and are influenced both by the belief that homosexuality is a major sin and that rigidly traditional attitudes towards gender roles, the family, and sex should be retained and celebrated. Conservative Christians cast moral judgments on women and LGBT people who reject these gender roles and ascribe sinfulness to such out-of-line behavior. Even though these perspectives no longer dominate the culture, they still wield a powerful influence.

With the majority of the public now in favor of same-sex marriage, the Christian Right must find ways to promote its worldview—and opposition to same-sex marriage—to audiences well outside of its typical White, evangelical base. It has proven to be quite tactical in presenting different messages to different communities to oppose LGBTQ rights at the ballot box, targeting traditional voters, socially moderate voters, and people of color in distinct ways.

The Right, in socially conservative states, has been able to mobilize its large voting base by focusing on the threat to **“traditional marriage”** and is seeking to identify and reach new voters with whom this message resonates. **The Right also deploys this message in its ads appealing to voters in Black and Latino communities.**

In addition to its attempts to yoke itself to a new community responsive to a Christian Right worldview, the Right seeks to woo social moderates and undecided voters. To reach this new community, it falls back on an old frame, **“harm to kids.”** This message is a sophisticated evolution of Anita Bryant’s “Save Our Children” campaign, and cites the supposed harm that will befall children—particularly within the public schools system—if LGBTQ rights are expanded.

This “harm to kids” message, at its root, identifies children as a vulnerable population

endangered by the LGBTQ lifestyle. This message is extremely effective in dissuading voters from supporting same-sex marriage, despite its falsehoods, especially because it benefits from its—often manufactured—connection to another divisive issue: sex education in the public school system. The Right’s “harm to kids” frame is an effective example of moderate-targeted messaging that can convince voters to support anti-LGBTQ positions.

Portions of this theme overlap with right-wing populist themes warning of threats to freedom of religion and individual liberties from government and cultural elites, a powerful historical frame employed by the Right. These response ads use this argument to evoke a **“victimhood” message**, which casts anti-LGBTQ individuals as victims of religious persecution.

These are the four major themes identified in the 63 anti-LGBTQ television and radio advertisements from 1998 to 2012 tracked for this study.

“TRADITIONAL MARRIAGE”

The most common media theme found in anti-LGBTQ messaging focuses on Christian Right ideology: the importance of preserving “traditional marriage.” Of the anti-LGBTQ ads reviewed, 75 percent exhibited this type of messaging. Typically, “traditional marriage” media contains messaging that focuses on the definition of marriage. This media often seeks to portray marriage, a union between a man and a woman, as an institution with deep historical roots and one reflective of American values. In doing so, anti-LGBTQ advocates are able to characterize the idea of providing marriage rights to LGBTQ couples as a profound departure from this historical tradition. The following ad, titled “One Man, One Woman,” ran during North Carolina’s 2012 campaign earlier this year and is typical of this messaging theme:

“Voiceover: Marriage has been one man and one woman since before North Carolina was a state...Everyone, gay or straight, is free to live as they choose. But nobody has the right to redefine marriage. Thirty other states have voted to protect marriage. This is our turn. Vote for the marriage protection amendment.”¹⁹

In this way, much of “traditional marriage” media portrays marriage as an institution that is “under attack” and in need of “saving.” In doing

so, advocates are then able to present anti-LGBTQ marriage amendments as the only viable method for preventing traditional marriage from being radically redefined. Additionally, much of “traditional marriage” media seeks to equate the purpose of marriage with procreation. For example, the following television ad, titled “Family Album,” ran in Arizona in 2008:

“Voiceover: Marriage is one man and one woman...Passing life to the next generation. Your vote is so important to preserve marriage for future generations.”²⁰

Through ads like these, anti-LGBTQ advocates seek to associate procreation, the ability to “pass life” from one generation to the next, as the primary function of marriage... According to this messaging, marriage rights should not be extended to LGBTQ individuals since they are unable to fulfill this basic responsibility of marriage.

EFFECTIVENESS OF “TRADITIONAL MARRIAGE” MEDIA

Media focused on the definition and purpose of marriage was present across states and election cycles reviewed for this research, but it was particularly present in socially conservative states such as Georgia and Utah, with a strong Christian Right electorate. “Traditional marriage” media, therefore, is often used by the opposition in traditionally “red” states such as these to help “get out the vote” among social conservatives.

The “traditional marriage” messaging theme is less prominent in states where anti-LGBTQ advocates need to persuade a greater number of socially moderate or undecided voters. This theme, for example, was less present during California’s Proposition 8 and Maine’s Question 1 campaigns as these states are home to more socially moderate electorates.

Though the “traditional marriage” message was a hallmark of anti-LGBTQ messaging during previous election cycles, it will not necessarily play an equally prominent role in the future. The majority of states in earlier election cycles, for example, were characterized by more conservative voting tendencies. The four states that faced marriage equality ballot measures this November (Maine, Maryland, Minnesota, and Washington State) are characterized more by liberal voting tendencies.

Organizations like the National Organization for Marriage (NOM) also use “traditional marriage” messaging as a racial wedge. Anti-LGBTQ

advertising often seeks to label “traditional marriage” as a signifier of Black and Latino culture. In the past, anti-LGBTQ advocates have been intentional about crafting various ads specifically targeting different racial minorities, particularly in Arizona, California, and Oregon—20 percent of the anti-LGBTQ media reviewed for this report prominently feature people of color.

“Traditional marriage” messaging will no doubt continue to be used by the opposition to help turn out the conservative base in states facing anti-LGBTQ ballot measures, but as social acceptance of LGBTQ rights continues to increase, our opponents will need to develop and use messaging aimed more squarely at socially moderate and undecided voters in certain states in order to be successful.

“HARM TO KIDS”

The second most prominent theme in anti-LGBTQ advertising is focused on the supposed harm that will befall children as LGBTQ rights are expanded, particularly within the public school system. Of all anti-LGBTQ ads reviewed, 48 percent contained this media theme.

Generally, this type of messaging seeks to convince voters that children will learn about same-sex relationships and sexual behavior in the public school system if legal LGBTQ relationship recognition is granted. Several of the ads with “harm to kids” messaging feature the story of a Massachusetts couple, Robb and Robin Wirthlin, who unsuccessfully sued their local school district to prevent their son’s school from teaching same-sex marriage in the classroom.²¹ The ad below, titled “Everything to do with Schools,” features this couple’s story:

Robin Wirthlin: “After Massachusetts legalized gay marriage, our son came home and told us the school taught him that boys can marry other boys. He’s in second grade!”²²

Though false, anti-LGBTQ advocates have repeatedly claimed through much of their media that legalizing same-sex marriage will require public schools to teach children about LGBTQ relationships on a statewide basis. As proof, these ads often cite the education system in Massachusetts, where same-sex marriage has been legal since 2004. Like many states, however, Massa-

FIGURE 3

IMPACT OF “HARM TO KIDS” MESSAGING ON SUPPORT FOR SAME-SEX MARRIAGE

	Start Rating	Princes Rating	Median Effect	Percent Affected
Overall	6.40	5.97	-0.43**	15%
Support Level				
Opposed	0.47	0.50	0.03	5%
Supportive	9.30	8.79	-0.52**	14%
Undecided	5.03	4.37	-0.66**	26%
Party				
Democrats	6.66	6.26	-0.40**	15%
Republicans	4.86	4.32	-0.54**	15%
Other	6.51	6.22	-0.29**	14%
Age				
18-34	7.39	7.00	-0.39**	14%
35-49	6.59	5.99	-0.60**	18%
50-64	5.23	5.13	-0.10**	12%
65+	5.30	5.01	-0.29**	10%
Gender				
Female	6.31	5.81	-0.50**	16%
Male	6.04	5.73	-0.31**	12%
Kids at Home				
Yes	6.04	5.48	-0.56**	18%
No	6.43	6.04	-0.39**	16%

