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The efficacy of sexual orientation anti-discrimination legislation
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The Efficacy of Sexual Orientation Anti-Discrimination Legislation

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Abstract

Literature review

Purpose

To summarize the limited body of research that focuses on the efficacy of sexual orientation anti-discrimination legislation in reducing discrimination.

Approach

Reviews past research that documents overt and subtle forms of workplace discrimination against gay, lesbian, and bisexual individuals and describes how legislation plays an important role in changing social norms and underlying attitudes.

Findings

Empirically demonstrates that legislation effectively can reduce discrimination.

Originality

Informs legislative debate and promotes the expansion and adoption of national, state, and local legislation on sexual orientation anti-discrimination legislation.

Keywords

Sexual orientation, sexual discrimination, employment legislation, discrimination, equal opportunities, gay, lesbian, bisexual

The Efficacy of Sexual Orientation Anti-Discrimination Legislation

On June 26, 2013, the Defense of Marriage Act was struck down by the Supreme Court, and exactly two years later, the Supreme Court made marriage equality a reality across America. After this ruling, many believed that the passage of the Employment Non-Discrimination Act (ENDA), the Equality Act, or some executive order by Barack Obama guaranteeing protection against LGBT individuals in the workplace would be imminent. Unfortunately, this has yet to be realized as 32 states still lack comprehensive LGBT non-discrimination laws. Hence, discrimination is not only extant but also still legal, with some individuals arguing that laws will not change the prejudice that people have. We position the current article by focusing on the repercussions of behavior that legal action can have. We focus our manuscript on reviewing previous research that suggests why and how laws might impact discriminatory behaviors. The legislative aspect of sexual orientation discrimination is markedly understudied in the management and diversity literature, and we believe that our review has significant promise in terms of identifying trends related to anti-discrimination legislation, and thus implications for theory, future research, and policy.

While individual studies have examined the relationships between sexual orientation anti-discrimination policies and earnings (e.g., Flatt and Klawitter, 1998; Klawitter, 2015) and interpersonal discrimination in employment and communities (e.g., Barron and Hebl, 2010; Barron and Hebl, 2013), the current paper is the first comprehensive and systematic review of the effects of sexual orientation anti-discrimination policies on discrimination against LGBT individuals based on the studies that exist to date. We focus specifically on work-related discrimination; thus, studies examining the effects of these policies on job attitudes (e.g., Day and Schoenrade, 2000), health (e.g., Mulé *et al.*, 2009), and other variables were excluded from

our evaluation. Moreover, the current manuscript contributes to the literature by moving beyond a review of sexual orientation harassment in the workplace demonstrating that sexual orientation discrimination exists (e.g., Ozeren, 2014; Pichler, 2012; Pichler and Ruggs, in press; Nadal *et al.*, 2016) and focusing specifically on the link between legislation and a reduction of such discrimination.

Without empirical evidence for the efficacy of anti-discrimination legislation, politicians have a face-saving opportunity. Rather than having to oppose legislation by claiming that discrimination towards gays and lesbians does not exist, or should in fact be allowed to exist, politicians can oppose sexual orientation anti-discrimination legislation by simply stating that, despite their support for the legislative goals, such legislation would not be effective. For example, the 2002 ENDA Senate Committee testimony of Susan Collins (R-ME), a moderate, successfully used this tactic: “To me, the key issue before us is how we can best promote acceptance, true acceptance, of the underlying principle... of nondiscrimination... So the question to me and the question I want to ask all of you is if we impose a Federal law which some may view as an unwanted edict... is that really going to promote acceptance and compliance with the underlying principle that we all want to see?”

Many conservative members of congress oppose such sexual orientation anti-discrimination legislation on the basis of moral and religious grounds, views that are not easy to empirically challenge. However, Senator Collins’ opposing claim can certainly be tested empirically. In this manuscript, we review our own research that tests such claims. We describe local and state government policies, which can act as naturally existing “laboratories,” that can inform additional state and federal governments as they transition from having no legislation to adopting sexual orientation anti-discrimination policies (Inman and Rubinfeld, 1997). At

present, approximately half the country has outlawed sexual orientation employment discrimination, with 21 of the 50 states offering legal protection to private sector employees (http://www.hrc.org/state_maps) and many additional states containing at least some local jurisdictions offering legal protection (<http://www.lambdalegal.org>). Additionally, a small body of research has examined the correlational nature between perceived sexual orientation discrimination among gay and lesbian employees in U.S. areas with and without organizational, local, and/or state or local legislation (Ragins and Cornwell, 2001). This research as well as strong complementary evidence at the organizational level suggests that gay and lesbian employees perceive less discrimination when sexual orientation anti-discrimination policies and laws are (versus are not) in place (Ragins and Cornwell, 2001). Of course, there are many restrictions to interpreting this body of research that has been almost exclusively correlational in nature, and we describe these as well as our own experimental research (Barron, 2009; Barron and Hebl, 2013; Flatt and Klawitter, 1998; Ragins and Cornwell, 2001).

