

# **Challenging the Legacies of Racial Resentment**

**Black Health Activism,  
Educational Justice, and  
Legislative Leadership**

**Tiffany Willoughby-Herard  
Julia Jordan-Zachery, editors**



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**Challenging  
the Legacies of  
Racial Resentment**

# THE NATIONAL POLITICAL SCIENCE REVIEW

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## Editors' Note

The content of volume 18 of the *National Political Science Review* (NPSR) reflects the sweep of research questions, themes, and patterns of power relations that underpin the study of Black politics. With the passing of a much-beloved mentor, editor Dr. Michael Mitchell, the journal enters a transitional period of intentional remembrance and deep reflection. Michael joined the ancestors and was followed by so many others without whom we could not have made our way or imagined our roles in the projects of Radical Black Politics: Jerry Watts, Otis Madison, Savannah Carroll, and Cedric Robinson. Michael Mitchell's mantra of *scholarly excellence* and cross-generational research collaboration created a high standard for the new editorial board and editorial advisory board to follow. We enter this new challenge with gratitude for the incredible model of integrity that Michael Mitchell, Lucius Barker, Matthew Holden, Georgia Persons, and David Covin established.

Health activism and health policy domestically and globally is a consistent emphasis in this volume of the *National Political Science Review* that develops explicitly out of the long research in this area conducted by former editor, Dr. Georgia Persons. The research in this volume explores how new opportunity structures in Brazil and the United States have called into question whether medical Jim Crow has ended. Careful attention to intersectionality, grassroots organizing, executive politics, and health service organizations provides depth and dimension to the many different scales and levels of analysis at which research on health activism continues to be conducted. While the authors point to the demonstrable evidence of presidential politics (Henrique Cardoso, Luíz Inácio Lula da Silva, Dilma Rousseff, and Barack Obama) influencing and shaping debates on racialized and gender health disparities, they also demonstrate how the legacies of what Alondra Nelson has called "the distinctly hazardous risks posed by segregated medical facilities, professions, societies, schools; deficient or nonexistent health services; medical maltreatment; and scientific racism" continue to impact black people and shape the course of life (*Body and Soul: The Black Panther Party and the Fight Against Medical Discrimination*, 2011, 24). Such research provides an invigorating reminder of the "medical civil rights movement" (ibid.) that shaped the contours of black feminist politics and the ideas and policies that still necessitate black women's political mobilization and the long commitment health policy research by former NPSR editor, Georgia Persons. Such questions are particularly apt given how American political commentator and humorist, Larry Wilmore, has dubbed the marked rise in anti-Black racial resentment during the transition to a post-Obama Administration era the "Un-Blackening." The Patient Protection and Affordable Care Act (2010, 2012) remains the signature Obama Era policy. The Affordable Care Act will continue to have a decisive impact on that portion of the

racial wealth divide that has been created by generations of medical discrimination and the financialization of health care. The Affordable Care Act has changed the political narrative about health care as a right in subtle ways while also creating new institutional structures that give voice to health care and reproductive justice activists. Thus, coming to truly understand enduring forms of racial resentment is inextricably linked to the fight against medical discrimination.

Contributors Albert Samuels and Neal Allen document features of this rise in racial resentment. Samuels argues that the concept, “nullification” helps us understand the resegregation of schools. Allen argues that the recurring backlash against Black people’s attempts to enter the public sphere and civic life as free and equal citizens indicates that the very idea of “emancipation” has to be reconsidered. Neal Allen’s American Political Development essay contends that emancipation must have more substantive meanings and effects than what can be captured in the largely symbolic politics of an “event.” Emancipation, if theorized properly, is understood as a particular set of political relations and is not merely a moment. Fundamentally, Allen is asserting that emancipation, as currently understood, is a very weak index of the contemporary power and substantive voting rights of African-American people. More than that, Allen insists that emancipation ought to be an “organizing principle” and if it is, our politics are certainly shifting under our feet at this very moment. Recourse to such nineteenth-century concerns and concepts registers a profound shift in Black politics and also offers keen insight into the urgency that has animated the mass movement against omnipresent police and vigilante violence against Black women, men, and children. Such raw violence, though articulated most spectacularly through state murder by police officers, must be understood as part and parcel of a whole web of social policies and programs that disadvantage and cause what cultural geographer Ruth Wilson Gilmore has called “premature death” (*Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*, 2007). From #BlackLivesMatter in the United States to #FeesMustFall in South Africa nonviolent youth-led protest movements the world over have turned their attention to state violence (including murder in custody, illegal stops, illegal search and seizure, illegal detention), and the broken promise of schools as anchors of community life and livable neighborhoods. Such are the necessary reminders that the racialized welfare state has resulted in hundreds of millions of dreams deferred. Contributors also document the continued commitment by Black legislators and Black voters to antidiscrimination on immigration and same-sex marriage. Carley Shinault and Richard Selzer and Donn Worrs provide robust empirical analysis that suggests that the political experiences of Black people constitute an important backdrop and embedded scenario even when policy issues are framed against Blackness. That these scholars raise questions about how racial Blackness shapes immigration and same-sex marriage indicates how significant intersectional frameworks continue to be. While deep and profound variation in Black public opinion certainly matters both longitudinally and in moments of critical elections, the ethos of consolidating the dreams of abolitionist democracy and expanding freedom throughout this society and the world continues to galvanize Black political thought and action. “Woke” Black politics teaches us that we do in fact have the power, resources, and authority to make meaningful change.