**indicates significance at the 95% level

chusetts provides individual school districts with substantial control over which educational topics are taught to children. Moreover, political watchdog groups have found no evidence to support the claim that public schools in Massachusetts are teaching same-sex marriage to children on a large scale, statewide basis.²³ The Wirthlin’s story, therefore, is unique to the Lexington school district in Massachusetts, and is not indicative of a broader, statewide policy mandating the teaching of same-sex marriage in schools. Education officials in every state where ads such as these were shown, moreover, repeatedly refuted the claim that legalizing same-sex marriage would impact public

education in any way.²⁴

Anti-LGBTQ advocates heavily publicized this couple’s story, effectively interjecting the “harm to kids” messaging into the public debate surrounding anti-LGBTQ ballot initiatives; besides California, the Wirthlins’ story aired in Florida, Maine, New York, and was used this past fall in Minnesota media.²⁵ Advocates in Florida and Maine recruited Robb and Robin Wirthlin to campaign on behalf of anti-LGBTQ ballot initiatives at press conferences and other media events.²⁶

Additionally, though only implied in advertisements such as “Everything to do with Schools,” some of the media developed by anti-LGBTQ ad-

vocates also explicitly warns parents that children will be taught about LGBTQ sexual behavior in schools if same-sex marriage is legalized. For example, the ad below, titled, “California’s Children,” features a married heterosexual couple discussing a fictional newspaper article about Proposition 8 that claims schools will be required to teach about LGBTQ sexual behavior in sex education classes:²⁷

Mother: Unless Proposition 8 passes, same-sex marriage will be taught in public schools... require that sex education classes include talking about... well, you know, gay and lesbian relationships.

Father: Wow, too much information. I’m all for being tolerant, but isn’t that going too far?

Mother: Yeah, I think so. And I think you’re going to get to answer the kids’ questions when they come home from school that day!²⁸

The information in this advertisement, again, is false; in the process of legalizing same-sex marriage, no state court or legislature has mandated public schools cover sexual orientation in sex education courses. There is no correlation, moreover, between states that have legalized same-sex marriage and states that provide information about sexual orientation in sex education courses. For example, except for Iowa, none of the states that currently allow same-sex marriage encourage public schools to cover topics that are inclusive of sexual orientation as a matter of state policy.²⁹ Conversely, in several states where same-sex marriage is currently banned, such as Delaware and California, state policy does encourage sexual orientation to be included in sex education courses.³⁰ The legalization of same-sex marriage, therefore, has no bearing on whether a state chooses to cover topics inclusive of the LGBTQ community in public schools.

Though untrue, anti-LGBTQ advocates use this tactic to appeal to a broader audience than is reached by “traditional marriage” messaging; by tying the issue of same-sex marriage to another controversial subject, the teaching of sex education in the public school system, anti-LGBTQ advocates are able to expand the scope of the conflict beyond marriage rights for LGBTQ couples.

Lastly, much of the “harm to kids” media implies to voters that young children who are exposed to LGBTQ relationships in schools will be influenced

to adopt or experiment with an LGBTQ lifestyle. “Princes” ran in both English and Spanish during California’s Proposition 8 campaign in 2008.³¹ The commercial features a conversation between a mother and her eight- or nine-year-old daughter in which the young girl expresses excitement over learning that she can marry a “princess” someday:

Young girl: “Mom, guess what I learned in school today! I learned how a prince married a prince, and I can marry a princess!”³²

In this way, anti-LGBTQ advocates effectively suggest to voters that the legalization of same-sex marriage will allow public schools to indoctrinate children to view LGBTQ relationships favorably, which may lead impressionable young children to experiment with same-sex behavior.

EFFECTIVENESS OF “HARM TO KIDS” MESSAGING

Though “harm to kids” media may be misleading, it is also quite effective at convincing voters to support anti-LGBTQ positions. The results from VFE’s survey data indicate that “harm to kids” messaging has a clear, negative impact on voters. Of all voters canvassed, 54 percent expressed an initial support for same-sex marriage, at a level of seven or higher on VFE’s zero to ten scale. This level of support for same-sex marriage is comparable to those found in recent polls; a field poll conducted in February of 2010, a year before VFE canvassers collected this data, found 51 percent of Californians support same-sex marriage. In February of 2012, a year after this data was collected, support jumped to 59 percent.³³

However, after voters viewed the “Princes” ad, support dropped from 54 percent to 50 percent (*Figure 3*). The “Princes” ad negatively affected 15 percent of all voters included in this study, with support for same sex marriage falling an average of .43 points, from 6.4 to 5.97. Tellingly, the ad also negatively impacted 14 percent of all supportive voters, and 26 percent of all undecided voters. In a close election, all else being equal, this strong of an impact could be enough to sway the results of the election out of our favor.

Not surprisingly, given the nature of “harm to kids” messaging, the “Princes” ad had a significant, negative impact on voters who had children under the age of 18 living at home. After viewing the “Princes” ad, having a child at home is associated with a drop of 1.15 points on VFE’s zero to ten scale, holding constant background characteristics

such as gender, age and political orientation. The “princes effect” was also most pronounced among younger voters, those most likely to have children living at home. For instance, 18 percent of voters aged 35 to 49 were negatively impacted by the “Princes” ad, with support falling an average .6 points, from 6.59 to 5.99. Moreover, 75 percent of these voters had children under the age of 18 living at home. In comparison, only 12 percent of voters aged 50 to 64 were affected by the “Princes” ad, with average support falling only .1 points.

“GAY AGENDA”

Another prominent theme in anti-LGBTQ media seeks to portray LGBTQ advocates as intending to advance a radical gay rights agenda that is out of touch with mainstream views and values—portions of this theme overlap with anti-elite arguments found in right-wing populism. Of all anti-LGBTQ media reviewed for this report, 42 percent, contain a “gay agenda” media theme.

Anti-LGBTQ media often attempts to convey to voters that LGBTQ activists are conspiring to impose a gay rights “agenda” against the will of the majority of the country. Similar to the ad, “It’s Already Happening,” which ran in Maine in 2009, much of the “gay agenda” media also characterizes the push for LGBTQ rights as an effort by out-of-state activists rather than by local citizens.³⁴

Voiceover: [Gay activists] poured over \$4 million into Maine...and they’re already pushing their agenda in Maine schools.

Though true that pro-LGBTQ advocates often receive financing from national organizations and non-local groups, this support is often dwarfed when compared with national and non-local support for anti-LGBTQ campaigns. For example, “It’s Already Happening” ran during 2009’s Question 1 ballot campaign to repeal the same-sex marriage bill passed by the Maine legislature. But only 34 percent of the 20 largest donations to the state’s largest pro-LGBTQ campaign committee came from national or nonlocal funding sources.³⁷ In contrast, 89 percent of the 20 largest donations to the state’s largest anti-LGBTQ campaign committee came from such sources.³⁶

Media featuring “outsider” messaging was consistently represented in each election cycle reviewed for this research, but was particularly prominent in Maine’s Question 1 campaign in

2009. Such media is likely targeted at persuadable voters; “outsider” messaging suggests to voters that efforts to expand LGBTQ rights, or oppose anti-LGBTQ ballot measures, are initiated by national players and out-of-state activists, and thus lack truly local support; this, in turn, is likely meant to generate suspicion among moderate voters towards the motives of LGBTQ advocates.

Another dominant message in “gay agenda” media seeks to portray pro-LGBTQ advocates and politicians as indifferent to the concerns of voters with respect to the legalization of same-sex marriage and other LGBTQ rights. This type of messaging became particularly prevalent in anti-LGBTQ media following a press conference held by former San Francisco Mayor, Gavin Newsom, in May of 2008 where he spoke in favor of legalized same-sex marriage in California. During this press conference, the former Mayor made the following comment:

“This door’s wide open now. It’s gonna happen, whether you like it or not!”