While we will discuss the importance of legislation in reducing discrimination in more detail later, we advocate for legislation as a means of reducing discrimination against LGBT individuals due to its (1) instrumental and/or (2) symbolic effects. First, according to Deterrence Theory (e.g., Becker, 1968), the illegality of a behavior leads to a reduction of that behavior to the extent that punishment for that behavior is undeniable and serious. This is what is referred to as legislation's "instrumental effect." Second, according to Symbolic Legislation Theory (e.g., Přebáň, 2016), the effectiveness of laws may lie in their power to reaffirm shared societal values and moral unity. This is what is referred to as legislation's "symbolic effect." That is, the laws provide social norms. So, if we know there is a law in Singapore against chewing gum, this might provide a norm that we should not litter and we should keep public places clean. If there is

a law against discriminating against LGBT individuals, the accompanying norm might suggest that we treat people equally and well. Thus, passing laws may result in people becoming aware of the actual rules and/or simply observing what other people do (and how they act in accordance with laws) and subsequently feeling influenced to act according to the way these others act (in some normative way).

In the current manuscript, we have several goals. First, we review the extant body of research showing workplace discrimination against LGBT individuals. Second, we address the theoretical basis for why we believe sexual orientation anti-discrimination legislation has the potential to be effective in reducing discrimination. Third, we describe the existing studies that show strong preliminary evidence for the reduction of sexual orientation discrimination based on the presence of protective laws. Fourth, we conclude with offering suggestions and directions for future research as well as effective organizational policies to guide managers.

Empirical Evidence of Sexual Orientation Discrimination

Although there is considerable research about attitudes toward homosexuality (e.g., Hicks and Lee, 2006), relatively little experimental evidence exists with regard to meaningful discrimination against gay and lesbian employees. It is estimated that approximately 3% of employees in the U.S. workforce are LGBT (Gates, 2011). It is important to note that there is controversy regarding the exact number of Americans who identify as LGBT, and the 3% estimate is the average based on five population-based surveys conducted in the last 12 years whose estimates range from 1.7% to 5.6%. The lack of consensus regarding the size of the LGBT population in the U.S. stems from a number of challenges, including variation in the definition of who is considered LGBT (e.g., same-sex attraction vs. behavior), variation in survey methodology (e.g., in-person interviews vs. online questionnaires), and the lack of

consistent questions asked longitudinally. Regardless of the exact number of LGBT Americans, the persistence of negative attitudes towards LGBT individuals (e.g., Pew Research Center, 2011) has led to widespread workplace discrimination, and we review some of the relevant experimental field studies conducted on this.

Experimental Field Studies

In one of the first field studies that focused on discrimination toward LGBT individuals, Singletary and Hebl (2009) replicated the methodology used by Hebl, Foster, Mannix, and Dovidio (2002), sending confederates to apply for retail jobs with the "Gay and Proud" versus "Texan and Proud" hats and measuring the extent of formal discrimination (e.g., bias in hiring, promotions, access, and resource distribution) and interpersonal discrimination (e.g., nonverbal, paraverbal, and even some of the verbal behaviors that occur in social interactions) store managers held toward job applicants who were depicted as gay or lesbian. As with the earlier study (Hebl *et al.*, 2002), no evidence of significant formal discrimination (i.e., proportion of applicants invited to interview) emerged. However, interpersonal discrimination emerged – store managers who interacted with confederates who were visibly identifiable as gay (versus Texan) spent less time with and were less likely to respond with friendliness and positivity to presumably gay or lesbian applicants. No differences in the extent of interpersonal discrimination were found for gay male applicants relative to lesbian applicants. However, Singletary and Hebl (2009) also were interested in whether gay and lesbian applicants could do anything to remediate the discrimination that they faced in the interview setting. So they enacted one of three strategies (or none, as a control) when interacting with store managers. In particular, the authors examined *acknowledgment* or directly referring to one's stigma during an interaction (Hebl and Skorinko, 2005), increased *positivity* or smiling and being overly friendly (Miller *et*

al., 1995), and providing *individuating information* that distinguishes oneself apart from the stereotyped or stigmatized group (Fiske and Neuberg, 1990) as a strategy to reduce interpersonal discrimination. Using the experimental methods from Hebl *et al.* (2002), the results showed that adopting any of the three strategies resulted in a reduction of interpersonal discrimination relative to adopting no strategy.

While the aforementioned field study did not reveal formal discrimination, this more overt form of discrimination did emerge in another study using different methodology. In the first major audit study of discrimination against openly gay men in the U.S., Tilcsik (2011) sent pairs of résumés of ostensible applicants to 1,769 organizations that had job openings (assumed based on job postings). In each pair of résumés, one of them showed that the applicant was the treasurer of the “Gay and Lesbian Alliance,” and the other showed that the applicant was the treasurer of the “Progressive and Socialist Alliance.” Analyses revealed that, for the overall sample, the chance of being invited for an interview was 11.5% for heterosexual applicants and was only 7.2% for equally qualified gay applicants. This 40% disparity is statistically significant ($p < .001$) and means that a heterosexual individual needed to respond to nine or fewer job postings while a gay individual needed to respond to nearly 14 different job postings to receive a favorable response. While any explanation is beyond the scope of this paper, it is important to note that the difference in positive responses was significant in Texas, Florida, and Ohio, but not in California, Nevada, Pennsylvania, and New York. In sum, this study substantiates the findings of the other two field studies and provides further experimental evidence of the presence of discrimination, both formal and subtle, based on sexual orientation in employment settings.

