



## Book Reviews

***Political Institutions and Lesbian and Gay Rights in the United States and Canada.* By Miriam Smith. New York: Routledge. 244 pp. 2008. \$95.00 cloth, \$41.95 paper.**

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In one of the first studies to explicitly apply the methodological toolkits of American political development and historical institutionalism to the lesbian and gay rights movement, Miriam Smith has produced a volume replete with rich details, fresh insights, and provocative causal claims regarding the successes and failures of the movement on either side of the U.S.-Canadian border. The book is a welcome complement to previous scholarship on the lesbian and gay rights movement by political scientists, which has often focused on public opinion and political culture explanations at the expense of an examination of the effects of policy legacies and the structures of political institutions. Although one can not help but think that an even stronger effort would have been achieved if the study had taken a more ecumenical approach — one that gave preferences and institutions each their due — the evidence presented here regarding the importance of institutional forces in shaping policy on lesbian and gay rights is a convincing and noteworthy contribution.

The empirical proving grounds for Smith's argument are the varying trajectories of policies regarding gay people in the United States and Canada from 1969 to the present day. Before 1969, the laws of the two nations vis-à-vis lesbians and gays were similar. In both countries, sex between two men or two women was outlawed, legal protections against discrimination in employment or housing were unheard of, and formal recognition of same-sex couples was nothing more than a pipe dream. Forty years later, the differences between the two nations have become

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quite stark. Both have decriminalized gay sex. But while anti-gay discrimination is now illegal and same-sex marriage is recognized throughout Canada, the pattern of employment protections and the legal recognition of same-sex couples in the United States today changes from jurisdiction to jurisdiction, governed by a patchwork of local ordinances and state statutes.

Smith's explanation for this divergence in the fortunes of the gay rights movements in the two countries is institutional. The separation-of-powers system in the United States and the fact that it gives multiple political actors vetoes over policy change strongly biases the American system toward the status quo. By contrast, Canada's Westminster-style parliamentary system allows the party that controls the government to advance its policy agenda with relative ease. Combine this with the fact that — unlike in the United States — the Canadian federal government has extensive jurisdiction over criminal law and marriage law, and it becomes clear why substantial policy change with regard to lesbian and gay rights has been easier to accomplish in Ottawa than in Washington, DC. Furthermore, where the notion of equal rights in the United States has usually been cast in terms of race, the Canadian Charter of Rights and Freedoms has been embraced by English-speaking Canada as a bulwark against the sovereignty claims made by French-speaking Quebec and other autonomy-seeking regions. The result, Smith notes, is that the concept of equal rights is identified with the continued existence of the Canadian nation itself, rather than being tainted with the "special interests" moniker as is often the case in the United States. Finally, courts in Canada are less decentralized and more insulated from political pressure than in the United States. Canadian judges thus have a wide degree of latitude in interpreting the Charter, and — again, unlike in the United States — their decisions cannot be easily overturned by either legislative action or ballot initiatives.

All of these ingredients, argues Smith, have produced a relatively steady stream of progress on gay and lesbian rights in Canada at the national level, spearheaded by courts and both Liberal and Tory governments acting under an evolving national consensus that is supportive of the equality rights enshrined in the Charter of Rights and Freedoms. By contrast, the battle over gay rights in the United States has been fought largely on a jurisdiction-by-jurisdiction basis, with notable successes and failures. So where gay sex was decriminalized in Canada as part of a series of modernizations to the national criminal code by an act of the parliament in 1969, gay advocates in the United States had to fight this battle at the

state level. Only with the U.S. Supreme Court's 2003 ruling in *Lawrence v. Texas* was gay sex decriminalized nationwide. Canada's relatively young charter (enacted only in 1982) includes language about equality rights deliberately constructed to allow for protections for statuses not explicitly stated, to be subsequently "read into" the document by courts at a later time. Thus, in a series of rulings, Canadian courts have held that the charter's broad equality language protects gays and lesbians, which essentially required that parliament outlaw anti-gay discrimination (as it did in 1996) and paved the way for national legislation establishing the right to marry for same-sex couples (in 2005). By contrast, the Fourteenth Amendment to the U.S. Constitution, around which most status-based rights claiming occurs in American courts, was written only with racial equality for African Americans in mind. This, claims Smith, is one reason why federal courts in the United States have resisted interpreting the Constitution as protecting gay people from everyday discrimination or providing the right to marry.

The downside of Smith's understandable eagerness to redress the lack of attention given to institutions is that her study considers the differences in public opinion on gay rights between Canadians and Americans in a piecemeal, rather than comprehensive, fashion. Yet the differences are stark: For example, in June of 2003, only 51% of Americans told the Pew Global Attitudes survey that "homosexuality is a way of life that should be accepted by society," compared to 69% of Canadians. Smith's reaction to the two countries' divergence in public opinion is often to assert that it may be the effect, rather than the cause, of the different public policy trajectories taken in the United States and Canada on lesbian and gay issues. But in the same Pew survey, 58% of Americans agreed that "it is necessary to believe in God to be moral and have good values," while only 30% of Canadians did. In this and other cross-national surveys, the picture that emerges is that on issues of religion and morality, the political culture of the United States looks more like that of a developing country, such as Mexico or Ukraine, whereas Canadian political culture more closely resembles that of other economically advanced Western democracies. In this regard, Americans are truly outliers, which helps to explain why the United States has been riven by wars over moral issues such as abortion, gay rights, and school prayer to a degree that is unusual among the club of the world's wealthiest nations.

Thus, the United States and Canada, while similar in so many ways, do not make for a perfect case-control study for assessing the effects of institutions on the trajectory of lesbian and gay rights. This is because

they vary both in terms of their institutions *and* their political cultures, making the *ceteris paribus* effects of these two factors difficult to identify. Compounding the difficulty is that it is almost certainly the case that public opinion and institutions not only have independent effects on policy outcomes but in fact interact in important ways. For example, same-sex marriage and civil unions are more likely to be found in American states where public opinion on gay rights is relatively liberal. But they are *most* likely to be found in states that, in addition to being more accepting of gays and lesbians, also have institutional rules that make it difficult to overturn enacted laws and court rulings. This sort of interaction effect is impossible to pin down in a study that compares only two cases.

All told, however, Smith has made a foundational contribution to our understanding of when and why struggles for social change succeed or fail. The institutional explanations offered by *Political Institutions and Lesbian and Gay Rights in the United States and Canada* are persuasive, and every scholar of the movement for lesbian and gay rights must now contend with these compelling arguments.

***Gender, Violence and Security.*** By Laura J. Shepherd. London: Zed Books. 2008. 216 pp. \$126.00 cloth, \$34.00 paper.

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Laura Shepherd has written a stellar book. It scrutinizes the processes, participants, and politics that produced the United Nations Security Council Resolution 1325 (known as SC 1325), adopted in 2000. SC 1325 is touted as a watershed or groundbreaking resolution because it explicitly integrates the amelioration of gender inequities and gender violence into the mandate of the UN Security Council. The passage of the resolution also marks the first time the Security Council debated the relationships among gender, violence, and security — some 55 years after the inception of the United Nations. Further, its enactment demonstrates the tenacity and strategic skill of the advocates and experts who organized the Working Group for Women, Peace, and Security, a