The refrain, “whether you like it or not,” became popular in anti-LGBTQ advertising in California following this press conference. This exact quote from Mayor Newsom appeared in at least four separate “Yes on 8” television ads in California during the 2008 election cycle. Mayor Newsom and the above quote have also been featured in ads in several other states since the Prop 8 campaign as well, including Maine and New York. Anti-LGBTQ advocates have since repeated the tactic of quoting pro-LGBTQ politicians and other advocates in this way in an effort to characterize proponents of LGBTQ rights as unsympathetic towards the concerns of voters. The ad, “Your Right to Vote,” transcribed below, ran in Minnesota, urging the state’s voters to press for a 2012 referendum on a constitutional amendment banning same-sex marriage:

Voiceover: Leading DFL and independent candidates for Governor support homosexual marriage. And most DFL lawmakers don’t want you to have a say.³⁷

Similar to the ad, “Right to Vote,” much of the “Gay Agenda” media developed by anti-LGBTQ advocates seeks to portray pro-LGBTQ politicians as conspirators, seeking to force the legalization of LGBTQ rights without consulting with or considering the will of the public. This message originally gained prominence in the 1990s and lends itself to

conspiratorial thinking and demonization. Combined with the Right's claim that LGBTQ equality proponents are out of touch with mainstream views and values, it fits into right-wing populism, a powerful and durable frame that suggests the little guy is being trampled on by governmental and cultural elites.³⁸ Though used in previous election cycles as well, anti-LGBTQ advocates have increasingly used this type of messaging tactic in recent years.

Lastly, media containing the "gay agenda" theme frequently implicate local judges as complicit in national efforts to enact the gay rights agenda, another right-wing populist theme. Most of these ads reference localities where "activist judges" have used their powers to force the legalization of relationship recognition for LGBTQ people. For example, the ad below, "Don't let Judges Redefine Marriage!," which ran during Arizona's Proposition 107 campaign in 2006, references several states where judges have helped bring about relationship recognition for LGBTQ couples:

*Voiceover: Arizona is just one court case away from having a radically new definition of marriage. Judges in Massachusetts, New Jersey and Hawaii ruled that gay marriage is okay.*³⁹

Anti-LGBTQ advocates frequently warn voters in this way that "activist judges" are out-of-touch elites conspiring to force the legalization of same-sex marriage in their state. Similar to the other forms of "Gay Agenda" media analyzed above, media featuring the "activist judges" theme is also meant to inspire fear in voters that the abusive government would force LGBTQ rights upon an unwilling public without the consent of voters. Such messaging may appeal to moderate voters who, regardless of personal views towards LGBTQ rights, may feel that voters, not judges, should have the right to define marriage.

"VICTIMS" MEDIA: ANTI-LGBTQ RESPONSES TO PRO-LGBTQ MEDIA

Only ten percent of anti-LGBTQ advertising could be classified as a "response ad" to pro-LGBTQ messaging. This is indicative of the shortcomings in pro-LGBTQ media, described in greater detail below, as anti-LGBTQ advocates have largely not felt the need to counter the messaging communicated to voters in pro-LGBTQ advertising.

Of anti-LGBTQ response ads that exist, however, most attempt to neutralize pro-LGBTQ messaging that seeks to characterize the support of anti-LGBTQ positions as homophobic or discriminatory. This neutralization is an evolution of the Right's freedom of religion argument, which it has long used against local and state non-discrimination laws that include sexual orientation and gender identity.⁴⁰ The Right paints those who hold anti-same-sex marriage views as "victims" of religious persecution, contending that churches would be required to conduct same-sex marriages if gay marriage became legal. This language has expanded to include faith-based non-profits in the last few years, and has grown wider in scope to contend that individuals' beliefs are now the target of state-based religious persecution. Ads such as "There's a storm gathering," displayed below, typify this messaging theme:

Woman 1: "I'm part of a New Jersey church group punished by the government because we can't support same-sex marriage."

*Woman 2: "I'm a Massachusetts parent helplessly watching public schools teach my son that gay marriage is ok."*⁴¹

Such a messaging strategy seeks to convey the idea that legalizing same-sex marriage will have dramatic and far-reaching consequences that will negatively impact the lives of those opposed to LGBTQ rights. Additionally, several anti-LGBTQ response ads also attempt to communicate to voters that LGBTQ people will not actually be harmed by the passage of anti-LGBTQ ballot measures. Much of this media, such as the ad, "It's Possible," below, seeks to communicate to voters that one can still be "tolerant" of LGBTQ people while still voting in favor of anti-LGBTQ ballot initiatives:⁴²

*Voiceover: "Maine's domestic partnership laws provide substantial legal protection for gay couples... It's possible to support the civil rights of all citizens and protect traditional marriage at the same time."*⁴³

Ads such as these often portray marriage as unnecessary for LGBTQ couples, as they could instead rely on domestic partnership laws and other legal avenues to obtain relationship recognition.

NOTABLE OMISSIONS IN ANTI-LGBTQ MEDIA

Compared to media developed by anti-LGBTQ advocates through the late 1970s to early 1990s, several media themes are missing, or deemphasized considerably, in modern anti-LGBTQ media.

For example, organizations and individuals with a religious orientation are by far the largest financial and political supporters of anti-LGBTQ ballot initiatives.⁴⁴ Somewhat surprisingly, therefore, overt religious references are almost completely absent from the anti-LGBTQ media reviewed for this report. Only four out of 61 ads, or eight percent of the anti-LGBTQ media reviewed, contain overtly religious appeals. Moreover, the words “God,” “church” and “faith” rarely appear throughout the media.

When religion is referenced in media, moreover, it is rarely done so to make an appeal to voters to support anti-LGBTQ ballot initiatives on religious grounds. Rather, religion is most commonly incorporated into response ads discussed above, with messaging seeking to portray those holding anti-LGBTQ views as victims of religious discrimination.

Additionally, in a departure from the messaging developed during the Anita Bryant era of the 1970s, modern anti-LGBTQ media almost entirely avoids overt condemnations of LGBTQ individuals and behavior. Much of the media developed during Bryant’s, “Save the Children” campaign during the 1970s sought to portray LGBTQ individuals, and gay men in particular, as deviants who were seeking to “recruit” children to be part of the LGBTQ community.

That this type of messaging is almost entirely absent from modern anti-LGBTQ television and radio ads is a clear testament to the advances made towards greater societal acceptance of LGBTQ individuals in recent decades. Anti-LGBTQ advocates have likely concluded that media overtly accusing LGBTQ individuals of pedophilia would alienate many modern-day electorates.

As demonstrated in the “harm to kids” analysis above, however, modern anti-LGBTQ messaging often still implies LGBTQ individuals and advocates are conspiring to influence children. Rather than make overt judgments on LGBTQ relationships and sexual behavior, anti-LGBTQ advocates instead question the “appropriateness” of children being exposed to such behavior in schools, implying that children may be influenced to experiment with an LGBTQ lifestyle.

Lastly, modern anti-LGBTQ media almost entirely avoids “slippery slope” arguments. This type of messaging seeks to warn voters that the legalization of LGBTQ rights, such as same-sex marriage, will eventually lead to the legalization of more extreme practices, such as bestiality, incest and polygamy. This messaging was present in many earlier anti-LGBTQ campaigns, but occurred only once among the media reviewed in the television ad, “Marry My Dog,” that aired in Hawaii in 1998, displayed below:

Man 1: Each of us has the right to marry. But we don't have the absolute right to marry anyone we want... I'm not allowed to marry my daughter or my son.