Although it may seem that interpersonal discrimination is less severe and easier to combat, substantial studies show that the consequences of interpersonal discrimination are far

from trivial. From the perspective of organizations' bottom-line profits, interpersonal discrimination ought to be a source of concern because stigmatized individuals pay substantial attention to such subtle forms of discrimination, and respond to them (Valian, 1998). Notably, it is often the nonverbal behaviors (rather than overt, verbal behaviors) that stigmatized group members focus on in their interaction partners (e.g., employers) when they form their perceptions of an interaction (Dovidio *et al.*, 2002). As such, interpersonal discrimination towards stigmatized customers relates to decreases in purchases, return visits, and referrals (King *et al.*, 2006), and interpersonal discrimination towards stigmatized employees relates to decreases in organizational helping behaviors and increased intentions to leave (King *et al.*, 2006). Furthermore, evidence suggests that, within the employment interview, interpersonal discrimination from prospective employers may diminish the interview performance of stigmatized applicants. That is, even nonverbal behaviors of prospective employers affect both nonverbal and verbal behavior of applicants. When interviewees are exposed to a "warmer" interviewer (i.e., who smiles, makes eye contact, and leans towards the applicants), the subsequent verbal responses of interviewees are rated more positively by independent raters (blind to interviewer behavior) than applicants exposed to an interviewer who uses less positive nonverbal behavior (Liden *et al.*, 1993). Word, Zanna, and Cooper's (1974) study in which some interviewers sat further away from targets, had more speech dysfluencies, and conducted shorter interviews also shows that applicants who are subjected to "colder" interviewers are rated more poorly (by independent judges). Finally, recent research by Singletary and Hebl (2016) shows that job applicants who experience interpersonal (versus formal) discrimination are more likely to show deficits in performance. In short, formal as well as interpersonal discrimination are important to combat.

Why Sexual Orientation Anti-Discrimination Legislation May Reduce Discrimination

Although we will discuss why anti-discrimination legislation may be successful in reducing discrimination, there is at least one criterion that is necessary for laws to have an impact. At a minimum, the public generally and HR professionals specifically must be aware of the existence of such legislation. The only large-scale study documenting awareness of sexual orientation anti-discrimination legislation that we know of is a recent survey conducted by the Public Religion Research Institute in 2013, which found that “75% of Americans incorrectly believe it is currently illegal under federal law to fire or refuse to hire someone because they are gay, lesbian, bisexual, or transgender” (p. 3). This data suggest that Americans’ knowledge of sexual orientation anti-discrimination legislation is generally limited. Thus, the success of sexual orientation anti-discrimination laws will likely hinge on how well public campaigns and media coverage do in creating awareness of such laws among the public.

We now discuss why anti-discrimination legislation can be expected to reduce sexual orientation discrimination. We particularly discuss two types of effects that legislation may have on behavior: instrumental and symbolic.

Instrumental Effects of Legislation on Attitudes and Behavior

One additional condition that is a prerequisite of legal efficacy is legal enforcement. Deterrence Theory (e.g., Becker, 1968) argues that making a given behavior illegal reduces that behavior to the extent that punishment is certain and severe. Such theory has received a great deal of empirical support, at least with regard to effects of punishment certainty (see Cook, 1980). When applied to anti-discrimination laws specifically, prejudiced employers are said to engage in a cost-benefit analysis in which they view that laws create an “expected cost” of a magnitude that equals the cost of law violation if caught (e.g., attorney’s fees, fines) times the

probability of being caught (Landes, 1968). If legislation only impacted behavior to the extent that punishment were expected, anti-discrimination laws would likely have little effect due to the small probability of being caught. For instance, the vast majority of discrimination complaints cases filed with the EEOC do not result in favorable outcomes for the complainants (EEOC, 2016). However, a consideration of instrumental effects alone is incomplete. Hence, we turn to considering symbolic effects.

Symbolic Effects of Legislation on Attitudes and Behavior

The impact of laws also are likely to derive from symbolic rather than purely instrumental effects (e.g., Tapp and Kohlberg, 1971). The Symbolic Legislation Theory suggests that, even in the absence of punishment, legislation may reduce a given act (discrimination) by designating it as illegal, criminal, or socially deviant (e.g., Přibáň, 2016). In line with this, empirical work shows that the extent to which a law is seen as morally valid correlates with the extent to which the law is obeyed (Grasmick and Green, 1980). The force of law is not simply a fear of punishment; rather, people avoid violating the law because it describes moral rules of conduct and reveals social expectations (Robinson and Darley, 1995). In short, anti-discrimination legislation may create social norms that educate people about what is acceptable behavior.

In summary, sexual orientation employment anti-discrimination laws might reduce hiring discrimination and prejudice when individuals with hiring authority are aware of such laws. Further, the symbolic effect of legislation creates major decreases in both prejudice and corresponding behaviors of discrimination. While the mechanisms underlying legal efficacy remain theoretical, empirical evidence is available to address the issue of whether sexual

orientation anti-discrimination legislation does in fact reduce employment discrimination. We turn to this now by carefully reviewing the limited, but very germane, research.