To this end, the Trends section offers brief yet full-throated conversations between senior and emerging scholars. Each of these invited and refereed essays reflect the ethos

of the Freedom School and are modeled after Teach-Ins and Speak-Outs, forms of pedagogy that have returned with deep necessity in these times of teaching and learning with the second post-civil rights generation. Paying special attention to the ways in which Blackness is made to function at the discursive and representational level, M. Shadee Malaklou's essay on "Teaching Trayvon" explores the complexities of challenging the White nationalist commonsense that links Black youth and Black masculinity and Black people (regardless of gender identity) who take up any amount of space (whether sleeping on their grandmother's couches or biking or walking in the stairwells of their own apartment buildings) with social threat, danger, and criminality. These Trends conversations provide real-time insights on the many forms of anti-Blackness that have compelled the last three years of civil disobedience and participation in mass action by black youth and their allies. Next we include thoughts on the daily activism of #BlackLivesMatter, Los Angeles with co-founder Melina Abdullah and reflections on the 2016 presidential election with Robert Smith and Melanye Price. Long time activists, Tommi Hayes and Mali Collins, raise provocative questions that bridge generational divides and approaches. Zulema Blair's insights about the particular constraints and supports necessary to increase the quality of undergraduate student political participation ought to be read alongside these Trends articles. Blair's empirical research on civic engagement at colleges of access makes the case for making political participation by first generation students legible.

Donn Worgs' essay on morality politics explains that when it comes to civil liberties, employment, and antigay discrimination, African-Americans support LGBT rights while also strongly opposing same-sex marriage rights. Exploring the contexts (2003–2012) which generated laws in favor and against same-sex marriage in the seventeen states that took up the policy and in the states that had substantial numbers of Black legislators enables Worgs to identify and interpret how and why black legislators vote in ways more liberal than their constituents and their party. While increasing majorities of people would no longer consider being LGBT a sin or an addiction, voters continue to face a dizzying array of campaign media designed to get out the vote specifically around a range of activities that patently don't belong in the same conceptual category. Since the larger body of political-science scholarship does not consistently disentangle rights and identities from leisure practices from health questions in the morality politics research, Worgs also does not consider the unusual pairing of LGBT rights, gambling, and abortion—and all fall under the rubric of "morality politics"—here. Nevertheless, Worgs' study provides illuminating findings for interpreting how Black legislators make sense of "the most galvanizing" policy issues of the last decade and that are all too often understood through notions of decency. In fact, it is the question of decency that makes "morality policy issues" such a compelling puzzle for Black politics since prosegregationists typically justified their many forms of anti-Black racism through racist discourses about Black people being inherently indecent with regard to sexual morality. As Black politics continues to consider how Black sexualities and gender norms have political salience, our scholarship will be compelled to examine the history of how Blackness as a social and political identity has been linked to caricatures of Black sexuality as avaricious, unfeeling, and impervious to harm. Using the rubric of "morality politics" raises stimulating questions about how Black legislators provide ethical leadership on issues which make some Black religious voters squeamish or which they consider to be nonnormative.

Françoise Cromer's article troubles distinctions between informal politics, political mobilization, resistance politics, and community organizing. Cromer's research has important implications for why and how a phenomenon like independent Black women's health and cultural organizations belong in conversations about Black politics. Plumbing the experiences of systematic discrimination by health and legislative authorities, Cromer explains why Black women create spaces like *Het Heru*. Whether we decide that their ideas and practices meet the criteria of the political or remain in the more sociological arena of resistance politics and community organizing, *Het Heru* is certainly politically significant, and the courage to read their work as part of the political sphere suggests the malleability of "the political" as a concept for real-world problem-solving.