*Man 2: And I can't marry my dog!*⁴⁵

Unlike this ad, which overtly references bestiality and incest, more recent anti-LGBTQ media only hints at “slippery slope” arguments in this way. For example, modern advertising asks voters to consider the consequences of legalizing same-sex marriage, but does not overtly reference bestiality, incest, or polygamy. Interestingly, though absent from major television and radio advertising, “slippery slope” messaging continues to be prevalent in other media venues, such as cable and talk radio programs geared towards conservative voters.⁴⁶ Therefore, though still represented in the discourse around LGBTQ rights, anti-LGBTQ advocates have mostly abandoned “slippery slope” arguments in targeting a mainstream audience.

ARCHITECTS OF ANTI-LGBTQ MESSAGING

UNFORTUNATELY, IT IS NOT ALWAYS possible to track the specific firms or media consultants responsible for the development of anti-LGBTQ advertising. However, a close examination of campaign expenditures and other documents provide some perspective on the players responsible for previous anti-LGBTQ messaging, and those who will likely play a role during future elections. This section will explore several prominent anti-LGBTQ firms, media consultants, and organizations that have been active in previous anti-LGBTQ ballot measure campaigns and were active in the 2012 electoral season.

NATIONAL ORGANIZATION FOR MARRIAGE (NOM)

The National Organization for Marriage (NOM) was founded in 2007 with the stated mission to help pass Proposition 8 in California in 2008; it has since expanded and now functions as an organized infrastructure that coordinates state and federal initiatives into a national movement to ban gay marriage. NOM promotes a strong Christian Right ideology, with an emphasis on “family values” that likens marriage equality to a war on “traditional,” heteronormative American values. Since its initial work with the Mormon Church in California’s Proposition 8 campaign, NOM has worked closely with and received funding from Roman Catholic groups.

The organization is headquartered in Princeton, New Jersey, and is currently headed by cofounder Brian Brown. Dr. John Eastman, a Chapman University law professor and former candidate for California attorney general, is the current chair of the board. Following the success of the Proposition 8 campaign, NOM has continued its work in several other LGBTQ-related campaigns. The organization was also a primary actor in helping pass anti-LGBTQ ballot measures in Maine in 2009 and North Carolina earlier this year. NOM actively supported anti-LGBTQ efforts in all four states facing ballot measures this November with funding and organizational support to state-based campaign efforts.

NOM also engages in a host of other activities to support anti-LGBTQ positions, beyond ballot initiatives. The group, for example, seeks to unseat politicians and judges, particularly Republicans

and moderate Democrats, who support pro-LGBTQ legislation and court cases, thus intimidating others who consider supporting such measures. In 2010, the group successfully implemented this strategy to unseat three State Supreme Court judges in Iowa who ruled in favor of legalizing same-sex marriage in the state. This year, the group pledged \$100,000 to unseat a fourth Iowan judge who supported marriage equality.⁴⁷ The group also spent \$2 million to target three Republicans in the New York State Senate who voted in June of 2011 to legalize marriage rights for LGBTQ couples, helping to defeat one in a GOP primary. Another Republican who voted for the measure, Jim Alesi, opted not to seek a ninth term in the State Senate fearing intense negative campaigning on the part of NOM and its allies.⁴⁸

This past March, LGBTQ advocates got a detailed look into NOM’s campaigning and messaging strategies following a lawsuit related to the group’s Maine activities. NOM’s leaders have argued that redefining marriage would result in religious persecution by the government. Such “persecution” would include: forcing pro-gay views on children in public schools, forcing churches to perform same-sex marriages, and denying tax breaks to religious institutions that fail to recognize same-sex marriage.⁴⁹ NOM’s interpretation of this religious freedom argument is evident in the “victims” messaging. Again, “victims” media attempts to paint those opposed to LGBTQ rights on religious or moral grounds as the victims of religious discrimination. Thus far, “victims” messaging has yet to permeate much of anti-LGBTQ media, NOM’s internal documents reveal it is a key messaging strategy for their future campaigns.⁵⁰ For example, NOM outlines a media strategy, called the “document the victims” projects, which seeks to highlight the supposed harm that befalls people as a result of legalized LGBTQ relationship recognition.

Additionally, NOM’s documents reveal efforts to develop anti-LGBTQ media to directly appeal to racial minorities. The group, for example, hoped to use this media to drive a “wedge between blacks and gays.”⁵¹ At the end of August 2012, NOM launched a radio ad campaign in swing state North Carolina in the Raleigh media market, home to 40 percent of the state’s African-American population. The advertisement features Dr. Patrick Wooden, a prominent African-American pastor, and urges listeners to say “no more” to President Barack Obama based on his endorsement of marriage

equality.⁵² NOM also hoped to inflame tensions among those in the African-American community who take issue with equating LGBTQ equality as a civil rights concern. In particular, NOM sought to “Find, equip, energize and connect African American spokespeople for marriage; develop a media campaign around their objections to gay marriage as a civil right; provoke the gay marriage base into responding by denouncing these spokesmen and women as bigots.”⁵³ It secured spokespeople including Derek McCoy, executive director of Maryland Marriage Alliance (in partnership with NOM), who wrote, “by equating the same-sex marriage movement to the civil rights movement, [chairman emeritus of the NAACP Julian] Bond is simply wrong.”⁵⁴ NOM also sought to target the Latino community by making support for “traditional marriage” a “key badge of Latino culture” and recruiting “glamorous” Latino spokespeople to help further the cause.⁵⁵

FAMILY RESEARCH COUNCIL (FRC)

The Washington, D.C.-based Family Research Council (FRC) grew out of the Christian Right organization Focus on the Family, serving as its public policy arm and incorporating in 1983. While the FRC was closely aligned with Focus on the Family at its onset, issues surrounding its tax-exempt status resulted in a separation between Focus and the FRC. Now both organizations have 501 c (4) spinoffs, Focus on the Family Action and Family Research Council Action, to allow them greater permission to lobby.⁵⁶ As part of its Christian Right ideology, FRC focuses on what it considers family values: opposition to reproductive rights and homosexuality, as well as support for strictly traditional gender roles. The current President is Tony Perkins, a former Louisiana legislator and one of the most powerful voices in the Christian Right today. The group describes a LGBTQ lifestyle as “unhealthy” and “destructive” to “individuals, families, and societies.”⁵⁷

The FRC, perhaps the most powerful conservative Christian presence in Washington, DC, with strong connections to its grassroots base, was labeled a hate group by the Southern Poverty Law Center (SPLC).⁵⁸ In August 2012, an armed gay man entered the lobby of FRC’s Washington, D.C. offices and wounded a security guard. In the aftermath of the shooting, Perkins accused the SPLC of sparking hatred and instigating violence.⁵⁹

Since the 1980s, FRC helped launch state-

level Christian action groups that take the lead on anti-LGBTQ ballot campaigns. During the 2012 ballot initiative campaigns, FRC actively promoted Maryland Marriage Alliance, Preserve Marriage Washington, Minnesota for Marriage, and Protect Marriage Maine on its website,⁶⁰ and financially supported anti-gay groups in Minnesota and Maryland. Through its “action alerts,” the FRC also prompted its members to support the ballot initiatives in both Maine and Washington state.⁶¹

At the September 2012 Values Voter Summit, the annual Christian Right conference co-sponsored by FRC, leaders from the anti-LGBTQ campaigns in these four states expressed a seemingly defeatist attitude. In Maine, Carroll Conley of the Maine Family Policy Council, cited the Roman Catholic Church’s disengagement from the campaign in that state: “This great ally in so many other battles and so many other times has chosen not to engage publicly. The Bishop’s absence is a tremendous obstacle in a predominantly Catholic state.” Conley asked panel attendees if they knew of any “religious liberty conflicts.”⁶²

John Helmberger of the Minnesota Family Council pointed to the campaign’s ground game and ethnic and religious group targeting: “We’ve been in the state’s largest mosques and they are solidly behind the marriage amendment,” he said, “But getting out the vote is everything for us.”