The Efficacy of Sexual Orientation Anti-Discrimination Laws

There are four known empirical studies that have examined the success of state and local sexual orientation laws (Flatt and Klawitter, 1998; Ragins and Cornwell, 2001; Barron, 2009; Barron and Hebl, 2013). These and future studies, however, face a major challenge: the presence of less discrimination in areas with (versus without) legal protection does not necessarily mean that legislation reduces discrimination. That is, such an effect may occur because (a) certain areas are more accepting of gays and lesbians and these areas are simply more likely to enact anti-discrimination laws (reduced discrimination causes legislation), and/or (b) legislation actually does cause a reduction in discrimination. The level of discrimination likely is already lower in areas that do (versus do not) adopt gay rights laws—even before the laws take effect (Wald *et al.*, 1996). However, the legislation itself may further promote discrimination reduction. This means that research on the efficacy of legislation must attempt to control factors leading to the adoption of anti-discrimination legislation and the extent of community discrimination at baseline. This control is a goal that Barron and Hebl (2013) successfully achieved, leading to a more compelling argument that legislation does in fact cause a reduction of sexual orientation discrimination.

The Impact of Laws on Discrimination by Flatt and Klawitter (1998)

In the first study, Flatt and Klawitter (1998) examined whether the wage gap between same- and opposite-sex partnered individuals was lessened in areas governed by state and local anti-discrimination ordinances. Using data from the 1990 U.S. Census, which allowed gay and lesbian couples to identify their counterparts as “unmarried partners,” they compared same- to

opposite-sex couples' incomes within areas with and without legal protection. The results show that for men, gay men who lived in areas lacking sexual orientation anti-discrimination laws experience greater wage discrimination than gay men who live in areas with such legal protection. The data showed that wages were generally higher in areas with (versus without) anti-discrimination legislation but that this difference was much larger for gay than heterosexual men. Such a difference was much less for women but this may be due to the decreased wage gap that exists between lesbian and heterosexual women – if there is not wage discrimination to begin with, laws cannot help.

One serious limitation of Flatt and Klawitter's (1998) study is that gay and lesbian participants were selected for inclusion in the study only if they anonymously indicated their sexual orientation on Census forms. Thus, there were no repercussions for participants disclosing their sexual orientation, which is different from the realities of most gay and lesbian employees, the majority of whom do not "come out" in the workplace for fear of discrimination (e.g., Ragins *et al.*, 2007). Employers cannot discriminate based on group membership that they do not know, and empirical findings show that employees are indeed less likely to disclose when they have witnessed or experienced discrimination (Ragins and Cornwell, 2001). Thus, the accuracy of inferring sexual orientation is problematic in the absence of disclosure, and discrimination on the basis of non-disclosed sexual orientation is likely prone to error and substantially reduced.

Another limitation of Flatt and Klawitter's (1998) study is that the Census data used for this study was collected in 1989 when most areas that prevented discrimination were done so only with city ordinances (two states – Wisconsin and Massachusetts – penalized private sector sexual orientation employment discrimination). To have an effect, legislation simply must be accompanied by awareness of such laws among the public and certainly among management.

Because of enhanced media coverage and stronger enforcement coverage, state laws likely attract more public awareness than city ordinances, while national laws probably attract the greatest amount of public awareness (Rubenstein, 2002). In sum, the two limitations a) differential disclosure and b) limited legal awareness and enforcement are problematic and better addressed in the next two studies we discuss.

The Impact of Laws on Discrimination by Ragins and Cornwell (2001)

In this second study, gay and lesbian employees recruited through national gay rights organizations completed surveys, the results of which showed that they perceived less discrimination if they worked in an area with (versus without) anti-discrimination legislation. Although employees may conflate reports of discrimination with the absence of legal protection, this study reduced the likelihood of this bias by having research assistants (rather than the employees themselves) code the presence of legislation. This relation was strong and remained even after controlling for disclosure, co-worker and supervisor sexual orientation, and gay-friendly organizational policies (e.g., company non-discrimination statement, same-sex partner benefits). That is, gay and lesbian employees who worked in areas with (versus without) legal protection were more likely to disclose that they were gay, had gay co-workers and supervisors, and worked for organizations with gay-friendly company policies, all of which in turn were related to reduced reporting of discrimination experiences. Importantly, the results showed that controlling for disclosure likelihood and supportive organizational policies, gay and lesbian employees in areas with (versus without) anti-discrimination laws still perceived less discrimination, suggesting the laws were effective. Furthermore, the results showed that gay and lesbian employees also perceived less discrimination when organizational sexual orientation non-discrimination policies were (versus were not) in place (see also Ragins and Cornwell, 2001).

Of course, the Ragins and Cornwell (2001) study is confounded by the possibility that perceptions of discrimination may differ from actual, objective experiences of discrimination. The study was also limited in that it did not control for two community variables – political and religious conservatism – that have been widely shown to influence community adoption of sexual orientation anti-discrimination laws (Wald *et al.*, 1996) and extent of sexual orientation prejudice in the absence of legislation (e.g., Herek, 1988). We addressed both of these limitations in recent research conducted in our own lab, which we will discuss in the following sections.

The Impact of Laws on Discrimination by Barron (2009)

In this third study, Barron (2009) improved upon subjective perceptions examined in the previous research by objectively assessing the extent to which 255 trained human resource managers exhibited hiring discrimination. Evaluations using this sample heighten the likelihood of showing whether anti-discrimination laws are effective since human resource managers are likely to know about and be influenced by such laws. Indeed, human resource managers must be familiar with employment legislation and typically have had experience working within the legal constraints of hiring decisions. Thus, Barron (2009) recruited participants through local chapters of a national organization of human resource management professionals. These managers were almost evenly divided between those who worked in states with and without sexual orientation employment anti-discrimination legislation, and 32 chapters in 28 states were represented. Thus, the sample on which this study was based diversely represented the country and was a contingency that should be aware of laws.