By troubling such neat distinctions between informal politics, political mobilization, resistance politics, and community organizing, Cromer charges political scientists to access their courage and their hearts in ways that might have a positive impact on Black women's lives. What political scientists do and don't do has a real impact on whether Black women live or die. The kinds of research questions that we ask about Black women's lives profoundly shapes whether Black women make it back from the hospital or not. If we can agree as scholars of Black politics that Black women's lives matter then the issues of concern for Black women must be political priorities and must guide our definitions of "the political." When Black women do not make it back to their families after interactions with the health care system then we must acknowledge what anthropologist and writer Zora Neale Hurston told us in 1937, Black women are still the "mule of the world." Cromer demonstrates that we have a unique responsibility as researchers to transform such conditions into healing and survival. Deeming Black women's grassroots survival practices as being beneath the criteria of the political fails ethically. To suggest that a set of social practices do not meet the criteria for "the political" reminds us that there are stiff hierarchies that constitute knowledge production and who can participate in it. This is likely why Black women organize health activism in the ways that they do and where. Julia Jordan-Zachery's research explores institutional intersectionality through an examination of AIDS service organizations and how they understand the continued stigma, structural violence, invisibility, and respectability politics that shape how HIV/AIDS policy is constructed and implemented. Political anthropologist Kia Lilly-Caldwell offers a substantive history of the changed legal framework provided by race-conscious laws to improve the health of Black people in Brazil. Laying out the complex history that made health activism for Black people a central agenda item for executive governance returns us to the importance of the global ties across the Americas among researchers of the Black movements that span the entire hemisphere. This turn toward reproductive justice research is timely and incredibly necessary.

These questions of the contemporary framework of Black politics are reflected in our book reviews as well. Book Review Editor, political historian Keisha Blain, has assembled books on Black internationalism and Black women's left traditions in Britain, South Africa, the United States; two new works on race and the law; a fearless new book on Frantz Fanon; a mixed-method study on the politics of popular culture; and an important new book on AIDS and mourning in the early days of the pandemic.

In this era of tremendous social change we acknowledge the tremendous political courage of radical movements all around the world and the incredible courage of the

families of those who have lost loved ones. We salute your demands for justice and your unwillingness to quietly accept state and interpersonal violence. We continue to say their names and organize in their memory. To the fallen we say, ¡Presente!

Special thanks goes to Armand Demirchyan for his Editorial Research Assistance, for his attention to detail, and his care to the intellectual and political project of the *NPSR*. And we welcome Editorial Research Assistant, La Shonda Carter, who continues to prove herself diligent, devoted, and an intellectual giant in her own right.

Tiffany Willoughby-Herard



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## **Research Articles**





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# Black State Legislators and Morality Politics

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## Abstract

In recent years, there have been many high profile examples of African-Americans mobilizing to influence “morality policy” issues. The most galvanizing of these issues has been same-sex marriage. This study examines how Black state legislators have responded when faced with legislation that would either restrict marriage rights or expand the rights of same-sex couples. An examination of Black state legislators’ votes on these measures reveals that most have opposed restrictions on marriage rights, usually at a higher rate than other Democrats. When confronted with legislation expanding rights of same-sex couples, a majority of Black legislators support these measures. This voting record stands in contrast to the attitudes and voting behavior of the broader Black population as indicated by opinion data and exit polling. This divergence from the position of the broader population is likely the result of personal attitudes of the legislators and political party strategy.

**Keywords:** African-American legislators; Morality politics; Black legislators; State legislators

In recent years, morality policy issues have sparked atypical political mobilizations among African-Americans. In Maryland, for example, African-Americans led by Black churches and pastors mobilized against the expansion of legalized gambling and in opposition to same-sex marriage. A number of Maryland legislators noted that these were the most extensive mobilizations around pending state legislation coming out of the African-American communities in recent memory.<sup>1</sup> While social conservatism is not new to African-Americans, what is fairly new is the political mobilization around these kinds of issues. These attempts to promote policies related to individual morality represent a deviation from the traditional issues around which African-Americans have mobilized.