FRANK SCHUBERT

In recent years, anti-LGBTQ advocate Frank Schubert has played an increasingly large role in shaping anti-LGBTQ messaging during ballot measure campaigns. During California’s Proposition 8 campaign in 2008, protectmarriage.com hired Schubert’s Sacramento-based consulting firm, Schubert Flint Public Affairs, to consult on the campaign. In all, protectmarriage.com paid over \$558,000 to the firm. Schubert’s firm is widely credited with inserting “harm to kids” messaging into LGBTQ ballot measure campaigns. This year, Schubert launched a separate firm, Mission: Public Affairs, to handle political ads. Recognizing his previous success, LGBTQ campaign committees in Maine, Washington State, Maryland, and Minnesota spent money on consulting with the firm for the November ballot measures.⁶³

As Figure 4 displays, Schubert has played a large role in every campaign since anti-LGBTQ advocates proved successful in California. Most recently, in North Carolina’s 2012 campaign, the

FIGURE 4

CONTRIBUTIONS TO FIRMS RUN BY FRANK SCHUBERT

State	Campaign Committee	Amount
Maryland-2012	Protect Marriage Maryland	N/A
Maine-2012	Protect Marriage Maine	\$10,000
Minnesota-2012	Minnesota for Marriage	\$127,408.23
Washington-2012	Preserve Marriage Washington	\$88.23
North Carolina-2012	Vote for Marriage	\$958,594.72
Maine-2009	Stand for Marriage Maine	\$188,770
California-2008	Protect Marriage	\$588,242.69
Total		\$1,873,103.87

primary anti-LGBTQ campaign committee, Vote for Marriage, paid Schubert’s firm just under \$1 million.

Traditionally, Schubert’s firm focused on assisting businesses and trade associations “develop and manage strategic, integrated communications campaigns,” as listed on the group’s website. However, the group’s anti-LGBTQ stances apparently started to affect the firm’s business. Earlier this year, in April 2012, Schubert sent out an email and press release stating the following:

“The marriage issue obviously is a highly-controversial one, with strong passions on both sides. My involvement in marriage and other conservative issues has never resulted in any problems for my clients, and no client has ever stepped away from the firm due to my work on those issues. However, being involved in those issues has resulted in a reluctance by some in the general business community to hire my firm for new work. Additionally, the media focus on my marriage work has overshadowed the work of others in the firm who are accomplishing a lot of great things for our clients.”⁶⁴

Schubert went on to announce that he would leave his firm in order to start Mission: Public Affairs. In theory, the new firm can advance conservative social issues while shielding Schubert Flint Public Affairs from further controversy.

LAWRENCE RESEARCH

Another active player in developing and disseminating anti-LGBTQ messaging is the polling group, Lawrence Research. Gary Lawrence founded the firm in 1986. The firm is based in Santa Ana, California. Lawrence is an active member of the Church of Jesus Christ of Latter Day Saints, and was heavily involved in the Mormon Church’s field efforts in support of Proposition 8 during California’s 2008 campaign. Campaign finance records show that California’s primary anti-LGBTQ campaign committee paid Lawrence over \$528,000 during the 2008 electoral season in California.⁶⁵

Lawrence is responsible for producing several misleading polls, which are often cited by anti-LGBTQ advocates during campaigns. For example, while numerous national polling organizations have estimated support for same-sex marriage at or near 50 percent of the American population, a recent poll conducted by Lawrence Research in October of 2011 found that 64 percent of American are opposed to same-sex marriage.⁶⁶ Even adjusting for the tendency of pollsters to underestimate opposition to same-sex marriage, Lawrence Research’s findings are far removed from most reputable, non-partisan polling firms.

Lawrence Research also produced misleading polls in several of the states facing anti-LGBTQ ballot measures this November. NOM, for example, hired the company to conduct polls in Maryland and Minnesota. In February of 2011, Lawrence Research released a poll that found 54 percent of Maryland residents were opposed to legalizing

same-sex marriage. Once again, even adjusting for the imprecisions in polling, Lawrence Research's findings are inflated compared to other national polling organizations, several of which have put support for same-sex marriage several percentage points above 50 percent.

SYNDICATE PICTURES

Syndicate Pictures is a media and communications firm created by former NOM employee, Matthew Haas. The company is based in Media, Pennsylvania. In campaign documents released earlier this year, NOM named Syndicate Pictures as the firm most likely to help execute its "Document the

Victims" project, discussed above in the "victims" anti-LGBTQ messaging theme.⁶⁷

This year, the company played a part in helping craft Internet and television-based advertising in many of the states facing anti-LGBTQ ballot measures. According to public campaign finance documents, the company was active to some degree in Minnesota and Washington. The primary anti-LGBTQ campaign committee in Minnesota, Minnesota for Marriage, paid the company \$96,000 over the course of the campaign, while the primary anti-LGBTQ campaign committee in Washington, Preserve Marriage Washington, paid the company over \$65,000.⁶⁸

OPponents of LGBTQ RIGHTS, SUCH as the National Organization for Marriage (NOM) and groups aligned with Family Research Council (FRC), traditionally run extremely effective media campaigns with the help of right-wing spin masters. By contrast, in previous years pro-LGBTQ media campaigns often failed to connect with important middle of the road voters.

In Fall 2012, however, it appears that this dynamic flipped; opponents of same-sex marriage ran surprisingly ineffective media campaigns in Washington, Maine, Maryland, and Minnesota compared to previous years, while pro-LGBTQ advocates did a much better job winning over the hearts and minds of voters with their ads. Our research shows that the Right didn't broadcast as many dark warnings that LGBTQ marriage rights would threaten people's children as it had in years past as a means to reach socially moderate voters. This key shift in messaging cannot fully account for the big ballot wins of November 2012—as outlined below, a range of factors contributed to the victories, including a better ground game and outreach to faith communities by LGBTQ advocates, major cultural and political shifts in the national discourse including a sitting president endorsing marriage, and the hospitable territory offered by the four blue states. But the shift in messaging is an integral part of the story.

PRO-LGBTQ MESSAGES

This year, LGBTQ rights campaigners successfully avoided some of the traps faced by pro-LGBTQ messaging in previous ballot campaigns. Based on a review of television and radio advertisements, the following were the two most prominent messages used by pro-LGBTQ groups during statewide ballot measure campaigns from 1998 to 2009:

Rights-Based: Of the pro-LGBTQ media reviewed, 61 percent contained “rights-based” media messaging, which seeks to convey to voters that LGBTQ families are discriminated against and denied basic rights and protections.

Avoidance-Based: Another prominent messaging tactic employed by pro-LGBTQ advocates is to reframe the issue away from one concerning the LGBTQ commu-

nity. This “avoidance-based” messaging strategy reflects an assumption that voters will not connect with, or be persuaded by, media that prominently features LGBTQ individuals and their stories so it brings up domestic violence or some other surrogate issue. Of all pro-LGBTQ media reviewed for this research, 43 percent contained an “avoidance-based” media theme.

Previous research shows that “rights-based” messaging effectively saturated much of the public's thinking towards same-sex marriage. For example, in 2010, the organizations Third Way and Basic Rights Oregon conducted research into how heterosexual couples in the state saw topics related to marriage. When asked why LGBTQ couples would want to get married, 42 percent responded for “rights” and “benefits.” However, when asked why “couples like you” would want to get married, 72 percent of respondents said to “publicly acknowledge” their “love and commitment” for each other.⁶⁹ In essence, pro-LGBTQ advocates have been communicating to voters that LGBTQ couples want to get married for different reasons than their heterosexual peers. As a result, voters are often confused as to why other forms of relationship recognition that provide legal protections, such as civil unions and domestic partnerships, aren't enough.