Using a between-subjects design, the managers evaluated résumés of hypothetical male applicants for a management position that were matched on all qualifications except for the manipulation of sexual orientation. Specifically, the candidate on the résumé was presented as

either having been a (a) recipient of the university “Alumni Scholarship” and president of the “Student Activities Association” (control condition) or (b) recipient of the university “Gay and Lesbian Alumni Scholarship” and president of the “GLBT Student Activities Association” (gay condition). Managers were then asked to evaluate the candidate and indicate how likely they would be to hire such individuals depicted via résumés.

The results revealed that resource managers in areas without anti-discrimination laws evaluated the gay (versus non-gay) applicant as less hireable; however, no differences in evaluation emerged between gay and non-gay applicants when anti-discrimination laws were in place. Hence, marked support emerged for the power of legislation to reduce prejudice toward gay applicants. Anti-discrimination legislation was substantially related to decreased prejudice towards gays, even after controlling for factors previously shown to impact community adoption of legislation. Thus, Barron’s (2009) findings reveal that employment anti-discrimination legislation influences more than just the reduction of hiring discrimination; it also increases acceptance and tolerance towards gay applicants. Even human resource managers’ privately held attitudes of prejudice toward gay applicants – which are not, and cannot be, legally enforced – appear to be reduced by the presence of anti-discrimination legislation. As such, Barron’s (2009) provides strong support for the idea that the effects of legislation are not simply instrumental effects based on the tangible threat of lawsuit; rather, the effects of legislation are also symbolic, in that they morally prescribe that individuals should not be disregarded and mistreated on the basis of their sexual orientation.

Though Barron’s (2009) research is powerful, limitations in this research also exist. For instance, after controlling for variable previously shown to relate to the adoption of legislation (e.g., religious beliefs), anti-discrimination laws continued to decrease prejudice but no longer

significantly decreased discrimination. Additionally, many of Barron's (2009) participants could not accurately recall the applicant's sexual orientation when asked; hence, additional research is needed that perhaps makes the sexual orientation of applicants very salient. Further research might also ensure public or managerial knowledge of anti-discrimination legislation directly, which was not done in the Barron (2009) study, because no research to date has specifically documented knowledge and awareness of these laws, rather it has just assumed individuals (e.g., human resource managers) possess such knowledge. In the fourth study we describe, we conduct this research and also broaden the type of discrimination studied to include more subtle, less readily legally enforceable interpersonal discrimination (e.g., Hebl *et al.*, 2002).

The Impact of Laws on Discrimination by Barron and Hebl (2013)

In the fourth set of studies we will discuss, the authors conducted three sets of studies that ensured that public awareness for sexual orientation employment anti-discrimination laws existed (Study 1) and that they made a difference in both field research (Study 2) and more constrained laboratory research (Study 3; Barron and Hebl, 2013). This stepwise approach was used in order to address the limitations that the previously discussed studies did not. Thus, as a whole, we believe that to date, this set of studies shows the most pronounced and convincing evidence that laws effectively can reduce discrimination, even when the discrimination is subtle and ambiguous.

To begin, we (Barron and Hebl, 2013) identified one of the largest metropolitan regions in the U.S. that contains areas in which anti-discrimination laws are not uniformly present. This allowed us to standardize much about the different areas being examined but to look for differences between the two sets of areas that arise because of differences in laws. In geographically adjacent areas then, Dallas and Fort Worth have anti-discrimination laws whereas

Arlington, Plano, and Irving do not. In Study 1, we assessed simply whether individuals residing in these different areas showed significant differences in their awareness of such laws.

Researchers randomly called phone numbers from publicly available residential listings and asked participants about their awareness of employment laws. Participants first answered, via an open-ended format, which groups in their residential jurisdiction were covered by anti-discrimination laws and then by close-ended format whether or not gays were protected in their residential jurisdiction from discrimination. The findings revealed that as a whole, the public is generally aware of the presence or absence of anti-discrimination legislation in their communities; however, there was greater awareness of laws in cities with legislation than without it (Barron and Hebl, 2013; Study 1).

In Study 2, we theorized that the knowledge about the presence of these laws would have a symbolic effect in reducing discrimination against gay and lesbian job applicants. Using a 2 (gay versus non-gay) x 2 (employment discrimination law present versus absent) between-subjects (store manager) factorial design, we extended the methodology of Hebl *et al.* (2002) and had 12 undergraduate students apply for jobs within 252 stores located in the previously described metropolitan areas. The sexual orientation of undergraduate job applicants was manipulated, in accordance with Hebl *et al.* (2002) by having participants wear a hat that said either “Gay and Proud” or “Texan and Proud” and apply for jobs in stores where we knew jobs were actually available (we had research assistants call stores in the few weeks preceding our actual study). As with the earlier study (Hebl *et al.*, 2002), participants (who remained blind to their study condition and the purpose of the study) followed a standardized script, audiotaped conversations, and completed surveys assessing the quality of the interactions that they had with store personnel who had hiring capabilities. The results of the study revealed that store managers