This phenomenon has been visible since 2004, when “moral-values issues” garnered much political attention during the presidential campaign and election. Moral-values issues, in particular abortion and same-sex marriage, were much discussed as having an

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impact on the outcome of the election (Hillygus and Shields 2005). While those issues did not lead Blacks to support the re-election of President Bush, we did see moments of mobilizing around “morality”—in particular in support of restrictions on same-sex marriage (Tucker-Worgs 2011).

So-called morality policy issues have been distinguished from other issues (non-morality policy issues) because they entail at least one coalition of advocates that “portrays the issue as one of morality or sin and uses moral arguments” to promote their policy preference (Mooney 2001, 3). Importantly, this categorization is not based on any objective inherent characteristic of the issue but rather “depends on the perceptions of the actors involved and the terms for debate among them” (4). These debates are “framed in terms of fundamental rights and values, often stemming from religious imperatives” (Studler 2001, 39).

Scholars who study morality policy issues have found that they have higher levels of public participation and that policymakers tend to be more responsive to public opinion on these issues, than on other nonmorality issues (Mooney and Schuldt 2008). In recent years, the most salient of these morality policy issues have been abortion; lesbian, gay, bisexual, transgender (LGBT) rights (especially same-sex marriage); gambling; and the death penalty. Interestingly, large portions of African-Americans have often taken “conservative” positions on such morality issues (Tate 2010).<sup>2</sup> This stands in contrast to the position of the Democratic Party—which of course, most Blacks are aligned with and which the vast majority of Black legislators are a part of. This raises a simple yet compelling question—how do Black legislators respond when faced with morality policy issues? Do their positions reflect the attitudes of the broader Black population? Or do they more closely align with the stance of the Democratic Party? To begin to answer this question, I examine how Black state legislators have responded when confronted with perhaps the most galvanizing morality policy issue in recent years—the issue of same-sex marriage.<sup>3</sup>

Below I begin with a brief discussion of Black legislators followed by an examination of how Black state legislators have voted when confronted with legislation seeking to expand the rights of same-sex couples or limit marriage rights to couples consisting of one woman and one man, and explore some likely explanations of the responses of these legislators. The examination of Black legislators’ votes on these measures reveals that most have supported the rights of same-sex couples. In states considering restrictions on marriage rights, only a minority have actually voted for these restrictions. Further, in states considering legislation expanding rights of same-sex couples, a majority of Black legislators have supported these measures. This voting record stands in contrast to the broader Black population. Black legislators are more “liberal” on the issue than the Black population in general, as indicated by opinion data and exit polling. This divergence from the position of the broader population is likely the result of personal attitudes of the legislators themselves, although political party strategy may also be a key factor.

### **Black Legislators and Black Representation**

With the extraordinary growth of Black elected officials in the decades following the Civil Rights Movement, scholars have asked questions about the significance of this phenomenon. Do Black legislators represent the interests of Black communities more effectively than White legislators? At the heart of this is a concern about whether

descriptive representation (the extent to which the legislative body reflects the broader population) will lead to more substantive representation (the extent to which a group's interests are reflected in the outputs of a legislative body) (Pitkin 1967).

The literature indicates that it does, though the picture is somewhat complex. Black legislators have been found to differ from their White colleagues in some important ways. Importantly, Black legislators are more likely to place issues of importance to Black communities on the public agenda and in legislation (Haynie 2001; Baker and Cook 2005). Beyond getting issues on the agenda, studies have sought to assess the impact of Black legislators by examining the outputs in policy areas that are consistently viewed as priorities for African-Americans. The weight of the evidence points to Black legislators having a positive impact on outputs in key policy areas—in particular education, welfare, and healthcare (Owens 2005; Preuhs 2006). On the whole, the literature suggests that Black legislators provide a higher level of substantive representation of the interests of Black communities—whether in terms of votes on key issues or in terms of aggregate voting patterns.

Importantly, the effect of the legislators has been found to be distinct from the impact of the districts—meaning that the behavior of Black legislators is not just based on who they represent. They behave differently from White legislators who represent majority or near majority Black districts (Bratton and Haynie 1999). Jeunke and Preuhs concluded that Black legislators (and Latino legislators) add a level of representation beyond that of White legislators that “resembles the trustee model” for their group's interests (Jeunke and Preuhs 2012, 713).

It also appears to be the case that Black legislators approach decisions in ways that differ from their White colleagues. Preuhs and Hero found that both Black and Latino legislators “employ different cues in decision making regarding minority group concerns which go beyond just being ‘more liberal’ in their policy stances” (Preuhs and Hero 2011). They noted that their research suggests that “rather than simply greater intensity on a liberal-conservative spectrum, which generally emphasizes economic/class cleavages, minority representatives see a second, racial dimension of policies as highly salient” (169).