Another common pro-LGBTQ messaging theme seeks to reframe the issue away from one concerning the LGBTQ community to a surrogate issue. Rather than directly engage in the debate concerning rights for LGBTQ couples, most of these ads do not attempt to persuade voters to support relationship recognition for LGBTQ couples.⁷⁰ Rather than focus on the potential harm done to the LGBTQ community, many previous campaigns implored voters to reject anti-LGBTQ ballot measures in order to protect unmarried heterosexual couples living in domestic partnerships. In North Carolina this past year, LGBTQ advocates used “avoidance-based” messaging to suggest that the amendment would take away protection orders for victims of domestic violence.⁷¹

The intentions of anti-LGBTQ advocates, however misguided, are to limit legal relationship recognition for LGBTQ couples. Their primary goal is not to take away rights from heterosexual couples living in domestic partnerships, nor is it to revoke protection orders for victims of domestic violence. Moreover, it is misleading to make these

issues central as pro-LGBTQ advocates were in most instances merely speculating on the potential for these secondary threats to come about. More importantly, “avoidance-based” messaging has not successfully prevented the passage of anti-LGBTQ ballot measures over the last decade.

Encouragingly, this past November, pro-LGBTQ advocates largely abandoned the “rights-based” and “avoidance-based” themes in favor of one that is strongly pro-LGBTQ. The ads stressed how LGBTQ couples and their families are affected on an emotional level due to their inability to marry. For example, the following is an excerpt from an ad that ran in Maine, “Cathy & Phil Curtis,” features the couple discussing their daughter:

Phil: We have three daughters. Our youngest, Katie, is gay.

Cathy: People will ask, ‘Why wouldn’t a civil union be enough for her?’ When we were young, we never dreamed about having a civil union, or signing a piece of paper. We wanted to be married.

Phil: I want our Katie to have what we have, the joy and security of marriage.

Cathy: A civil union is no substitute for marriage. We know that in our hearts.⁷²

This more emotionally resonant message connects well with voters. It moves beyond the limitations of “rights-based” messaging by describing marriage as an important cultural tradition, one that serves as a signal in society of the level of commitment that exists between two people. Encouragingly, this more resonant, LGBTQ-inclusive messaging strategy was dominant in all four states facing ballot measures this year.

ANTI-LGBTQ MESSAGES

The Christian Right made more use of its “victims” message than its “harm to kids” message this electoral season compared to previous years. Of 19 anti-LGBTQ television advertisements that ran in the four states facing LGBTQ ballot measures this year, fewer than half prominently featured “harm to kids” messaging. In contrast, during California’s 2008 campaign and Maine’s Question 1 campaign in 2009, nearly every anti-LGBTQ advertisement warned voters that legalizing same-sex marriage would force public schools to discuss LGBTQ rela-

tionship and sexual behavior with children. When they did appear, “harm to children” messages were often a much less prominent feature of the ad than in years past. Minnesota for Marriage’s “Not Live and Let Live” television ad is typical of much of the anti-LGBTQ media developed this year.⁷³

When same-sex marriage has been imposed elsewhere, it has not been live and let live. People who believe marriage is one man and one woman have faced consequences. Small businesses fined, individuals fired, charities closed down, churches sued, same-sex marriage taught to young children in elementary school...

This year, ads such as “Not Live and Let Live” focused on a variety of “consequences” that will befall society as a result of legalizing same-sex marriage. In other words, this past fall, anti-LGBTQ advocates decided to rely much more heavily on the “victims” media theme, which warns of the threat to people’s ability to act according to their conscience and religious beliefs if marriage equality passes.

Perhaps anti-LGBTQ advocates felt that warning of the threat to religious freedom would connect with a greater number of voters. Though effective, “harm to kids” messaging has the greatest impact on voters with young children living at home. “Victims” media, in contrast, potentially connects with a variety of voters, including small business owners and voters concerned with freedom of religion. It is possible, however, that rather than reach new voters, NOM and its affiliates were hurt by this broadened theme, as the impact of effective “harm to kids” messaging was somewhat blunted.

The heavy reliance on the “victims” ads should not come as a surprise. NOM said they would begin to emphasize this theme in an internal strategy document released in March 2012 under court order. NOM’s “document the victims” media strategy, aims to highlight the supposed harm that befalls people as a result of legalized LGBTQ relationship recognition.

“When a young Michigan grad student gets kicked out of her school program a few weeks before graduation (as happened this past spring) because she won’t personally counsel a gay couple on how they can keep their relationship together, we need more than her story— we need her face, her voice,

her outrage and her suffering on camera.”

“When a young Hispanic mother discovers in New Jersey what her first grader is being taught about gay marriage, how does the school counselor respond to her concerns? We need to get her on camera, telling the story of what gay marriage really means.”⁷⁴

In setting out this strategy, NOM aimed to co-opt and neutralize pro-LGBTQ charges that anti-LGBTQ positions are homophobic or discriminatory. This tactic is part of a long lineage of the Right’s freedom of religion argument, which it uses to oppose local and state nondiscrimination laws that include sexual orientation and gender identity.⁷⁵

The “victims” strategy was readily apparent in television advertisements developed this year. While only 10 percent of the advertisements that ran from 1998 to 2009 prominently featured this theme, in 2012 roughly half of the ads did so. For example, the following is an excerpt from an ad entitled “They Sued Us” ran by Protect Marriage Maine this year, which features a couple, Jim and Mary O’Reilly, who own a small business:

A lesbian couple sued us for not supporting their gay wedding because of our Christian beliefs. We had to pay thirty thousand dollars and can no longer host any weddings at our inn.⁷⁶

Similar ads highlight other instances where those opposed to marriage equality have been “victimized” for their beliefs, such as the backlash against the fast-food chain Chick-fil-A earlier this year when the company’s President, Dan Cathy, took a stand against marriage equality.

In weekly web ads targeting their own base, however, Minnesota for Marriage used a host of familiar “traditional marriage” and “harm to kids” anti-LGBTQ messaging themes. The ads, funded by the right-wing Minnesota Family Council and the National Organization for Marriage, featured Kalley King Yanta, a former local TV anchor, providing voters with “important information” regarding the amendment. In one ad, for example, Yanta implies that same-sex couples are unfit to be parents because “social science” has “proven” that children need both a mother and a father.⁷⁷ These 45 weekly web advertisements averaged two to three thousand views.

NOM’s internal documents also revealed a strategy, much covered in the media earlier this year, to develop anti-LGBTQ media that directly appeals to racial minorities. In particular, NOM sought to inflame tensions among those in the African-American community who take issue with characterizing LGBTQ equality as a civil rights concern. NOM aimed to find and further develop African-American spokespeople in favor of traditional marriage; media campaigns would be built around these individuals’ objection to same-sex marriage as a civil right.⁷⁸

Of the states facing ballot measures this year, this strategy was really only potentially viable in Maryland, where 30 percent of the population identifies as African American, well above the national average of 13.1 percent. For example, Protect Marriage Maryland worked closely with Bishop Harry Jackson, Jr. on reaching out to African Americans in Maryland. Jackson is the senior pastor at Hope Christian Church in Beltsville, Maryland, and is the founder of the High Impact Leadership Coalition, a socially conservative non-profit opposed to LGBTQ marriages.⁷⁹ This group, which is closely aligned organizationally with NOM, already actively opposed marriage equality in Florida and the District of Columbia, also home to very racially and ethnically diverse electorates. Similarly, Emmett Burns, Jr., an African-American Democratic delegate from Baltimore, is an outspoken critic of same-sex marriage, and actively sought to drum up support for the anti-LGBTQ amendment in Maryland this past November among other Democratic African Americans. Yet other black clergy stepped up in defense of the ballot measure, along with the NAACP.