displayed significantly more interpersonal discrimination with gay (versus non-gay) applicants in areas lacking anti-discrimination laws. However, in places where laws existed, the results showed that managers actually treated gay (versus non-gay) applicants with more favorability, particularly driven by measures of increased helpfulness and decreased rudeness (Barron and Hebl, 2013; Study 2). In this study, we also collected community variables that approximated prejudice toward gays and lesbians by controlling for a) number of same-sex couples and nonfamily households by zip code, b) concentration of religious and political conservatives, as identified by primary polls showing number of votes collected for presidential candidate Mike Huckabee, and c) percentage of companies that have nondiscrimination policies toward gays and lesbians (culled from paper applications and company websites of the stores that the research assistants visited). Even after controlling for all three of these community variables, sexual orientation anti-discrimination laws still reduced interpersonal discrimination toward gay and lesbian job applicants (Barron and Hebl, 2013; Study 2). In this way, this study shows that it was the enactment of sexual orientation anti-discrimination employment laws, rather than a pre-existing set of progressive norms, that led to a decrease in discrimination on the basis of sexual orientation.

To further strengthen the internal validity of our Study 2 findings, we conducted Study 3, utilizing a 2 (gay versus non-gay job applicant) x 2 (employment discrimination law present versus absent) between-subjects factorial design. Specifically, 229 individuals in the Houston area were asked to play the role of an interviewer – they were exposed to training and led to believe laws either protected employment against gay and lesbian employees (92.5% successfully believed the manipulation) or did not protect such employees (87.1% successfully believed the manipulation). The participants were then told to interact with an actual student who

was ostensibly preparing to enter the job market. The laws manipulation was couched in the training education of other protected and non-protected characteristics (e.g., race, weight) and participants did not report being suspicious of the study's purpose. Participants then interacted with a candidate who was either depicted as gay (his/her resume showed that he/she was active in the "Gay and Lesbian Student Association" and his/her backpack had a visible 2 x 3 inch rainbow "Gay and Proud" pin) or not gay (control).

The results revealed significantly lower displays of interpersonal discrimination when participants were trained and learned that sexual orientation discrimination was illegal versus legal. Specifically, participants used less anxiety-related words, spoke with less nervousness, and increased the length of the interactions when interacting with gay applicants in the illegal (versus the legal) discrimination condition (Barron and Hebl, 2013; Study 3). Thus, this study is the first to show that anti-discrimination laws causally influence the reduction of interpersonal discrimination. Indeed, anti-discrimination sexual orientation laws can effectively reduce discrimination against gay and lesbian applicants.

The results of Barron and Hebl's (2013) three studies show substantial evidence that laws increase community awareness, and that they reduce prejudice and discrimination against gay and lesbian job applicants. Moreover, in triangulation, the studies provide strong evidence that laws can work, allowing us to successfully respond to Senator Collins' claims that employment sexual orientation anti-discrimination laws may not "promote acceptance and compliance with the underlying principle" of non-discrimination. Barron and Hebl's (2013) findings coupled with the three additional research findings that we discussed converge in providing very strong evidence that such laws do succeed in reducing true, underlying principles of prejudice in the employment sphere.

Implications for Research and Managerial Practice

Up to this point, we have summarized the modest body of research focusing on how effective anti-discrimination legislation can be in the goal of reducing discrimination on the basis of sexual orientation. There are two ways in which we urge others to make future contributions to the scholarship on sexual orientations. This includes the continuation of both a) critical research that addresses yet unanswered questions related to sexual orientation discrimination and remediation; and b) managerial, organizational, and legal practices that further pave the way for inclusion and equality in workplaces regardless of employees' sexual orientations. We discuss both implications in more detail.

Future Research

We believe that researchers have a timely and unique opportunity to continue conducting research that examines the level of discrimination in areas with and without local protections under controlled conditions so that they can continue to weigh in on the effectiveness of national legislation; thus, we encourage more research on this topic. We also inspire future researchers to continue asking critical questions surrounding and collecting data on sexual orientation anti-discrimination legislation. One of the methodological goals we hope to inspire in those doing such research is to rely not only on survey methodology (in which people typically report on their attitudes, intentions, and past behaviors) but also on other research paradigms and methodologies (e.g., field studies, quasi-experimental studies, lag designs) in which more causal mechanisms can be determined. That is, it is important not only to theorize about and collect survey data on beliefs about effective LGBT policies but also to collect data that shows causal evidence that such policies are effective. So, too, it is important for future research to demonstrate *why* such policies are effective. In the current paper, we discuss the idea that

organizational policies and laws not only mandate behaviors but also provide social norms that govern how people should act. That is, if a person joins a company that has a very clear policy on a certain behavior, he/she uses this as a guide for how to behave and believes that others must be enacting these same sorts of behaviors. While we believe that the “laws as social norms” theory holds explanatory power in showing why laws are effective, much more empirical data is needed to support this and to explore other potential alternative explanations.