The differences in behavior between Black legislators and their White counterparts extend not just to voting or the issues they place on the legislative agenda. Broockman, for example, has found that Black legislators were more intrinsically motivated to help Black individuals in need of assistance, even when doing so offered no political reward as when helping individuals not in their district (Broockman 2013). This supports Mansbridge's notion of surrogate representation—“when legislators represent constituents outside their own district” (Mansbridge 2003, 515).<sup>4</sup>

There are also differences among Black legislators. Especially noteworthy are the differences related to gender. Black women, while underrepresented (Hardy-Fanta et al. 2006), actually behave differently from their non-Black and Black male colleagues. Orey et al. found that Black legislators in Mississippi are more likely to introduce progressive legislation than their White colleagues, and Black women legislators were more likely than Black men to introduce such legislation (Orey et al. 2006). The authors attribute this to the “unique perspectives” these legislators possess in relation to their peers.

Thus we know a good bit about the behavior of Black legislators in general. Yet, what we know does not necessarily point us to what we are likely to find in the context of morality politics. Studies seeking to assess levels of substantive representation look at policy areas

like education, health care, welfare, etc. (ostensibly progressive issue areas) or specifically race-related issues. Morality politics can be a different animal. As Preuhs and Hero note, Black legislators will deviate from the normal liberal-conservative cleavage when their group's concerns are at stake. Morality politics are such that an issue can be thought of in different ways, and group interests may be understood in varying ways. For example, same-sex marriage has largely been opposed by many on the basis of religious belief, yet many Black opponents have also discussed the issue in relation to the challenges of the Black community (Tucker-Worgs and Worgs 2014). Thus, opposing same-sex marriage has been understood (or at least argued) by many as a necessary step in the protection of the already fragile Black family. Of course not all Blacks view the issue in this manner, but the point is that morality issues may stand apart from the normal political cleavages and may (or may not) stand apart from issues of race.

Given such a context, how have Black state legislators responded to the issue of same-sex marriage? While a majority of Blacks have been opposed to same-sex marriage, Democrats as a whole have shifted over the years to the point where a significant majority supports same-sex marriage. I turn now to a brief overview of Black communities' responses to the issue followed by a review of how Black state legislators have voted on the issue.

### **The Battle for Same-Sex Marriage**

When the Supreme Court issued its ruling in *Obergefell v. Hodges*, in June of 2015, it effectively made same-sex marriage legal in all fifty states. This ruling was the culmination of two decades of legislative and judicial maneuvering around the issue. Same-sex marriage arrived on the national political agenda during the 1990s after the Hawaii Supreme Court ruled that laws denying marriage rights to same-sex couples violated the state constitution's equal protection clause (NCSL 2013a). The ensuing outcry and debates set off a wave of legislative efforts at both the federal and state levels aimed at restricting marriage rights to one man and one woman. The outcome was the passage of the federal Defense of Marriage Act (DOMA) in 1996, along with dozens of states passing similar legislation. Ultimately, thirty-two states passed a version of DOMA, restricting marriage to one man and one woman (NCSL 2013b).

In the early 2000s, another wave of legislation commenced following a ruling of the Massachusetts Supreme Court, which found that that state's DOMA was unconstitutional (NCSL 2013a). Opponents of same-sex marriage then called for both federal and state constitutional amendments defining marriage as between a man and a woman. Although a federal amendment was never passed, state after state legislators and activists set about amending state constitutions to define marriage as being limited to one man and one woman. By 2012, thirty states amended their constitutions to restrict marriage to one man and one woman (NCSL 2012).<sup>5</sup>

The process in each state consisted of getting the proposed amendment on a state ballot. In some states, the measures were brought to the ballot as a result of petitions, while in others, the measures were placed on the ballot as a result of legislative action. Subsequently, every state that had such an amendment on a ballot saw the measure pass, with the exception of Minnesota, where voters rejected the amendment in 2012 (NCSL 2012).

The Minnesota vote reflected how drastically attitudes shifted in recent years. For most of the period, the issue was on the public's agenda; a majority of the US public opposed

same-sex marriage rights. The Pew Research Center, Gallup, and others consistently found opposition to same-sex marriage among a majority of the population until recent years. For example, in 1996, Pew found 65% of the population opposed allowing gay and lesbian couples to marry legally. By 2004, that majority was down to 60%, and by 2008, only 51% opposed allowing gay and lesbian couples to marry. The downward trend continued through 2015. In the weeks before the Supreme Court decision in *Obergefell v. Hodges* was announced, their survey found only 39% of the population opposed allowing same-sex couples to marry (Pew 2012, 2015).