Overall, NOM’s strategy to use same-sex marriage as a “wedge” issue between the African-American and LGBTQ communities failed to prevent the legalization of same-sex marriage in Maryland. This isn’t to say, however, that NOM had zero impact in this area. In late September 2012, the Baltimore Sun produced a poll showing African American support for same-sex marriage above 50 percent. By mid-October, after Protect Marriage Maryland began deploying its spokespeople and airing television advertisements targeting racial minorities, the newspaper put support among African Americans around 42 percent.⁸⁰ Though NOM’s advertising likely contributed to the dip in these numbers, the change in the polls also likely reflects a simple tightening of the race. The Baltimore Sun’s September poll, for example,

put support for same-sex marriage 10 percentage points above the opposition among all voters, a lead no one on either side of the race expected LGBTQ advocates to maintain.

Still, come Election Day, African Americans supported legalizing same-sex marriage by 46 percent according to Maryland exit polls. Moreover, according to national exit polls, African Americans supported legalizing same-sex marriage in their state by 51 percent, even greater than whites, 47

percent of whom supported legalization.⁸¹ While NOM's race-baiting messaging strategy may have had some limited impact on support for marriage equality within communities of color in Maryland, ultimately it was not enough to prevent passage of marriage equality in the state. This does not mean that NOM won't persist or find greater success with this strategy in more socially conservative and religious states.

MAINE

Election Results

For: 51.5%

Against: 46.2%

Text of Amendment: "Do you want to allow the state of Maine to issue marriage licenses to same-sex couples?"

Same-sex marriage history:

- May 6th, 2009: became first state to approve same-sex marriage through legislative action
- November 3rd, 2009: Same-sex marriage repealed through referendum, with 52.75% of vote

Maine's ballot measure in November was only the third attempt to expand LGBTQ rights at the ballot box, and was the first attempt to legalize same-sex marriage through public referendum.

On May 6, 2009, Maine became the first state in the nation to approve of same-sex marriage through legislative action. However, on November 3 of that same year, anti-LGBTQ advocates succeeded in repealing the law through a ballot measure, Question 1, with 53 percent of the vote. In November 2012 voters repealed Question 1, with 51.5 percent of the vote, to allow same-sex marriages to be practiced legally in the state. The amendment also allows Maine to recognize same-sex marriages performed elsewhere. The text of Maine's ballot measure asked voters a simple question:

"Do you want to allow same-sex couples to marry?"

Maine's ballot measure was significant for several reasons, and was therefore closely watched by advocates on both sides. First, of the 40 previous statewide LGBTQ-ballot measures that have been voted on since 1998, only three proactively attempted to expand rights for LGBTQ people, rather than restrict or repeal such rights.

Additionally, the vote verified polling that suggested an increase in support for same-sex marriage in the state since Question 1 passed in 2009.⁸²

MARYLAND

Election Results

For: 52.4%

Against: 47.6%

On March 1st, 2012, Governor Martin O'Malley signed a bill passed by the state legislature legalizing marriage rights for LGBTQ couples. Anti-LGBTQ advocates, however, gathered enough signatures to challenge the new law in November through the state's ballot initiative process. The ballot measure, known as Question 6, read as follows:

“[The Civil Marriage Protection Act] establishes that Maryland’s civil marriage laws allow gay and lesbian couples to obtain a civil marriage license, provided they are not otherwise prohibited from marrying; protects clergy from having to perform any particular marriage ceremony in violation of their religious beliefs; affirms that each religious faith has exclusive control over its own theological doctrine regarding who may marry within that faith; and provides that religious organizations and certain related entities are not required to provide goods, services, or benefits to an individual related to the celebration or promotion of marriage in violation of their religious beliefs.”

Voters were then asked if they are “for the referred law” or “against the referred law.” This is significant in that most previous LGBTQ-related ballot measures required supporters of LGBTQ rights to vote in the negative, rather than the affirmative.

Maryland is much more racially and ethnically diverse than the other states that faced anti-LGBTQ ballot measures this past November, which is why groups like NOM sought to use a race-based messaging strategy in the state. According to 2010 census data, 30 percent of the state identifies as African American, well above the national average of 13.1 percent, and 8.4 percent as Latino or Hispanic. According to Gallup, the state is home to the 23rd largest proportion of religious voters in the country, but the state is also home to one of the smallest proportions of self-identified conservatives, coming in eleventh place.⁸³

MINNESOTA

Election Results

For: 47.44%
Against: 51.18%

For the last decade, anti-LGBTQ advocates in Minnesota failed to bring a constitutional amendment banning same-sex marriage to a vote in the state. In Minnesota, public referendums must first be approved through legislative act. All previous attempts to pass anti-LGBTQ legislation, however, were routinely blocked by the Democratic-controlled legislature. However, following the Republican electoral sweeps in the 2010 elections, same-sex marriage opponents gained control of both State houses, and mustered the votes to put a constitutional same-sex marriage ban before voters this November. The text of Minnesota's ballot measure, Amendment 1, read as follows:

“Shall the Minnesota Constitution be amended to provide that only a union of one man and one woman shall be valid or recognized as a marriage in Minnesota?”

Unlike the other three states that faced LGBTQ-related ballot measures this past November, the outcome of Minnesota's election would not have granted nor denied full marriage rights for LGBTQ couples. Rather, Minnesota's ballot measure sought to put the state's existing ban on same sex marriage into the state's constitution. In this way, Minnesota's marriage amendment was similar to many of the LGBTQ ballot measures we have seen in previous election cycles; anti-LGBTQ advocates were seeking to prevent judges or politicians from legalizing marriage rights for LGBTQ couples in the future through judicial or legislative action by prohibiting such unions in the state's constitution.

However, unlike many other anti-LGBTQ marriage amendments we have seen in other states, Minnesota's ballot measure was designed to restrict marriage rights, but not other forms of relationship recognition, such as civil unions or domestic partnerships. While previous iterations of Minnesota's marriage amendment would have targeted these forms of relationship recognition as well, the primary anti-LGBTQ campaign committee, Minnesota for Marriage, concluded they would increase their chances of approving the measure if it were more narrowly tailored.

Minnesota is home to many socially conservative and religious voters, meaning “traditional marriage” messaging was likely to be an effective messaging strategy. According to Gallup, the state is home to the 18th largest proportion of self-identified conservative voters, and ranks 24th among the most religious states in the country. Meanwhile, 28 percent of the state identified as Roman Catholic, while 21 percent identifies with an evangelical Protestant tradition.⁸⁴ Anti-LGBTQ advocates used media that focused on the definition and purpose of marriage, therefore, to help turnout their base of support among more socially conservative and religious voters.

WASHINGTON

Election Results

For: 53.7%

Against: 46.3%

In February 2012, Governor Christine Gregoire signed a law legalizing same-sex marriages in Washington State. However, anti-LGBTQ opponents of the law gathered enough signatures to place Referendum 74 on the ballot, which sought to repeal the law last November. Anti-LGBTQ advocates were unable to gather enough signatures for a separate initiative that would have defined marriage rights as a union between one man and one woman.

Even before 2012, Washington was one of very few states in the country to successfully reach a pro-LGBTQ outcome during a statewide ballot measure campaign and was the only one to expand LGBTQ rights (as opposed to blocking an anti-LGBTQ initiative). In November 2009, advocates passed Referendum 71, with 53 percent of the vote, which legalized civil unions in the state of Washington

The text of the 2012 ballot measure read as follows:

“The legislature passed Engrossed Substitute Senate Bill 6239 concerning marriage for same-sex couples, modified domestic-partnership law, and religious freedom, and voters have filed a sufficient referendum petition on this bill. This bill would allow same-sex couples to marry, preserve domestic partnerships only for seniors, and preserve the right of clergy or religious organizations to refuse to perform, recognize, or accommodate any marriage ceremony. Should this bill be: [] approved [] rejected”

Washington, more than other states, received sizable gifts from individual donors, helping pro-LGBTQ fundraising far outpace LGBTQ opponents. For instance, Amazon.com founder and CEO Jeff Bezos, and his wife, Mackenzie Bezos, donated \$2.5 million. Microsoft CEO Steven Ballmer also donated \$100,000.