In the top portion of Table 1, we indicate these important directions for future research as well as some of the other questions that we think would be most valuable. Although certainly not exhaustive, we specify five different sets of future research questions. First, we urge researchers to continue assessing discrimination, particularly as laws and policies hopefully increase (but potentially wax and wane) in number and scope. Studies that use pre- and post-test designs with the passing of local, state, and eventually national laws will be particularly compelling as these designs approximate those used in the 1960s to document the efficacy of Title VII of the Civil Rights Act in reducing employment discrimination towards Southern Blacks (e.g., Heckman and Payner, 1989). Second (and as we have previously articulated), future research should continue to examine the efficacy of such laws and the mechanisms behind such efficacy. Third, such research also should be extended to organizational policies to assess whether these work the same ways as do laws. We argue, in a recent piece (Martinez *et al.*, 2013), that organizations can serve as microcosms (particularly with respect to LGBT related issues) and when a policy is effective, it has the potential to inspire law in the greater macrocosm. Fourth, we believe that the role of allies in creating change is enormous. As a result, we inspire future researchers to measure effective ally behaviors that lead to sexual orientation anti-discrimination policies and laws. Fifth and finally, we posit that it may be worth exploring whether the presence of

legislation impacts the career goals and self-efficacy of LGBT individuals. In exploring wage discrepancies, researchers have found that LGBT individuals have lower salary expectations and greater interest in working in non-profit areas (Ng *et al.*, 2012). Legislation that promotes more equitable workplaces may also promote greater participation of LGBT individuals in a wider variety of careers.

Managerial Practice

One of the biggest takeaway messages of the current paper is that anti-discrimination legislation regarding sexual orientation can be effective. However, the reality in 2016 is that such legislation does not exist nationally or universally for everyone. Thus, while laws do mandate behaviors and provide social norms on how to act, the absence of such laws may enable people to discriminate legally. This, however, is where organizations can intervene to create their own policies, norms, and rules.

Research has shown that organizations play a critical role in promoting an atmosphere of diversity and inclusion for LGBT employees (e.g., King & Cortina, 2010) by acting as microcosms of society (e.g., Akabas & Kurzman, 2005). For example, Martinez, Ruggs, Sabat, Hebl, and Binggeli (2013) explain that organizations can help promote LGBT rights even when the greater society does not because they have the ability to create LGBT-supportive company policies even when there are no such laws. Extending this idea, we believe the research presented in the current paper shows that this influence can be bi-directional; not only can organizations influence laws, as described by Martinez *et al.*, 2013, but the passage of LGBT-supportive laws also can influence organizations to effectively support diversity by implementing maximally supportive policies. There are a number of reasons that we believe that the passing of LGBT-

supportive laws will encourage organizations to enact similar policies, which will in turn reduce discrimination toward LGBT individuals in society at large:

First, research has shown that attitudes can follow behaviors, specifically as related to support for sexual orientation diversity. For example, Madera, King, and Hebl (2013) found that diversity training participants who developed sexual orientation supportive goals reported more supportive behaviors and attitudes toward gay men and lesbian women than those who did not set goals. Most importantly, Madera et al. found that sexual orientation supportive behaviors mediated the relationship between goal-setting and sexual orientation attitudes such that participants who set goals exhibited sexual orientation supportive *behaviors* after three months, but they did not develop sexual orientation supportive *attitudes* until eight months after the diversity training. In other words, attitudes followed behavior. Similarly, we anticipate that laws preventing discrimination on the basis of sexual orientation and the proliferation of LGBT-supportive organizational policies would change employees' behavior first and foremost. That is, it would be illegal or against company policy to continue to discriminate. However, in time, we believe these behaviors would extend ultimately to changing employees' attitudes. To drive the point home, consider the historical removal of homosexuality from the DSM as a mental disorder. Upon this removal from the DSM, people were prevented from making such diagnoses and this behavior, with time, likely led to attitudinal change. That is, people stopped perceiving homosexuality as abnormal and instead viewed it simply another sexual orientation. As such, we conjecture that very few people would now support the classification of homosexuality as a mental disorder in the DSM. We believe that in this way, organizations can influence employees' behavior and eventually their attitudes as well.

Second, research has demonstrated the powerful effect of social norms and group influences on behavior, specifically in terms of discriminatory behavior against LGBT individuals. For example, a study by Goodman, Schell, Alexander, and Eidelman (2008) indicated that individuals are more likely to exhibit discriminatory behaviors toward an ostensibly gay leader when a teammate does so first (e.g., makes a negative comment). It is conceivable, then, that when organizations have anti-discrimination policies in place, this sends a signal to employees regarding the acceptability of discriminatory behavior. That is, it discourages employees from exhibiting any such behaviors. It is therefore not difficult to envision a scenario in which fewer and fewer employees discriminate against LGBT individuals to the point that these behaviors become obsolete.

Third, research has shown the effects of behavioral control on discrimination against gay individuals. For instance, Dasgupta and Rivera (2006) discovered that behavioral control moderated the relation between prejudice and discrimination such that antigay prejudice translated into biased behavior only for people who were not skilled at behavioral control; in fact, participants who held antigay prejudice but were skilled in behavioral control over-corrected their behavior and acted more favorably toward gay men than their less behaviorally skilled counterparts. This study suggests that certain nonverbal behaviors (e.g., smiling, eye contact, body posture, friendliness, comfort) can be regulated with practice. Relating this study to organizational LGBT-supportive policies, we hypothesize that when organizations implement LGBT-supportive policies, they are providing employees with practice controlling their behavior. We believe that by practicing more egalitarian behavior in the workplace, individuals will be more likely to adopt egalitarian behavior outside the workplace as well.