Aside from the drastic shift, two additional characteristics of the population's attitudes stand out. First, the difference between Democrats and Republicans increased over time. As attitudes in general have shifted, the differences between the parties expanded. In 2004, 78% of Republicans and 50% of Democrats opposed same-sex marriages. By 2015, those numbers had shifted to 63% of Republicans and 29% of Democrats opposed—a thirty-four percentage point difference (Pew 2015). A second interesting characteristic has been the position of African-Americans.

### **African-Americans and Same-Sex Marriage**

African-Americans have consistently had higher rates of opposition to same-sex marriage than the population as a whole. Pew reported 67% of African-Americans opposing same-sex marriage versus 60% of the total population in 2004. The General Social Survey data reported comparable numbers that year with 67% of Blacks in opposition versus 54% of Whites (Sherkat et al. 2010). Even in 2015, when 39% of the total population were in opposition, 51% of African-Americans opposed, and only 41% supported same-sex marriage (Pew 2015).

Notably, African-Americans, the vast majority of whom are Democrats or lean Democratic, consistently opposed same-sex marriage at rates significantly higher than Democrats as a whole and much closer to rates of Republicans. In 2008, Gallup reported that 52% of Democrats thought same-sex marriages should be recognized by law, as opposed to 30% of Blacks and 22% of Republicans (Newport 2008). Even with the constant shift in attitudes, Blacks, as a group, are closer to the Republicans than to Democrats as a whole as the 41% of Blacks who favored same-sex marriage are closer to the 34% of Republicans than the 65% of Democrats (Pew 2015).

Yet African-American attitudes on LGBT rights are not so simple. As Sherkat et al. have noted, while African-Americans oppose same-sex marriage rights at a higher level, they also are more supportive of certain civil rights for LGBT people than Whites (Sherkat et al. 2010; Lewis 2003). While Blacks are more likely to condemn LGBT people, they are “more likely to support laws prohibiting antigay discrimination” (Lewis 2003, 76). When controlling for education and religion, Blacks are also more likely to favor gay civil liberties and support gay employment rights (Lewis 2003).

Explanations for the higher levels of Black opposition to same-sex marriage have focused on religion—both religious affiliation and religiosity. Religion has been shown to be a key factor in influencing support for or opposition to same-sex marriage (Sherkat et al. 2010). In particular, affiliation with Catholicism and certain Protestant denominations are positively related to opposition to same-sex marriage. Sherkat et al. found that much of the Black-White difference in attitude is attributable to differences

in religious affiliation—specifically Blacks’ rate of affiliation with Baptists and other Protestants, as well as the high levels of religious participation.<sup>6</sup>

As political debates and mobilizations around the expansion or restriction of same-sex marriage rights unfolded, African-Americans played varied roles within these efforts. African-Americans were at times out front in support of efforts to restrict marriage rights to one man and one woman, or in opposition to efforts to legalize same-sex marriage. As Tucker-Worgs (2011) has shown, in the context of the 2004 presidential election campaigns where same-sex marriage became one of the high profile “moral-values issues,” a number of Black ministers spoke out individually as well as through coalitions formed to oppose expanding marriage rights (Tucker-Worgs 2011). In the 2008 campaign to support California’s state constitutional amendment (which appeared on the ballot as Proposition 8 where it was approved by voters), Black communities were targeted for organizing, and some Black churches and church leaders played key roles (Arbajano 2010). More recently, following President Obama’s statement in support of same-sex marriage, there were a number of public statements from Black ministers—individually as well as part of collective groups opposing the president’s position (Harris and Constable 2012; Douglas 2012).

This opposition, led largely by religious leaders, reflects the findings that attribute Black opposition in general to certain widespread religious beliefs. Yet, other Black leaders have also been out front in support of marriage rights. In particular, many high-profile Black religious and civil rights leaders including Rev. Jesse Jackson, Rev. Al Sharpton, NAACP head, Rev. Ben Jealous, each took public stances in support of same-sex marriage. Beyond the high-profile national figures, as the debates unfolded in states around the country, often local ministers (particularly some associated with the NAACP) came out in support of same-sex marriage rights.<sup>7</sup> Thus we have a varied picture with a majority of the population opposed to expanding marriage rights and national elites and some local elites supporting such an expansion.