OTHER CAUSES OF THE LGBTQ SWEEP

It is important to remember that the November 2012 ballot initiatives were still close, competitive campaigns, with many factors at play. It would be shortsighted, in other words, not to account for several other important elements of these wins.

For instance, **these four ballot measure campaigns all took place in liberal-leaning “blue” states.** This is not to downplay the importance of these victories: given the LGBTQ community’s long-running losing streak at the ballot box, winning the support of a majority of voters in any state marks a turning point. We have, after all, lost in plenty of other liberal-leaning states, such as California, Maine, and Oregon. Nonetheless,

LGBTQ advocates likely owe their victory in part to the friendly electoral terrain in which these campaigns took place. In the years to come, when the fight for LGBTQ relationship recognition moves to less hospitable territory, electoral victories will be harder to come by.

Also, this year, arguably more than any other, we witnessed several **major cultural and political shifts in the national discourse on same-sex marriage thanks to years of dedicated organizing by LGBTQ advocates.** Through the previous year, a wave of important political voices spoke out in favor of marriage equality. Most notably, for the first time in history, a sitting president, Barack Obama, endorsed marriage equality. Following

President Obama's endorsement in May, polls showed an increase in support among African Americans nationally as well as in Maryland.

Unlike nearly every previous LGBTQ-related ballot measure campaign, moreover, the Governors in three of the four states facing measures this year were vocal supporters of same-sex marriage. In Maryland, Governor Martin O'Malley even named the legalization of gay marriage as one of his top legislative priorities. In another historic shift, the board of the NAACP, the prominent civil rights organization, voted for the first time to support same-sex marriage and was a vigorous advocate nationally and in the four campaigns. These high profile endorsements no doubt played to the advantage of LGBTQ advocates, helping shore up support from a growing chorus of prominent political voices.

On the flip side, there was also a **notable silence from high-level political voices on the Right in the campaign against marriage equality** this electoral season. This is not to say that opposition did not exist: Mitt Romney stated his opposition to same-sex marriage early and often throughout his campaign, and like many conservative Republicans, has voiced support for a federal marriage amendment banning same-sex marriage nationally. However, unlike the campaign to reelect George W. Bush in 2004, in which the right-wing proposed a litany of anti-LGBTQ ballot measures partly as a means to turnout Christian conservatives to the polls, Romney's campaign did not go out of its way to bring up his opposition to same-sex marriage. This reflects a clear shift in the use of same-sex marriage as a wedge issue, at least in national presidential politics. While support for same-sex marriage was once universally seen as a political liability, vocal opposition to LGBTQ rights is increasingly seen as such.

Additionally, **in comparison to previous years, pro-LGBTQ advocates improved their fieldwork in advance of November's elections.** This is particularly true in Maine, where advocates conducted intensive door-to-door canvassing and phone banking throughout the electoral season. This type of one-on-one contact with voters is extremely effective in persuading them to support pro-LGBTQ positions, but it is a tactic previously underused in LGBTQ-related ballot measure campaigns. For example, despite the high profile nature of the campaigns, very little field work occurred in California in 2008 or in Maine in 2009. According to a web advertisement released by the lead pro-LGBTQ

campaign committee, Mainers United for Marriage, volunteers knocked on 110,000 doors, made 125,000 phone calls, and held 62,000 conversations with Maine voters about same-sex marriage in preparation for the November vote. Having lost in 2009 by just over 33,000 votes, these face-to-face conversations likely helped tip the balance in favor of marriage equality in Maine. Similarly, unlike years past, the pro-LGBTQ campaigns ensured outreach to faith communities was a significant part of the field campaigns. This is particularly seen as an improvement over California's 2008 Proposition 8 campaign, where, critics contend, far less was done to involve faith communities.

Lastly, as anti-LGBTQ advocates have been quick to point out in the wake of their defeat, **pro-LGBTQ advocates held a large fundraising advantage this year.** In an attempt to rationalize their losses this year, Brian Brown, president of the National Organization for Marriage, released a statement the day after the election bemoaning the group's fundraising disadvantage this electoral season, claiming to have been "heavily outspent, by a margin of at least four-to-one."⁸⁶ The clearest example of this advantage was in Washington, where the primary pro-LGBTQ campaign committee, Washington United for Marriage, raised over \$13 million, aided by large donations from corporate donors such as Amazon CEO Jeff Bezos, while the main anti-LGBTQ campaign committee, Preserve Marriage Washington, brought it just over \$2.5 million.⁸⁷

There is no question that the ability of LGBTQ advocates to outpace their opponents in fundraising likely contributed in some way to the victories this year. More resources translate into more television advertisements, larger ad buys, and more extensive field campaigns; in sum, more voters reached. However, this fundraising advantage is nothing new. Pro-LGBTQ advocates have out-fundraised their opponents in all but seven of the last thirty-six statewide ballot measure campaigns that have occurred since 2004, yet have lost in the vast majority of those cases. While the fundraising advantage clearly helped, therefore, it only did so in concert with the other factors working in favor of pro-LGBTQ advocates this year.

THE FUTURE

Fresh off electoral victories this year, it will be important for LGBTQ advocates not to become complacent in preparing for future campaigns. While

this election will likely be looked back upon as a turning point for the marriage equality movement, it is important to remember that none of these victories was won in a landslide. These campaigns were truly competitive, despite taking place in perhaps the most favorable political climate ever for LGBTQ advocates. So we should celebrate these victories this year, but keep an eye to the future when LGBTQ advocates may be working under less hospitable conditions.

NOM and its right-wing affiliates will not concede future battles simply because they are unaccustomed to electoral defeat. Rather, these groups will learn from their mistakes in order to prepare for future campaigns, several of which are just around the corner. Indiana voters may be asked whether to adopt a constitutional ban on same-sex marriage as early as 2013, and the following year, in 2014, Oregon voters are likely to face a measure seeking repeal of that state's marriage ban. In preparation for these fights, NOM's president recently called upon supporters to help the group raise \$30 million in the coming year.⁶⁸

The group will also likely continue developing messages to appeal to the broadest base of voters possible. NOM may revert to "harm to kids" messaging in the coming elections, for example, or continue tweaking its "victims"-religious liberty media theme to be more targeted to undecided and persuadable voters. In the next couple of years, however, most of the upcoming state battles surrounding issues of LGBTQ equality will be taking

place in courthouses and legislatures, rather than at the ballot box. In March, all eyes will turn to the Supreme Court, which will hear oral arguments related to challenges to California's Proposition 8 and the federal Defense of Marriage Act. While the outcome is unclear, we know high court intervention throughout history has played a vital role in securing rights for minorities.

Advocates in a handful of states, including Delaware, Hawaii, Illinois, Minnesota, New Jersey, and Rhode Island, have also already announced their intentions of pursuing same-sex marriage bills in the next year or two. Here, NOM is likely to respond to pro-equality efforts by threatening to unseat politicians and judges, particularly Republicans and moderate Democrats, who support pro-LGBTQ legislation and court cases, thus intimidating others who might otherwise consider supporting such measures. The group has already found success with this strategy. In 2010, NOM successfully unseated three State Supreme Court judges in Iowa who ruled in favor of legalizing same-sex marriage in the state. Though NOM failed to unseat a fourth pro-equality judge in Iowa this year, the group did successfully unseat several Republicans in New York's State Senate that supported marriage equality in the state in 2011.

Regardless of the political arena, LGBTQ advocates and allies will no doubt continue learning from and improving upon the factors that contributed to the November 2012 sweep. ♦

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