Fourth and finally, in addition to attitudes following behaviors (as we have already articulated), LGBT-related attitudes also may be leading to behaviors. That is, it is very plausible that the recent movement toward protective laws for LGBT individuals (i.e., the Supreme Court repeal of DOMA, the repeal of Don't Ask Don't Tell) suggest that the time is simply ripe for full and complete universal and protective rights of U.S. citizens, regardless of whether they are heterosexual or LGBT. In a book entitled "The honor code: How moral revolutions happen," Appiah (2011) suggests that social reform is brought about not only by mandated legislation, but also because honor plays a role in the struggle people experience when they treat others inhumanely. From this desire to restore humanitarianism, democratic social movements create a tipping point of moral progress wherein people finally do the right thing. Appiah uses the examples of ending slavery and footbinding; and discriminating against LGBT individuals might be a modern-day example. Appiah suggests that eventually people rise up and push the law forward, rather than the reverse. Although we have not argued for this being the central process that is happening with legislation, Appiah's work would suggest that the overwhelming acceptance of LGBT-related laws (DADT repeal, DOMA repeal) so soon after they have passed suggests that a tipping point of people certainly seems to have predated the laws.

In the case of sexual orientation anti-discrimination policies, the Human Rights Campaign (HRC) has been a leader in articulating very precise standards for organizations that wish to be at the forefront of and on the list of those who offer exemplary practices in LGBT workplace inclusion (HRC, 2016). These practices are listed in the bottom of Table 1 and serve as a guide for organizations who wish to make a difference. Since 2002, the HRC has published a list of corporations who best exemplify leadership in implementing policies, benefits, and practices for LGBT employees. What is promising, as they state (HRC, 2016), is that only 13

business gained a top score in 2002 using the very stringent criteria required at present. However, in the most recent report, 189 businesses have now achieved this score. In addition to the policies suggested by HRC, we urge organizations to recognize the social and economic imperatives of LGBT supportive policies (see also King & Cortina, 2010) and to consider additional policies that might be specifically tailored to the needs of their own unique workforces.

Conclusion

Given ongoing debate on expanding anti-discrimination legislation, the research we have outlined in this manuscript has the potential to serve as important information to politicians who will likely play a key role in whether such protections become law, particularly to those who may have publicly opposed sexual orientation anti-discrimination legislation by characterizing the likely efficacy of such legislation as dubious (e.g., moderate Republican Senator Collins) (empirical findings and future directions are summarized in the Table 1). Researchers investigating the presence of sexual orientation legislation have limited power in experimentally manipulating the presence or absence of legislation in a given community; however, the research that they have conducted, as a whole, approximates this. Such research also goes far in statistically controlling for factors previously shown to influence whether legislation is adopted in a given community, so as to otherwise equalize jurisdictions. As such, research findings to date provide strong evidence that anti-discrimination laws on the basis of sexual orientation do actually reduce prejudice and acts of discrimination in the employment sphere. Thus, we believe this research provides strong empirical justification for enacting legislation that will promote a more equitable workplace and protect employees from pervasive acts of discrimination.

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Table 1.

Future Research Directions in LGBT Research and Managerial Implications for Practice

Research Topic	Questions for Future Researchers
Continued Discrimination	<ul style="list-style-type: none"> • Is legal and organizational protection still necessary (i.e., What is most recent evidence that LGBT discrimination still exists?) • If current legal protection gets reversed or is not extended, what are the organizational ramifications? • If coverage becomes more universal, do any laws or policies lead to increase in discrimination against LGBT members?
Efficacy of Laws	<ul style="list-style-type: none"> • What additional evidence supports efficacy of laws? • Which laws are most effective? • What types of legal protection are possible? • Who is most likely to support organizational policies and laws?
Efficacy of Organizational Policies	<ul style="list-style-type: none"> • Which policies are most effective, and to whom and why? • Are there negative implications for organizations that do not offer such policies? • What are the economic costs associated with organizational policies? • How does one optimize organizational buy-in for such policies without previous organizational precedent?
Role of Allies	<ul style="list-style-type: none"> • What roles can allies play in reducing discrimination? • How can allies be best encouraged to act? • How can organizational leaders particularly be encouraged to serve as allies? • Are allies all equal in influencing policy adoption, or are some (and why might they be) more effective than others?
Effects of Laws on LGBT Individuals	<ul style="list-style-type: none"> • Are there economic benefits to providing legal and organizational protection for LGBT individuals? • How might the presence of legal and organizational protection affect the job performance of LGBT people? • How might the presence of anti-discrimination legislation affect the career goals of LGBT people? • How might the presence of anti-discrimination legislation affect the self-efficacy of LGBT people?
Best Practices Topic	Suggestions (HRC, 2016)
Non-discrimination protections	Includes sexual orientation and gender identity explicitly for all operations in U.S. and global operations
Extension of non-	Not only must companies follow non-discriminatory LGBT-related

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discrimination policies	organizational policies but so, too, must U.S. contractors and vendors
Restriction on philanthropic giving	Internal requirements forbid company giving to non-religious organizations that have a written policy allowing discrimination on the basis sexual orientation and gender identity
Partner benefits	Health/medical insurance and other benefits (e.g., adoption assistance, employee discounts, bereavement leave) available for partners
Competency programs	Firm-wide programs that may include diversity training and educational programs
Organizational resource groups	Have a employee resource group or diversity council that is firm-wide and employer-supported
Community engagement	Positively interact with external LGBT community