### **African-American Legislators and Same-Sex Marriage**

Given this complex picture of support and opposition, how have Black state legislators responded when confronted with legislation seeking to expand or restrict rights for same-sex couples? To answer this question, I examined states that had a substantial number of Black legislators (at least ten) in 2003, which also had a final floor vote on legislation either restricting marriage rights (defining marriage as between one man and one woman) or expanding the rights of same-sex couples during the period of 2003 through 2012.<sup>8</sup> This resulted in a list of seventeen states. Among these, twelve voted on legislation in opposition to same-sex marriage, and five states voted on legislation to expand rights for same-sex couples, including two that passed civil unions and three that voted on the legalization of same-sex marriage.<sup>9</sup> I consider these two sets of laws separately given the variation in the types of laws and the differences in the contexts that generated the bills.

#### *Restricting Marriage Rights*

Considering the twelve states voting to restrict marriage to one man and one woman, we see some interesting variation in how African-American legislators cast their votes across the various states (see Table 1).

**Table 1.**  
**Votes on Legislation Restricting Marriage Rights**

State		House Vote				Senate Vote				% Voting Yes
		Y	N	P/NV*	A**	Y	N	P/NV	A	
<b>Alabama</b>	Total	85	7	9	1	30	0	5		
Year of vote—2005	Dems.	45	7	9	1	20	0	5		All Dems.—75
# of Black Leg.—34	Blacks	9	7	9	1	6	0	2		Blacks—44
<b>Georgia</b>	Total	122	52	3	3	40	16			
Year of vote—2004	Dems.	50	50	3	3	10	16			All Dems.—45
# of Black Leg.—49	Blacks	4	33	1	1	0	10			Blacks—9
<b>Indiana</b>	Total	70	26		4	40	10			
Year of vote—2011	Dems.	11	24		4	2	10			All Dems.—25
# of Black Leg.—13	Blacks	0	7		2	0	4			Blacks—0
<b>Louisiana</b>	Total	87	11		6	31	6		2	
Year of vote—2004	Dems.	53	10		3	16	6		2	All Dems.—77
# of Black Leg.—31	Blacks	12	9		1	3	5		1	Blacks—48
<b>Mississippi</b>	Total	97	17	5	3	51	0		1	
Year of vote—2004	Dems.	49	17	5	3	26	0		1	All Dems.—74
# of Black Leg.—45	Blacks	11	17	5	2	10	0			Blacks—47
<b>Missouri</b>	Total	130	26	3	4	26	6		2	
Year of vote—2004	Dems.	40	26	3	4	8	6			All Dems.—55
# of Black Leg.—17	Blacks	6	7		1	1	2			Blacks—41
<b>North Carolina</b>	Total	75	42	2	1	30	16		4	
Year of vote—2011	Dems.	10	42		1	0	16		3	All Dems.—14
# of Black Leg.—25	Blacks	2	16			0	6		1	Blacks—8
<b>Ohio</b>	Total	72	22	5		18	15			
Year of vote—2004	Dems.	12	21	4		0	11			All Dems.—25
# of Black Leg.—16	Blacks	4	7	2		0	3			Blacks—25

(Continued)



Table 1. (Continued)

State		House Vote				Senate Vote				% Voting Yes
		Y	N	P/NV*	A**	Y	N	P/NV	A	
<b>South Carolina</b>	Total	96	3	16	9	42	1		3	
Year of vote—2005	Dems.	28	3	16	3	17	1		3	All Dems.—56
# of Black Leg.—33	Blacks	10	3	10	2	4	1		3	Blacks—42
<b>Tennessee</b>	Total	88	7	1	3	29	3		1	
Year of vote—2005	Dems.	42	7	1	3	13	3		1	All Dems.—76
# of Black Leg.—19	Blacks	10	3	1	2	2	1			Blacks—63
<b>Texas</b>	Total	101	29	8	11	21	9		1	
Year of vote—2005	Dems.	15	29	7	9	3	9			All Dems.—25
# of Black Leg.—15	Blacks	1	10	2		1	1			Blacks—13
<b>Virginia</b>	Total	76	22	2		28	11			
Year of vote—2006	Dems.	19	21			7	11			All Dems.—45
# of Black Leg.—17	Blacks	10	2			0	5			Blacks—59

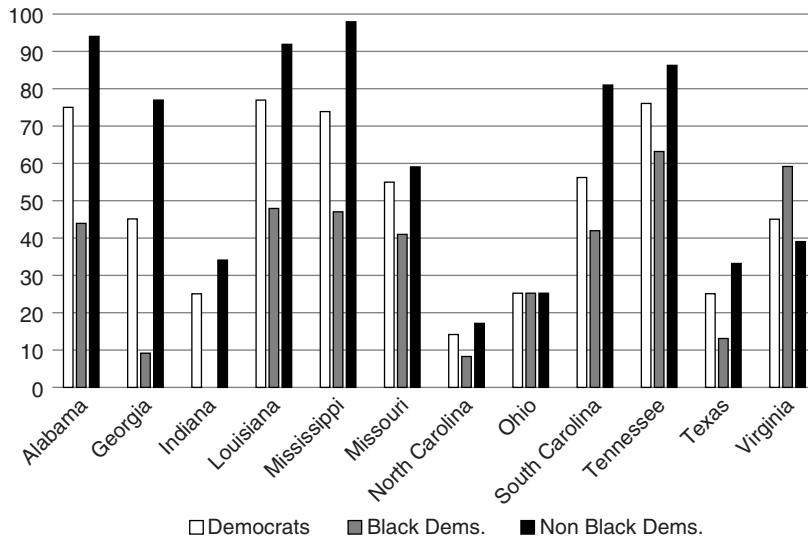
\*Present but not voting \*\*Absent

Source: State House and Senate Journals.

The array of votes on legislation restricting same-sex marriage is somewhat surprising given what we have seen regarding African-American opinion on the issue. First, in almost every state, Black Democratic legislators were less likely to support these bans than their Democratic colleagues—the exceptions being Ohio, where Blacks voted the same as their fellow Democrats, and Virginia where they supported the measure at a higher rate. The contrast between Black Democrats and non-Black Democrats can be seen in Figure 1. The difference between Blacks and non-Black Democrats as a whole is somewhat striking—especially in the Southern states. In Mississippi and Alabama, where the restrictions passed the legislatures with very little opposition, the only “No” votes came from Black legislators. Both states recorded unanimous votes in support of the measures in their Senates, and only a handful of “No” votes in their Houses of Representatives (seven in Alabama and seventeen in Mississippi). Louisiana was not much different as nine of the eleven “No” votes (against the restrictive measure) in the House, and five of six “No” votes in the Senate came from African-Americans.

Close inspection of the votes also reveals that the lack of support for these measures in some states was actually more pronounced than just those who voted “No”. There was also a substantial number of Black legislators who either “abstained” or were “present but not voting.”

**Figure 1.**  
**Percentage of Legislators Voting for Restrictions.**



South Carolina is probably the best example in this regard, as ten of the Black members of their House were present but did not cast a vote, as compared to six non-Black members.

The most interesting example among the Southern states is Georgia. In 2004, the state's legislature considered legislation that would place a state constitutional amendment limiting marriage to one man and one woman on the 2004 general election ballot. The legislative action gained national attention as the measure was initially stopped largely due to the lack of support of the Black legislators (Jacobs 2004). Despite the "No" votes of all ten Black senators, the measure passed that chamber and was sent to the House. Due to Georgia law, a two-thirds vote was required for success. Initially, thirty of the Black representatives voted "No", while eight were either absent or present but not voting. Only one Black legislator voted for the measure which came up short by some three votes. Ultimately, a second vote was taken. This time, while the one who had voted for the measure changed his vote, four others who had not voted shifted to "Yes" votes, thus helping the measure to pass. Thus, with the first vote, among the forty-nine black legislators, only one had actually cast a vote in favor of the legislation. Even when it passed, only four legislators had voted "Yes."

Of course, while most Black state legislators opposed these measures, many were supporters. In fact, some were outspoken supporters. In Alabama's House of Representatives, it was a black legislator who introduced the measure into that chamber (*Mobile Register* 2005). In both the Alabama and Mississippi Senates, there were no Black senators who voted against the bans. Still, in only a few cases do we find a majority of Black members of a chamber actually voting in support of restrictions on marriage rights (only five). Taken in total, Virginia and Tennessee were the only states where a majority of Black state legislators voted to restrict marriage to one man and one woman.

Virginia, though, proves the complexity of the issue. While Black legislators here were more supportive of prohibiting same-sex marriage than their Democratic colleagues, there seems to be an interesting regional dynamic as almost all of the non-Black Virginia